

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ANGE SAMMA *et al.*, on behalf of
themselves and others similarly situated,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
DEFENSE, *et al.*,

Defendants.

No. 20-cv-01104-PLF

NOTICE OF FILING CORRESPONDENCE REGARDING
CONTINUED NON-COMPLIANCE

Plaintiffs respectfully submit this Notice of Filing to notify the Court of the attached letter, dated October 7, 2021, from Plaintiffs' counsel to Defendants' counsel, describing five continuing cases of non-compliance.

Dated: October 7, 2021

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Respectfully submitted,

/s/ Sana Mayat
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October 7, 2021

DELIVERED VIA EMAIL

Liam C. Holland
Trial Attorney
U.S. Department of Justice
Washington, D.C. 20530

Re: *Samma, et al. v. United States Department of Defense, et al.*, No. 20-CV-1104 (D.D.C.)



Dear Liam,

We are writing to flag an issue with the N-426 certification provided to class member Nikolai Povolotckii and to follow up on the status of four class members' outstanding N-426 certification requests.

Last week, Mr. Povolotckii's counsel informed class counsel that Mr. Povolotckii's N-426 certification was rejected by U.S. Citizenship and Immigration Services ("USCIS") because it was incorrectly certified. Defendants provided Mr. Povolotckii's N-426 certification on August 27, 2021 and Mr. Povolotckii applied for citizenship shortly thereafter. However, USCIS rejected Mr. Povolotckii's N-426 certification and stated that Mr. Povolotckii would have to obtain a new certification by November 8, 2021. Specifically, box 4 of Part 8 of the certification was filled in with the words "Requester–Nikolai Nataliutkin Povolotckii." However, this box should contain the words "U.S. Army" so that the statement of certification in Part 8 reads: "I certify that the information given here concerning the service of the person named on this request is correct according to the records of the **U.S. Army.**"

Class counsel request that Defendants provide Mr. Povolotckii with a new and correct N-426 certification and have attached his N-426 form to this letter. Class counsel first brought Mr. Povolotckii's case to Defendants' attention in a letter dated July 23, 2021, where we explained that Mr. Povolotckii's chain of command at Fort Leonard Wood refused to assist him with his N-426 certification on the basis that he had not served 180 days. It has now been over two and a half months since that time—well beyond the 30-day timeline set forth in the court's August 25, 2020 order for Defendants to process N-426 certification requests—and Mr. Povolotckii still has not received a properly certified N-426 form.

Class counsel note that the error on Mr. Povolotckii's form appears to be a common one. Class counsel brought a similar error to Defendants' attention on August 30, 2021 regarding class member Hariom Patel's N-426 certification. Class counsel have also encountered this error with several other class members'

N-426 certifications in recent months and reached out to the certifying officials directly to obtain new, properly certified N-426 forms. Class counsel therefore also request that Defendants issue guidance to rectify this common error and avoid further delays to the N-426 certification of class members.

Class counsel further request that Defendants immediately certify or deny the N-426 forms of class members whose N-426 certification requests remain outstanding: Olubunmi Aregbesola, Olusegun Enikanoselu, Jia Ye, and Alina Nair. In particular, class members Aregbesola and Enikanoselu have been waiting significantly long periods of time for Defendants to process their N-426 certification requests, well past the 30-day time frame set forth in the August 25, 2020 court order.



Class counsel first brought Ms. Aregbesola's case to Defendants' attention in a letter dated July 23, 2021 and have followed up in letters dated July 28, 2021; August 23, 2021; September 15, 2021; and September 22, 2021. Ms. Aregbesola first requested her N-426 certification six months ago, in April 2021, and it has been over two and a half months since class counsel flagged her case to Defendants.

Class counsel first brought Mr. Enikanoselu's case to Defendants' attention in a letter dated July 28, 2021 and have followed up in letters dated August 23, 2021; September 15, 2021; and September 22, 2021. Mr. Enikanoselu first requested his N-426 certification eleven months ago, in November 2020, and it has been over two months since class counsel flagged his case to Defendants.

Sincerely,
Sana Mayat

Counsel to Plaintiffs

Encl.