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Association of Accidental Americans files its Opening Legal Brief in its Appeal Challenging the District Court's Dismissal of its Suspension of Renunciation Services Lawsuit

PARIS (December 28, 2022) – The Association of Accidental Americans, a French non-profit society, together with additional individual plaintiffs, have filed their Opening Appellant Brief in their appeal of the judgment of the district court which dismissed their lawsuit that challenged the U.S. Department of State's suspension and delay of voluntary renunciation services. The case no. is 1:21-cv-2933 (D.D.C. Sept. 28, 2022). The appeal case no. is 22-5262.

Plaintiffs, U.S. citizens residing in Europe and Asia, wish to renounce their U.S. citizenship due to the U.S. government's discriminatory treatment of its citizens residing abroad, especially in the areas of financial privacy and taxation.

The district court dismissed Plaintiffs' constitutional challenge to the suspension and delay of renunciation services. The court concluded that because most U.S. missions around the globe have lifted the *suspension*, the issue is no longer relevant and, hence, moot. As for the delay, the court ruled that a delay in provided renunciation services, even if that delay is over a year, does not rise to the level of egregious government action and therefore is not actionable at a matter of law.

The district court also concluded that Plaintiffs' claim under the Administrative Procedure Action does not survive. The court ruled that the State Department did not abuse its authority by prioritizing other consular services, such as non-immigrant visa services for aliens, to the detriment of renunciation services for U.S. citizens.

In its recently filed legal brief, Plaintiffs argue that the challenge to the suspension of renunciation services is still very much relevant and, hence, not moot. Several U.S. missions around the globe are still suspending renunciation services. Moreover, the recent surge in COVID-19 in Europe, Asia and the United States, demonstrate that pandemic-related restrictions can (and likely will) be reinstated, including the suspension of renunciation services.

Plaintiffs also argued that the district court failed to appreciate the fundamental nature of the right to expatriate. Had the district court approached the issue correctly it would have concluded that the year-long delay (and certainly the suspension) is an unconstitutional restriction because it is not necessary to further a compelling governmental interest. If the State Department wants to, it could easily make the renunciation process faster and more efficient, thus decreasing the amount of time needed per renunciation case.

Last, Plaintiffs argued that the district court's acceptance of the government's prioritization of non-immigrant visas for foreigners over renunciation services is improper and fails to take into consideration of the fundamental nature of the right to expatriate.

The Association of Accidental Americans is also maintaining a lawsuit against the \$2,350 renunciation fee. An oral argument in that case has been scheduled for January 9, 2023 before Judge Tanya Chutkan of the United States District Court of the District of Columbia Circuit.

- Statement by Fabien Lehagre, founder and president of the Association of Accidental Americans:

Our fight for the rights of Accidental Americans continues to the appellate level. Our hope is that the Court of Appeals is more sympathetic to the plights of accidental Americans and is willing to consider the right to voluntarily expatriate when evaluating the extended delays and waitlists to receive the basic services needed to exercise this right.

The Plaintiffs are being represented by L. Marc Zell (mzell@fandz.com) and Noam Schreiber (noam.schreiber@fandz.com) of the international law firm, Zell & Associates International Advocates, LLC. www.fandz.com.