

LAW OFFICES OF STACY TOLCHIN



GROUPS FILE LAWSUIT CHALLENGING FAILURE OF U.S. CUSTOMS AND BORDER PROTECTION TO RESPOND TO FOIA REQUESTS

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Los Angeles-Seattle-Boston-Washington, D.C.—Yesterday, a class action lawsuit was filed by three immigration attorneys and eleven noncitizens challenging U.S. Customs and Border Protection’s (CBP) nationwide practice of failing to timely respond to requests for case information under the Freedom of Information Act (FOIA). FOIA gives an individual the right to access information that the federal government possesses about him or her within 20 business days of making the request. CBP routinely fails to provide requested documents within 20 days, but instead takes months—and in many cases more than a year—to provide documents. Plaintiffs and others like them are forced to delay filing applications for lawful permanent residence while they wait for necessary documents from their own case files. By bringing this case as a class action, the plaintiffs seek to remedy CBP’s system-wide failures in its management of FOIA requests. The case was filed by the Law Offices of Stacy Tolchin, Northwest Immigrant Rights Project, National Immigration Project of the National Lawyers Guild, and the American Immigration Council.

The complaint in *Brown et al. v. U.S. Customs and Border Protection* alleges that such routine and excessive delays are unjustified from CBP, the agency with the largest budget within the Department of Homeland Security. The lawsuit was filed on Friday, March 13, in federal court in San Francisco.

Lawyers for the plaintiffs are asking the Court to issue a nationwide injunction ordering CBP to respond to pending FOIA requests within 60 business days of the Court’s order and to respond to future FOIA requests within the statutory period.

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“We filed this class-action lawsuit against CBP out of sheer frustration. FOIA requests are literally languishing for years, and this affects thousands of individuals with United States citizen families who cannot file for permanent residency until they get responses from CBP regarding their FOIA requests,” said Los Angeles immigration attorney Stacy Tolchin. “As advocates, we felt there was no other option but to file a lawsuit because every year the backlog just gets worse.”

"Thousands of persons are left in limbo, unable to move forward on their immigration cases because CBP refuses to comply with the law and provide them timely access to their files," said Matt Adams, legal director at the Northwest Immigrant Rights Project. "This backlog is all the more remarkable given the dramatic expansion of resources Congress has bestowed on CBP over the last eight years. Yet their efforts to comply with the law are far behind their counterparts in USCIS and ICE."

“Individuals and attorneys desperately need responses to these FOIA requests. They are essential to determining whether a person is eligible to remain in the country with family or to apply for a visa to reunite with their family,” said Trina Realmuto, litigation director at the National Immigration Project of the National Lawyers Guild. “This is not a matter of common bureaucratic delay; CBP receives one third of the FOIA requests received by USCIS, yet CBP’s backlog is ten times larger. This backlog has been growing exponentially over the past couple of years despite a commensurate rise in CBP funding.”

“It is time for CBP to be accountable to individuals who file FOIA requests for documents from their own immigration case files,” stated Senior Attorney Mary Kenney of the American Immigration Council. “The FOIA statute includes a 20 day time frame for the production of records for a reason – to ensure that the records produced are timely. CBP’s delay in responding to FOIA requests is unacceptable.”

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