

**U.S. District Court
Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:21-cv-09519-JLC**

International Refugee Assistance Project v. United States
Department of Homeland Security et al
Assigned to: Magistrate Judge James L. Cott
Cause: 05:552 Freedom of Information Act

Date Filed: 11/17/2021
Date Terminated: 10/04/2023
Jury Demand: None
Nature of Suit: 895 Freedom of
Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

**International Refugee Assistance
Project**

represented by **Kathryn Shu–Yeng Austin**
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V.

Defendant

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Defendant**United States Citizenship and
Immigration Services**represented by **Jennifer Ellen Blain**
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*ATTORNEY TO BE NOTICED***Zachary Bannon**
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*ATTORNEY TO BE NOTICED***Defendant****United States Department of State**represented by **Jennifer Ellen Blain**
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Date Filed	#	Docket Text
11/17/2021	<u>1</u>	COMPLAINT against Department of Homeland Security, Department of State, United States Citizenship and Immigration Services. (Filing Fee \$ 402.00, Receipt Number ANYSDC-25347167) Document filed by International Refugee Assistance Project. (Attachments: # <u>1</u> Exhibit A – Permanent Links, # <u>2</u> Exhibit B – USCIS FOIA, # <u>3</u> Exhibit C – State FOIA, # <u>4</u> Exhibit D – State Appeal).(Zaretsky, Alexandra) (Entered: 11/17/2021)
11/17/2021	<u>2</u>	CIVIL COVER SHEET filed..(Zaretsky, Alexandra) (Entered: 11/17/2021)
11/17/2021	<u>3</u>	FILING ERROR – DEFICIENT PLEADING – SUMMONS REQUEST PDF ERROR – REQUEST FOR ISSUANCE OF SUMMONS as to Department of Homeland Security, re: <u>1</u> Complaint,. Document filed by International Refugee Assistance Project..(Zaretsky, Alexandra) Modified on 11/18/2021 (pc). (Entered: 11/17/2021)
11/17/2021	<u>4</u>	FILING ERROR – DEFICIENT PLEADING – SUMMONS REQUEST PDF ERROR – REQUEST FOR ISSUANCE OF SUMMONS as to Department of State, re: <u>1</u> Complaint,. Document filed by International Refugee Assistance Project..(Zaretsky, Alexandra) Modified on 11/18/2021 (pc). (Entered: 11/17/2021)
11/17/2021	<u>5</u>	FILING ERROR – DEFICIENT PLEADING – SUMMONS REQUEST PDF ERROR – REQUEST FOR ISSUANCE OF SUMMONS as to United States Citizenship and Immigration Services, re: <u>1</u> Complaint,. Document filed by International Refugee Assistance Project..(Zaretsky, Alexandra) Modified on 11/18/2021 (pc). (Entered: 11/17/2021)
11/17/2021	<u>6</u>	NOTICE OF APPEARANCE by Mariko Hirose on behalf of International Refugee Assistance Project..(Hirose, Mariko) (Entered: 11/17/2021)
11/18/2021		***NOTICE TO ATTORNEY REGARDING PARTY MODIFICATION. Notice to attorney Alexandra Zaretsky. The party information for the following party/parties has been modified: Department of Homeland Security, Department of State. The information for the party/parties has been modified for the following reason/reasons: party name contained a typographical error;. (pc) (Entered: 11/18/2021)
11/18/2021		CASE OPENING INITIAL ASSIGNMENT NOTICE: The above–entitled action is assigned to Judge John P. Cronan. Please download and review the Individual Practices of the assigned District Judge, located at https://nysd.uscourts.gov/judges/district–judges . Attorneys are responsible for providing courtesy copies to judges where their Individual Practices require such. Please download and review the ECF Rules and Instructions, located at https://nysd.uscourts.gov/rules/ecf–related–instructions ..(pc) (Entered: 11/18/2021)

11/18/2021		Magistrate Judge James L. Cott is so designated. Pursuant to 28 U.S.C. Section 636(c) and Fed. R. Civ. P. 73(b)(1) parties are notified that they may consent to proceed before a United States Magistrate Judge. Parties who wish to consent may access the necessary form at the following link: https://nysd.uscourts.gov/sites/default/files/2018-06/AO-3.pdf . (pc) (Entered: 11/18/2021)
11/18/2021		Case Designated ECF. (pc) (Entered: 11/18/2021)
11/18/2021		***NOTICE TO ATTORNEY REGARDING DEFICIENT REQUEST FOR ISSUANCE OF SUMMONS. Notice to Attorney Alexandra Zaretsky to RE-FILE Document No. <u>4</u> Request for Issuance of Summons, <u>3</u> Request for Issuance of Summons, <u>5</u> Request for Issuance of Summons. The filing is deficient for the following reason(s): Party names on the summons must exactly match what is listed on the complaint caption title;. Re-file the document using the event type Request for Issuance of Summons found under the event list Service of Process – select the correct filer/filers – and attach the correct summons form PDF. (pc) (Entered: 11/18/2021)
11/18/2021	<u>7</u>	REQUEST FOR ISSUANCE OF SUMMONS as to United States Department of Homeland Security, re: <u>1</u> Complaint,. Document filed by International Refugee Assistance Project..(Zaretsky, Alexandra) (Entered: 11/18/2021)
11/18/2021	<u>8</u>	REQUEST FOR ISSUANCE OF SUMMONS as to United States Department of State, re: <u>1</u> Complaint,. Document filed by International Refugee Assistance Project..(Zaretsky, Alexandra) (Entered: 11/18/2021)
11/18/2021	<u>9</u>	REQUEST FOR ISSUANCE OF SUMMONS as to United States Citizenship and Immigration Services, re: <u>1</u> Complaint,. Document filed by International Refugee Assistance Project..(Zaretsky, Alexandra) (Entered: 11/18/2021)
11/18/2021	<u>10</u>	ELECTRONIC SUMMONS ISSUED as to United States Department of Homeland Security..(pc) (Entered: 11/18/2021)
11/18/2021	<u>11</u>	ELECTRONIC SUMMONS ISSUED as to United States Department of State..(pc) (Entered: 11/18/2021)
11/18/2021	<u>12</u>	ELECTRONIC SUMMONS ISSUED as to United States Citizenship and Immigration Services..(pc) (Entered: 11/18/2021)
11/30/2021	<u>13</u>	NOTICE OF ASSIGNMENT: At the scheduled time, counsel for all parties should call (866) 434-5269, access code 9176261. (And as further set forth herein.) SO ORDERED. Initial Conference set for 2/2/2022 at 10:00 AM before Judge John P. Cronan. (Signed by Judge John P. Cronan on 11/30/2021) (jca) (Entered: 11/30/2021)
12/20/2021	<u>14</u>	NOTICE OF APPEARANCE by Kathryn Shu-Yeng Austin on behalf of International Refugee Assistance Project..(Austin, Kathryn) (Entered: 12/20/2021)
12/23/2021	<u>15</u>	SUMMONS RETURNED EXECUTED Summons and Complaint, served. United States Citizenship and Immigration Services served on 11/29/2021, answer due 12/20/2021; United States Department of Homeland Security served on 11/29/2021, answer due 12/20/2021; United States Department of State served on 11/29/2021, answer due 12/20/2021. Service was made by Mail. Document filed by International Refugee Assistance Project..(Zaretsky, Alexandra) (Entered: 12/23/2021)
12/24/2021	<u>16</u>	AFFIDAVIT OF SERVICE of Notice of Assignment, Notice of Appearance of Kathryn Austin, and Court's Individual Rules served on United States Department of Homeland Security, United States Citizenship and Immigration Services, and United States Department of State on 12/23/2021. Service was made by Mail. Document filed by International Refugee Assistance Project..(Zaretsky, Alexandra) (Entered: 12/24/2021)
01/24/2022	<u>17</u>	NOTICE OF APPEARANCE by Zachary Bannon on behalf of United States Citizenship and Immigration Services, United States Department of Homeland Security, United States Department of State..(Bannon, Zachary) (Entered: 01/24/2022)
01/25/2022	<u>18</u>	CONSENT TO JURISDICTION BY A US MAGISTRATE JUDGE: This case is referred to a United States magistrate judge to conduct all proceedings and order the entry of a final judgment in accordance with 28 U.S.C. § 636(c) and Fed. R. Civ. P. 73.

		(Case No Longer Referred to Magistrate Judge) CASE ASSIGNED to Magistrate Judge James L. Cott. (Signed by Judge John P. Cronan on 1/25/2022) (jca) (Entered: 01/25/2022)
01/25/2022	19	ORDER The conference scheduled for February 2, 2022 is adjourned sine die. (HEREBY ORDERED by Judge John P. Cronan) (Text Only Order) (mhe) (Entered: 01/25/2022)
01/26/2022	20	ORDER. The parties in this case have now consented to my jurisdiction for all purposes. As a result, Judge Cronan, to whom this case was originally assigned, cancelled the conference he had scheduled for February 2. As it turns out, this Court is free on that date, and therefore, assuming the date still works for counsel, will reschedule the conference for February 2 at 11:00 a.m. by telephone. The parties should contact the Court by calling (877) 873-8017 (access code: 5277586) at that time. Because this is a FOIA case, no case management plan needs to be submitted in advance of the conference. The parties should, however, be prepared at the conference to discuss a schedule for motion practice, as well as whether there is any possibility that this dispute can be resolved consensually. The parties are free to submit a letter to the Court that they think would be helpful to provide background in advance of the conference, but should do so no later than January 31. (HEREBY ORDERED by Magistrate Judge James L. Cott) (Text Only Order) (Cott, James) (Entered: 01/26/2022)
01/26/2022	<u>21</u>	NOTICE OF APPEARANCE by Jennifer Ellen Blain on behalf of United States Citizenship and Immigration Services, United States Department of Homeland Security, United States Department of State..(Blain, Jennifer) (Entered: 01/26/2022)
01/31/2022	<u>22</u>	ANSWER to <u>1</u> Complaint,. Document filed by United States Citizenship and Immigration Services, United States Department of Homeland Security, United States Department of State..(Bannon, Zachary) (Entered: 01/31/2022)
02/02/2022	23	ORDER. As discussed at today's conference, defendants will provide a status letter by March 4 related to both the APA and the FOIA claims, and plaintiff will submit a response by March 11. As necessary, the Court will then schedule a further conference to address the issues presented, and potentially to schedule motion practice if necessary. (HEREBY ORDERED by Magistrate Judge James L. Cott) (Text Only Order) (Cott, James) (Entered: 02/02/2022)
02/02/2022		Minute Entry for proceedings held before Magistrate Judge James L. Cott: Initial Pretrial Conference held on 2/2/2022. (Tam, David) (Entered: 02/02/2022)
03/04/2022	<u>24</u>	STATUS REPORT. Document filed by United States Citizenship and Immigration Services, United States Department of Homeland Security, United States Department of State..(Bannon, Zachary) (Entered: 03/04/2022)
03/07/2022	25	ORDER. In light of the Government's letter dated March 4, and as requested, the parties are directed to file a status report by April 29, 2022, to further update the Court on the progress of this litigation. (HEREBY ORDERED by Magistrate Judge James L. Cott) (Text Only Order) (Cott, James) (Entered: 03/07/2022)
04/28/2022	<u>26</u>	STATUS REPORT. Document filed by United States Citizenship and Immigration Services, United States Department of Homeland Security, United States Department of State..(Bannon, Zachary) (Entered: 04/28/2022)
04/29/2022	27	ORDER. In light of the Government's letter dated April 28, and as requested, the parties are directed to file a status report by June 22, 2022, to further update the Court on the progress of this litigation. (HEREBY ORDERED by Magistrate Judge James L. Cott) (Text Only Order) (Cott, James) (Entered: 04/29/2022)
06/22/2022	<u>28</u>	STATUS REPORT. Document filed by International Refugee Assistance Project..(Zaretsky, Alexandra) (Entered: 06/22/2022)
06/24/2022	29	ORDER. In light of the Government's letter dated June 22, and as requested, the parties are directed to file a status report by August 31, 2022, to further update the Court on the progress of this litigation. (HEREBY ORDERED by Magistrate Judge James L. Cott) (Text Only Order) (Cott, James) (Entered: 06/24/2022)

08/31/2022	<u>30</u>	STATUS REPORT. Document filed by United States Citizenship and Immigration Services, United States Department of Homeland Security, United States Department of State..(Bannon, Zachary) (Entered: 08/31/2022)
09/01/2022	31	ORDER. In light of the Government's letter dated August 31, and as requested, the parties are directed to file a status report by November 4, 2022, to further update the Court on the progress of this litigation. (HEREBY ORDERED by Magistrate Judge James L. Cott) (Text Only Order) (Cott, James) (Entered: 09/01/2022)
09/23/2022	<u>32</u>	CONSENT MOTION for Kathryn S. Austin to Withdraw as Attorney <i>for Plaintiff</i> . Document filed by International Refugee Assistance Project. (Attachments: # <u>1</u> Affidavit Declaration of Kathryn S. Austin, # <u>2</u> Text of Proposed Order Proposed Order).(Zaretsky, Alexandra) (Entered: 09/23/2022)
09/25/2022	33	ORDER granting <u>32</u> Motion to Withdraw as Attorney. Attorney Kathryn Shu–Yeng Austin terminated. (HEREBY ORDERED by Magistrate Judge James L. Cott)(Text Only Order) (Cott, James) (Entered: 09/25/2022)
11/04/2022	<u>34</u>	STATUS REPORT. Document filed by United States Citizenship and Immigration Services, United States Department of Homeland Security, United States Department of State..(Bannon, Zachary) (Entered: 11/04/2022)
11/07/2022	35	ORDER. In light of the Government's letter dated November 4, 2022, and as requested, the parties are directed to file a status report by January 27, 2023, to further update the Court on the progress of this litigation. (HEREBY ORDERED by Magistrate Judge James L. Cott) (Text Only Order) (Cott, James) (Entered: 11/07/2022)
01/27/2023	<u>36</u>	STATUS REPORT. Document filed by United States Citizenship and Immigration Services, United States Department of Homeland Security, United States Department of State..(Bannon, Zachary) (Entered: 01/27/2023)
01/30/2023	37	ORDER. In light of the Government's letter dated January 27, 2023, and as requested, the parties are directed to file a status report by February 27, 2023, to further update the Court on the progress of this litigation. (HEREBY ORDERED by Magistrate Judge James L. Cott) (Text Only Order) (Cott, James) (Entered: 01/30/2023)
02/27/2023	<u>38</u>	STATUS REPORT. Document filed by United States Citizenship and Immigration Services, United States Department of Homeland Security, United States Department of State..(Bannon, Zachary) (Entered: 02/27/2023)
02/28/2023	39	ORDER. In light of the Government's letter dated February 27, 2023, and as requested, the parties are directed to file a status report by April 21, 2023 (the Court is adding a few days to the deadline for the next report), to further update the Court on the progress of this litigation. As for the parties' request for another magistrate judge to conduct a settlement conference regarding the APA claim against DHS, the Honorable Sarah Netburn has graciously agreed to assist the parties. The parties should make arrangements for the settlement conference directly with Judge Netburn, and should report on the results of their settlement efforts as part of the overall status report on April 21, 2023. (HEREBY ORDERED by Magistrate Judge James L. Cott) (Text Only Order) (Cott, James) (Entered: 02/28/2023)
02/28/2023	<u>40</u>	ORDER: On Tuesday, February 28, 2023, the Honorable James L. Cott directed the parties to contact my chambers to schedule a settlement conference and report on the status of these negotiations by April 21, 2023. ECF No. 39. Accordingly, the Court directs the parties to immediately contact Courtroom Deputy Rachel Slusher, at Rachel_Slusher@nysd.uscourts.gov, to indicate whether they are available for a settlement conference on April 11, 12, 17 or 18, 2023. These dates are not being held and could be scheduled with other matters. Finally, the parties are advised that the Executive Director of the International Refugee Assistance Project is the spouse of a law partner of Judge Netburn's husband. The Court does not believe this creates a conflict but discloses this information for full transparency. If either party believes the Court should recuse, it may make an application and the matter will be assigned to another Magistrate Judge. SO ORDERED. (Signed by Magistrate Judge Sarah Netburn on 2/28/2023) (tg) (Entered: 02/28/2023)
03/02/2023	<u>41</u>	SETTLEMENT CONFERENCE ORDER: A settlement conference is scheduled for Wednesday, April 12, 2023, at 10:00 a.m. in Courtroom 219, Thurgood Marshall

		<p>Courthouse, 40 Foley Square, New York, New York. The parties are directed to review and comply with the Procedures for Cases Referred for Settlement to Magistrate Judge Sarah Netburn, a copy of which is available on the Court's website at https://nysd.uscourts.gov/hon-sarah-netburn. The parties are strongly encouraged to engage in good-faith settlement negotiations before the settlement conference and preferably before the submission to the Court of the Ex Parte Settlement Letters and Acknowledgment Forms, which are to be submitted by email to Netburn_NYSDChambers@nysd.uscourts.gov, by Wednesday, April 5, 2023. Should the parties resolve the litigation before the conference date, they must notify the Court in writing immediately. (Settlement Conference set for 4/12/2023 at 10:00 AM in Courtroom 219, 40 Centre Street, New York, NY 10007 before Magistrate Judge Sarah Netburn.) (Signed by Magistrate Judge Sarah Netburn on 3/2/2023) (ras) (Entered: 03/02/2023)</p>
04/11/2023	<u>42</u>	<p>ENDORSED LETTER addressed to Magistrate Judge Sarah Netburn from ZACHARY BANNON dated 4/11/2023 re: I write in accordance with Your Honor's Settlement Rule 5 to request permission for the representative of the U.S. Department of Homeland Security assigned to this case- Alexander Wood, Supervisory Attorney Advisor for Privacy and Information Law, Office of General Counsel, Legal Counsel Division- to attend tomorrow's settlement conference by telephone.. ENDORSEMENT: The request is GRANTED. SO ORDERED.. (Signed by Magistrate Judge Sarah Netburn on 4/11/2023) (kv) (Entered: 04/11/2023)</p>
04/12/2023	43	<p>ORDER. Having been informed by Judge Netburn that the parties intend to meet with her again sometime in May, the Court hereby adjourns sine die the deadline to submit a status letter on April 21. The parties should provide a status report to me within one week of concluding their proceedings with Judge Netburn whenever that may be, either to report a settlement in whole or in part, or to propose a briefing schedule if necessary. (HEREBY ORDERED by Magistrate Judge James L. Cott) (Text Only Order) (Cott, James) (Entered: 04/12/2023)</p>
04/13/2023	<u>44</u>	<p>SETTLEMENT CONFERENCE ORDER: A settlement conference is scheduled for Friday, June 2, 2023, at 10:00 a.m. in Courtroom 219, Thurgood Marshall Courthouse, 40 Foley Square, New York, New York. The parties are directed to review and comply with the Procedures for Cases Referred for Settlement to Magistrate Judge Sarah Netburn, a copy of which is available on the Court's website at https://nysd.uscourts.gov/hon-sarah-netburn. The parties are strongly encouraged to engage in good-faith settlement negotiations and preferably before the submission to the Court of Acknowledgment Forms and Ex Parte Settlement Letters, which are to be submitted by email to Netburn_NYSDChambers@nysd.uscourts.gov, by Friday, May 26, 2023. (Settlement Conference set for 6/2/2023 at 10:00 AM in Courtroom 219, 40 Centre Street, New York, NY 10007 before Magistrate Judge Sarah Netburn.) (Signed by Magistrate Judge Sarah Netburn on 4/13/2023) (ras) (Entered: 04/13/2023)</p>
05/02/2023		<p>Minute Entry for proceedings held before Magistrate Judge Sarah Netburn: Settlement Conference held on 5/2/2023. (ras) (Entered: 05/02/2023)</p>
05/25/2023	<u>45</u>	<p>SETTLEMENT CONFERENCE ORDER: The settlement conference scheduled for Friday, June 2, 2023, is RESCHEDULED to Wednesday, August 2, 2023, at 10:00 a.m. in Courtroom 219, Thurgood Marshall Courthouse, 40 Foley Square, New York, New York. The parties are directed to review and comply with the Procedures for Cases Referred for Settlement to Magistrate Judge Sarah Netburn, a copy of which is available on the Court's website at https://nysd.uscourts.gov/hon-sarah-netburn. Ex Parte Settlement Letters and Attendance forms should be submitted by July 26, 2023, to Netburn_NYSDChambers@nysd.uscourts.gov. (Settlement Conference set for 8/2/2023 at 10:00 AM in Courtroom 219, 40 Centre Street, New York, NY 10007 before Magistrate Judge Sarah Netburn.) (Signed by Magistrate Judge Sarah Netburn on 5/25/2023) (ras) (Entered: 05/25/2023)</p>
07/26/2023	<u>46</u>	<p>PROPOSED STIPULATION AND ORDER. Document filed by United States Citizenship and Immigration Services, United States Department of Homeland Security, United States Department of State..(Bannon, Zachary) (Entered: 07/26/2023)</p>
07/26/2023	<u>47</u>	<p>ORDER: The settlement conference scheduled for August 2, 2023, is ADJOURNED to Tuesday, October 3, 2023, at 10:00 a.m. in Courtroom 219, Thurgood Marshall Courthouse, 40 Foley Square, New York, New York. The parties are directed to</p>

		<p>review and comply with the Procedures for Cases Referred for Settlement to Magistrate Judge Sarah Netburn, a copy of which is available on the Court's website at https://nysd.uscourts.gov/hon-sarah-netburn. The parties are strongly encouraged to engage in good-faith settlement negotiations before the settlement conference and preferably before the submission to the Court of the Ex Parte Settlement Letters and Acknowledgment Forms, which are to be submitted by email to Netburn_NYSDChambers@nysd.uscourts.gov, by Tuesday, September 26, 2023. Should the parties resolve the litigation before the conference date, they must notify the Court in writing immediately. (Settlement Conference set for 10/3/2023 at 10:00 AM in Courtroom 219, 40 Centre Street, New York, NY 10007 before Magistrate Judge Sarah Netburn.) (Signed by Magistrate Judge Sarah Netburn on 7/26/2023) (ras) (Entered: 07/26/2023)</p>
07/27/2023	<u>48</u>	<p>STIPULATION AND ORDER: IT IS HEREBY STIPULATED AND AGREED, by and between IRAP and the Government, and subject to endorsement by the Court, that: As of the date this Stipulation and Order was executed by counsel for the Government, State has confirmed that the following process, as agreed upon by the parties, accurately describes the process by which State identified "major information systems" as defined by the Office of Management and Budget ("OMB"): State queried its Capital Planning and Investment Control information technology portfolio management tool to generate a list of systems aligned under major information technology investments due to their high cost, high risk/impact, or high significance, with a focus on investments that require special management attention. State then cross-referenced this list against a list of systems with Privacy Impact Assessments as a quality control step to ensure that all systems with Privacy Impact Assessments were fully considered for inclusion in the major information systems list. This process generated the list of major information systems according to the criteria set forth in OMB Circular A-130, ensuring that State's major information systems were ultimately listed. Nothing in this paragraph shall be construed to limit State's discretion to modify the process or criteria it utilizes to identify major information systems, provided that any modifications are consistent with 5 U.S.C. § 552(g) and as set forth herein. SO ORDERED. (Signed by Magistrate Judge James L. Cott on 7/27/2023) (ama) (Entered: 07/27/2023)</p>
08/28/2023	<u>49</u>	<p>STATUS REPORT. Document filed by United States Citizenship and Immigration Services, United States Department of Homeland Security, United States Department of State..(Bannon, Zachary) (Entered: 08/28/2023)</p>
08/29/2023	50	<p>ORDER. The Court has received the status report and appreciates the parties' efforts to date in resolving this case. A further status report will be due by October 27 in the event the parties have not resolved the attorney's fees issue. (HEREBY ORDERED by Magistrate Judge James L. Cott) (Text Only Order) (Cott, James) (Entered: 08/29/2023)</p>
09/27/2023	<u>51</u>	<p>ORDER: The parties have advised the Court that a settlement of all claims has been reached. Accordingly, the settlement conference scheduled for October 3, 2023, is ADJOURNED without further date. SO ORDERED. (Signed by Magistrate Judge Sarah Netburn on 9/27/2023) (dsh) (Entered: 09/27/2023)</p>
10/03/2023	<u>52</u>	<p>STATUS REPORT. Document filed by International Refugee Assistance Project..(Zaretsky, Alexandra) (Entered: 10/03/2023)</p>
10/04/2023	<u>53</u>	<p>ORDER OF DISMISSAL The Court having been advised by counsel's letter dated October 3, 2023 (Dkt. No. 52) that all claims asserted herein have now been settled, including the attorney's fees issue, it is hereby ORDERED that the above-entitled action be and is hereby dismissed and discontinued without costs, but without prejudice to the right to reopen the action within 60 days of the date of this Order if the settlement is not consummated. To be clear, any application to reopen must be filed within 60 days of the date of this Order; any application to reopen filed thereafter may be denied solely on that basis. Further, if the parties wish for the Court to retain jurisdiction for the purposes of enforcing any settlement agreement, they must submit the settlement agreement to the Court within the same 60-day period to be "so ordered" by the Court. Nothing herein prevents the parties from separately filing a stipulation and order of settlement with respect to the attorney's fees issue and a dismissal of the case. Any pending motions are moot. The Clerk is respectfully directed to close this case. SO ORDERED. (Signed by Magistrate Judge James L. Cott</p>

on 10/4/2023) (jca) (Entered: 10/04/2023)