

# Litigation Related to Deferred Action for Childhood Arrivals (DACA)

Last updated JANUARY 14, 2021

On September 5, 2017, the Trump administration announced that it was terminating Deferred Action for Childhood Arrivals (DACA), a form of immigration relief created during President Obama’s administration to protect certain young people from removal from the United States. NILC, along with partners and others around the country, filed litigation challenging the Trump administration’s termination of DACA. Between January 2018 and June 2020, orders from three U.S. district courts kept DACA partially in place by requiring U.S. Citizenship and Immigration Services (USCIS) to continue accepting DACA applications from people who have or previously had DACA. The lower courts’ rulings were challenged all the way to the U.S. Supreme Court, which issued its opinion on June 18, 2020, holding that the U.S. Department of Homeland Security’s (DHS’s) termination of DACA was arbitrary and capricious, and therefore was unlawful. The Court’s decision in *Department of Homeland Security v. Regents of the University of California*, 591 U.S. \_\_\_, 140 S. Ct. 1891 (2020), remanded the termination to DHS.

Despite the victory in the Supreme Court rejecting the government’s 2017 attempt to terminate DACA, USCIS failed to update its website or issue guidance on acceptance of first-time DACA applications. On June 30, 2020, the U.S. Court of Appeals for the Fourth Circuit issued its mandate in a parallel case, *CASA de Maryland v. U.S. Department of Homeland Security*, in which the Supreme Court had denied certiorari following its decision in *Regents*. The Fourth Circuit’s mandate effectuated the court’s previous decision setting aside the DACA termination and requiring the government to accept and process DACA applications in accordance with the 2012 memo issued by the then DHS secretary, Janet Napolitano, that created DACA (the Napolitano memo). The Supreme Court issued its certified judgment in *Regents* on July 20, 2020, formally effectuating its June 18 opinion.

On July 28, 2020, after more than a month of silence, Chad Wolf, claiming to be serving as the acting secretary of Homeland Security, issued a new memorandum (the Wolf memo), the intent of which was to dismantle DACA again. The Wolf memo directed DHS personnel to reject all pending and future first-time

requests for DACA, to reject all pending and future applications for advance parole absent “exceptional circumstances,” and to shorten DACA renewals from two years to one year. The Wolf memo purported to be a “reconsideration” of DACA but took substantial immediate actions. However, on December 4, 2020, the U.S. District Court for the Eastern District of New York, in *Batalla Vidal v. Wolf*, vacated the Wolf memo because Wolf lacked the authority to serve as the acting secretary of DHS. The court thus effectively reopened DACA. The court further ordered DHS to provide public notice that it was again accepting requests based on how DACA was administered before September 5, 2017, including first-time requests for DACA and applications for advance parole. The court also extended to two years all DACA grants and employment authorizations that had been issued for only one year. On December 10, 2020, the court ordered DHS to send appropriate notices to relevant individuals whose applications for advance parole and first-time applications for DACA were wrongly rejected under the Wolf memo, as well as to those who wrongly received one-year grants of deferred action and employment authorization documents (EADs) that expired after only one year. The court also ordered the government to mail the one-year EAD recipients new work permits no later than 30 days before the expiration of their current EADs.

The two tables in this publication provide information about litigation related to DACA. Table 1 includes cases seeking to require the government to restore DACA, as created by the 2012 Napolitano memo. Some of these cases seek to require USCIS to comply with the *Regents* decision by adjudicating DACA applications in accordance with the 2012 Napolitano memo; others challenge the Wolf memo directly, primarily by challenging the legality of Wolf’s service as acting secretary and, thus, his legal authority to issue to the memo and the memo’s lawfulness under the Administrative Procedure Act (APA). NILC is counsel only in the *Batalla Vidal v. Wolf* case. For further information about the other cases described in Table 1, you may want to contact the entities involved in them (listed in the table) or read the complaints to which the table hyperlinks.

Table 2 provides information about the single case challenging the legality of DACA itself, which Texas and six other states filed on May 1, 2018.

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**Table 1: Cases Challenging the Trump Administrations' Actions Related to DACA**

LAWSUIT NAME	COURT	PLAINTIFF(S) <sup>1</sup>	STATUS OF CASE
<p><b>Batalla Vidal v. Wolf</b> <sup>2</sup>                      Case No. 1:16-cv-04756 (NGG) (JO)                      Before Judge Nicholas G. Garaufis</p>	<p>Filed in E.D.N.Y. Supreme Court issued opinion on 6/18/20                      Amended Complaint to challenge the Wolf memo on 8/28/20</p>	<p>Martín Jonathan Batalla Vidal, Antonio Alarcón, Eliana Fernández, Carlos Vargas, Carolina Fung Feng, M.B.F. by her next friend Lucia Feliz, Ximena Zamora, Sonia Molina, Johana Larios Sainz (on behalf of themselves and all other similarly situated individuals)                      Make the Road New York (on behalf of itself, its members, and its clients)</p>	<ul style="list-style-type: none"> <li>• 8/25/16: Case <a href="#">filed</a>.<sup>3</sup> Case assigned to Judge Nicholas G. Garaufis.</li> <li>• 9/19/18: <a href="#">Complaint amended</a> to challenge 2017 DACA termination.<sup>4</sup></li> <li>• 2/13/18: District court <a href="#">granted a motion for preliminary injunction</a> requiring USCIS to accept DACA applications from people who have previously had DACA.<sup>5</sup></li> <li>• The government appealed the preliminary injunction and other orders to the U.S. Court of Appeals for the Second Circuit. However, before the Second Circuit issued a ruling, the government filed a highly unusual petition for “cert before judgment,” asking the Supreme Court to hear the case without waiting for the Second Circuit to rule.</li> <li>• 6/28/2019: The Supreme Court granted certiorari and consolidated the case with the <i>Regents of the Univ. of Calif.</i> and <i>NAACP</i> cases for oral argument. The Supreme Court held oral argument on 11/12/19.</li> <li>• 6/18/20: The Supreme Court issued a <a href="#">decision</a> holding that DHS improperly terminated DACA in violation of the APA.<sup>6</sup></li> <li>• 7/28/20: Acting Secretary Chad Wolf issued a memorandum (Wolf memo) again attempting to dismantle DACA.</li> <li>• 8/28/20: <a href="#">Fourth Amended Complaint</a> filed to challenge the Wolf memo.<sup>7</sup> Plaintiffs challenge the legality of Chad Wolf’s service as acting secretary of Homeland Security, bringing claims under the Federal Vacancies Reform Act (FVRA), the Homeland Security Act (HSA), and the Appointments Clause of the Constitution. They also bring claims under the APA challenging the legality of the Wolf memo, as well as procedural due process claims.</li> <li>• Plaintiffs filed a motion for summary judgment on the claims challenging the lawfulness of Wolf’s service and a motion for class certification seeking to represent DACA-eligible individuals nationwide. Defendants cross-moved for summary judgment. Briefing on the motions for summary judgment and motion for class certification was completed on 10/7/2020.</li> <li>• 11/14/20: The court <a href="#">ruled</a> that Wolf was serving unlawfully as the acting secretary of Homeland Security and thus that the Wolf memo was issued unlawfully.<sup>8</sup> The court also certified a nationwide class in the case. The court appointed the National Immigration Law Center, Jerome N. Frank</li> </ul>

LAWSUIT NAME	COURT	PLAINTIFF(S) <sup>1</sup>	STATUS OF CASE
			<p>Legal Services Organization at Yale Law School, and Make the Road New York as class counsel.</p> <ul style="list-style-type: none"> <li>• 11/18/20: The court held a conference to discuss next steps and ordered briefing on the relief that should be ordered flowing from the 11/14/20 decision.</li> <li>• 11/24/20: Plaintiffs filed a motion for partial summary judgment requesting that the court vacate the Wolf memo and grant other relief.</li> <li>• 12/4/20: The court granted plaintiffs' motion for partial summary judgment, vacated the Wolf memo, ordered DHS to provide public notice that it was again accepting requests based on the terms of the DACA program prior to 9/5/17. The court further ordered the federal government to provide a status report on the DACA program by 1/4/21.</li> <li>• 12/10/20: After consideration of a Joint Status Report filed by the parties the previous day, the court ordered DHS to send appropriate notices by 1/8/21 to relevant individuals whose first-time DACA applications and applications for advance parole were wrongly rejected under the Wolf memo, as well as to those who wrongly received a one-year grant of deferred action and a one-year employment authorization document.</li> </ul> <p><b>For more information on the case and for the latest developments:</b>  <a href="http://www.nilc.org/batalla-vidal-v-baran-et-al/">www.nilc.org/batalla-vidal-v-baran-et-al/</a></p> <p><b>Class members (DACA-eligible individuals) can receive updates here:</b>  <a href="http://dacaclasseaction.org">dacaclasseaction.org</a></p>
<p><b>NY v. Trump, et al.</b>                      Case No. 17-cv-5228                      Before Judge Nicholas G. Garaufis</p>	<p>Filed in E.D.N.Y. Supreme Court issued opinion on 6/18/20.                      Amended Complaint to challenge the Wolf memo on 8/28/20</p>	<p>New York, Massachusetts, Washington, Colorado, Connecticut, Delaware, District of Columbia, Hawaii, Illinois, Iowa, New Mexico, North Carolina, Oregon, Pennsylvania, Rhode Island, Vermont, and Virginia</p>	<ul style="list-style-type: none"> <li>• 9/6/17: Case <a href="#">filed</a>.<sup>9</sup></li> <li>• 9/7/17: The court reassigned this case to Judge Garaufis, who has heard this case in tandem with <i>Batalla Vidal v. Nielsen</i>.</li> <li>• 8/28/2020: Complaint <a href="#">amended</a> to challenge the Wolf memo.<sup>10</sup> Plaintiffs bring claims under the Federal Vacancies Reform Act and the Homeland Security Act challenging Chad Wolf's service as acting secretary of Homeland Security. They also bring claims under the APA challenging the legality of the memo and bring procedural due process claims. Plaintiffs also filed a motion for summary judgment on the claims challenging the lawfulness of Wolf's service.</li> </ul> <p><b>See <i>Batalla Vidal</i>, above for other history and relevant upcoming dates.</b> The <i>New York</i> and <i>Batalla Vidal</i> cases are separate and have not been consolidated, but have proceeded along parallel schedules, and Judge Garaufis has issued joint opinions for the two cases.</p>

LAWSUIT NAME	COURT	PLAINTIFF(S) <sup>1</sup>	STATUS OF CASE
<p><b>Regents of the Univ. of Calif. v. DHS</b> (lead case) Case No. 17-cv-05211 Consolidated with <i>Calif. v. DHS</i>, Case No. 17-cv-05235; <i>County of Santa Clara v. Trump</i>, Case No. 17-cv-05813; <i>Garcia et al. v. Trump</i>, Case No. 17-cv-05380; and <i>San Jose v. Trump</i>, Case No. 17-cv-05329-SVK. Before Judge William Alsup</p>	<p>Filed in N.D. Cal. Supreme Court issued opinion on 6/18/20</p>	<ul style="list-style-type: none"> <li>• The Regents of the University of California</li> <li>• California, Maine, Maryland, and Minnesota</li> <li>• County of Santa Clara and Service Employees International Union Local 521 (Local 521)</li> <li>• Dulce Garcia, Miriam Gonzalez Avila, Saul Jimenez Suarez, Norma Ramirez, Jirayut Latthivongskorn, Marco Antonio Salinas Munoz, Dulce Berenice Vargas Baltazar, Ericka Liseth Daniel Santellan, Grisel Guadalupe Chavez Diaz, and Felipe Alvarez Carrillo</li> <li>• City of San Jose</li> </ul>	<ul style="list-style-type: none"> <li>• 9/8/17: Case <a href="#">filed</a>.<sup>11</sup></li> <li>• 9/20/17: The court consolidated this case with <i>City of San Jose v. Trump</i>, <i>State of Calif. v. DHS</i>, and <i>Garcia v. United States</i>. All the cases were then reassigned to Judge Alsup.</li> <li>• 1/9/18: The court granted the preliminary injunction requiring the federal government to accept applications for renewal of DACA.</li> <li>• 11/8/18: The Ninth Circuit <a href="#">upheld</a> the preliminary injunction requiring the government to continue accepting DACA renewal applications.<sup>12</sup></li> <li>• 6/18/20: The U.S. Supreme Court issued a <a href="#">decision</a> in this case and in the E.D.N.Y. and the D.D.C. (<i>NAACP</i>) cases holding that DHS improperly terminated DACA in violation of the APA.<sup>13</sup> Because the Court affirmed the <i>NAACP</i> judgment remanding the termination to the agency, the Court vacated and reversed in part the judgement in <i>Regents</i>.</li> <li>• 8/18/20: Plaintiffs filed a letter with the district court requesting a status conference with Judge Alsup to determine the next steps in the case.<sup>14</sup> The letter states that plaintiffs intend to challenge the Wolf memo.</li> <li>• 10/22/20: Judge Alsup held a case management conference, during which he adopted the schedule proposed by the parties.</li> <li>• 11/2/20: Plaintiffs filed amended complaints.<sup>15</sup></li> <li>• The court set a briefing schedule on dispositive motions as follows: <ul style="list-style-type: none"> <li>– 3/23/21: Plaintiffs’ motion for summary judgment is due</li> <li>– 4/13/21: Defendants’ combined cross-motion for summary judgment and opposition to plaintiffs’ motion for summary judgment is due</li> <li>– 5/4/21: Plaintiffs’ combined opposition and reply are due</li> <li>– 5/18/21: Defendants’ reply is due</li> <li>– TBD: Oral argument</li> </ul> </li> </ul> <p><b>For more information on the case and for the latest developments, see the UC and California AG’s websites, including <a href="https://oag.ca.gov/daca">https://oag.ca.gov/daca</a> and <a href="https://www.universityofcalifornia.edu/daca">https://www.universityofcalifornia.edu/daca</a>.</b></p>

LAWSUIT NAME	COURT	PLAINTIFF(S) <sup>1</sup>	STATUS OF CASE
<p><b>CASA de Maryland v. Trump</b> Case No. 17-cv-02942-RWT Before Judge Paul W. Grimm</p>	<p>Filed in D. Md.</p>	<ul style="list-style-type: none"> <li>• CASA de Maryland, Arkansas United Community Coalition, CHIRLA, FIRM, Junta for Progressive Action Inc., Make the Road Pennsylvania, Michigan United, OneAmerica, Promise Arizona</li> <li>• Maricruz Abarca, Luis Aguilar, Ángel Aguiluz, José Aguiluz, Josué Aguiluz, María Joseline Cuellar Baldelomar, Missael Garcia, Annabelle Martinez Herra, Eliseo Mages, Heymi Elvir Maldonado, Brenda Moreno Martinez, Jesús Eusebio Perez, Nathaly Uribe Robledo, Estefany Rodriguez</li> <li>• A.M., a minor child, and Isabel Cristina Aguilar Arce, on behalf of A.M.; J.M.O., a minor child, and Adriana Gonzales Magos, on behalf of J.M.O.</li> </ul>	<ul style="list-style-type: none"> <li>• 10/5/17: Case <a href="#">filed</a>.<sup>16</sup></li> <li>• 3/5/18: The U.S. district court in Maryland <a href="#">granted summary judgment</a> to the plaintiffs on only their information-sharing/estoppel claim, prohibiting the government from using or sharing information provided through the DACA application process for enforcement or deportation purposes.<sup>17</sup></li> <li>• 5/17/19: The Fourth Circuit Court of Appeals issued a decision reversing the grant of summary judgment to the government and concluding that DACA’s termination was arbitrary and capricious in violation of the APA. The court also concluded that the plaintiffs were not entitled to an injunction related to information-sharing.<sup>18</sup></li> <li>• 5/24/19: The government filed a petition with the Supreme Court for a <a href="#">writ of certiorari</a>, asking the Court to review the Fourth Circuit’s decision.<sup>19</sup> The government also requested an expedited briefing schedule so that the Court could consider its petition before its term ended. The Court denied that request on 6/3/19.</li> <li>• 6/30/20: <a href="#">Mandate issued</a> by the Fourth Circuit.<sup>20</sup></li> <li>• 7/17/20: District court issued an <a href="#">order stating</a> the “rescission of the DACA policy is VACATED, and the policy is restored to its pre-September 5, 2017 status.”<sup>21</sup></li> <li>• 7/24/20: During a status conference, the federal government revealed that it placed pending initial DACA applications “into a bucket” while the government reviewed the DACA policy.</li> <li>• 8/14/20: Plaintiffs filed a motion to hold the federal government in contempt or, in the alternative, compel compliance, with the Fourth Circuit’s mandate and district court order restoring DACA to its pre-9/5/17 status.<sup>22</sup> Briefing was completed on 9/4/20.</li> </ul> <p><b>For more information on the case and for the latest developments, see CASA’s press releases, including <a href="https://wearecasa.org/casa-condemns-trumps-daca-dismantling/">https://wearecasa.org/casa-condemns-trumps-daca-dismantling/</a>.</b></p>
<p><b>NAACP v. Trump</b> Case No. 17-cv-01907 Before Judge John D. Bates</p>	<p>Filed in D.D.C. Supreme Court issued opinion on June 18, 2020</p>	<p>NAACP, American Federation of Teachers (AFT), United Food and Commercial Workers International Union (UFCW)</p>	<ul style="list-style-type: none"> <li>• 9/18/17: Case <a href="#">filed</a>.<sup>23</sup></li> <li>• 1/18/17: The court consolidated this case with Trustees of Princeton University v. USA (see below), and the consolidated case was reassigned to Judge John D. Bates.</li> </ul>

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			<ul style="list-style-type: none"> <li>• 4/24/18: The court issued a <a href="#">decision</a> partially granting summary judgment to the plaintiffs,<sup>24</sup> holding that the DACA termination was arbitrary and capricious, in violation of the APA, because the government did not sufficiently explain why it made the decision. The court ordered that the memo terminating DACA be vacated — which would reinstate DACA 2012, allowing DACA-eligible people to file first-time applications — but the court stayed its order for 90 days to give the government time to issue a new memo or better explain why it ended DACA. The court denied the plaintiffs’ request for a preliminary injunction on their information-sharing/estoppel claim, because it found that harm was not imminent given that the CASA de Maryland order (above) currently prevents DHS from sharing that information. The court then dismissed that claim entirely because it found that the claim was not sufficiently pled.</li> <li>• 6/22/18: The government submitted a new memorandum from Secretary of Homeland Security Kirstjen Nielsen, which reaffirms the decision to end DACA. In response, the court delayed its order to vacate the memo terminating DACA.</li> <li>• 8/3/18: The court issued a decision regarding the Nielsen memo, ruling that it does not change the court’s earlier judgment. The court reinstated its earlier order, i.e., that DACA be reinstated. However, the court gave the government 20 days to appeal before the order took effect.</li> <li>• 8/17/18: With the consent of the plaintiffs, the court partially stayed its order as it applied to initial applications and advance parole. This meant that the order went into effect on Aug. 23 only with regard to renewal applications — in a manner similar to the orders issued by the U.S. District Courts for the Eastern District of New York and Northern District of California.</li> <li>• 6/18/2020: The U.S. Supreme Court issued an opinion in this case, the N.D. Cal. cases, and the E.D.N.Y. cases, which were heard together. The Court affirmed the lower court’s judgment.</li> <li>• 9/16/20: In a joint status report, the plaintiffs stated that they did not currently intend to challenge the Wolf memo but reserved their right to do so in the future.</li> </ul>

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			<p>For more information on the case and for the latest developments, see NAACP, AFT, and UFCW press releases, including:</p> <ul style="list-style-type: none"> <li>• <a href="https://www.naACP.org/latest/naACP-applauds-supreme-court-victory-in-naACP-v-trump/">https://www.naACP.org/latest/naACP-applauds-supreme-court-victory-in-naACP-v-trump/</a></li> <li>• <a href="https://www.aft.org/press-release/aft-president-randi-weingarten-us-supreme-court-decision-daca">https://www.aft.org/press-release/aft-president-randi-weingarten-us-supreme-court-decision-daca</a></li> <li>• <a href="http://www.ufcw.org/press-releases/dacasupremecourt">http://www.ufcw.org/press-releases/dacasupremecourt</a></li> </ul>
<p><b>Trustees of Princeton University, et al. v. USA, et al.</b> Case No. 17-cv-02325 Before Judge John D. Bates</p>	<p>Filed in D.D.C. Supreme Court issued opinion on June 18, 2020</p>	<p>Trustees of Princeton University, Maria De La Cruz Perales Sanchez, Microsoft Corporation</p>	<ul style="list-style-type: none"> <li>• 11/3/17: Case <a href="#">filed</a>.<sup>25</sup></li> <li>• 1/18/17: The court consolidated this case with <i>NAACP v. Trump</i> (above), and the consolidated case was reassigned to Judge John D. Bates.</li> <li>• See <i>NAACP v. Trump</i>, above.</li> </ul> <p>For more information on the case and for the latest developments, see Microsoft and Princeton’s press releases, including:</p> <ul style="list-style-type: none"> <li>• <a href="https://blogs.microsoft.com/on-the-issues/2020/06/18/scotus-upholds-daca-dreamers/">https://blogs.microsoft.com/on-the-issues/2020/06/18/scotus-upholds-daca-dreamers/</a></li> <li>• <a href="https://www.princeton.edu/news/2020/06/18/princeton-microsoft-maria-perales-sanchez-18-welcome-supreme-court-ruling-restore">https://www.princeton.edu/news/2020/06/18/princeton-microsoft-maria-perales-sanchez-18-welcome-supreme-court-ruling-restore</a></li> </ul>
<p><b>Santa Fe Dreamers Project, et al. v. Wolf, et al.</b> Case No. 20-cv-02465 Before Judge Reggie B. Walton</p>	<p>Filed in D.D.C.</p>	<p>Santa Fe Dreamers Project, Spanish Community Center, American Gateways</p>	<ul style="list-style-type: none"> <li>• 9/3/20: Case filed. Plaintiffs challenge the Wolf memo by bringing claims under the FVRA, the HSA, and the Appointments Clause of the U.S. Constitution to challenge Wolf’s service as acting secretary of Homeland Security, and under the APA.</li> <li>• 9/11/20: Plaintiffs filed a motion for summary judgment. Defendants cross-moved for summary judgment. Briefing was complete on 10/16/2020.</li> <li>• 1/12/21: Plaintiffs voluntarily dismissed their case without prejudice.</li> </ul> <p>For more information on the case and for the latest developments, see MALDEF press releases, including:</p> <ul style="list-style-type: none"> <li>• <a href="https://www.maldef.org/court-cases/immigrants-rights/">https://www.maldef.org/court-cases/immigrants-rights/</a></li> </ul>

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<p><b>Perez Lazarte, et al. v. Wolf, et al.</b> Case No. 20-cv-00894</p>	Filed. E.D. Va.	Daniel Perez Lazarte and Gerson Aguilar Delgadillo	<ul style="list-style-type: none"> <li>• 8/6/20: Case filed. Plaintiffs challenged retroactive changes to DACA through the Wolf memo that shorten the DACA renewal period from two years to one year after they applied.</li> <li>• 9/18/20: Plaintiffs dismissed their lawsuit, citing their status as putative class members in the <i>Batalla Vidal</i> class action.</li> <li>• 9/22/20: The court dismissed the lawsuit without prejudice.</li> </ul>
<p><b>FIEL Houston Inc., et al., v. Wolf, et al.</b> Case No. 20-cv-02515 Before Judge Vanessa D. Gilmore</p>	Filed S.D. Tex.	FIEL Houston, Maria Gutierrez, Enrique Contreras, Fernando Miranda Marin, Orlando Saenz, Shayli Rodriguez, Anahi Lagunas, Elizabeth Reboloso, Cesar Espinosa	<ul style="list-style-type: none"> <li>• 7/16/20: Case filed. Plaintiffs challenged USCIS’s refusal to accept and adjudicate initial applications for DACA as a violation of the Supreme Court’s decision in <i>Regents</i> and the Fourth Circuit’s mandate in <i>CASA de Maryland</i>, and bring claims under the APA and seek mandamus under the All Writs Act.</li> <li>• 7/17/20: Plaintiffs filed an amended complaint.</li> <li>• 7/31/20: Plaintiffs filed a motion for a preliminary injunction and motion for class certification. Briefing on the preliminary injunction motion was complete on 9/30/20. The court directed the parties to meet and confer on a proposed schedule for the briefing on the plaintiffs’ motion for class certification after the plaintiffs’ motion for class certification and the defendants’ motion to dismiss.</li> <li>• 9/4/20: Defendants filed a motion to dismiss.</li> <li>• 12/1/20: The parties filed a Joint Discovery/Case Management Plan. The parties disagreed about the availability of discovery but agreed that any discovery should be stayed pending the court’s ruling on the motion to dismiss.</li> </ul>
<p><b>Valle Arrizon v. Wolf, et al.</b> Case No. 20-cv-00788 Before Judge Hala Y. Jarbou</p>	Filed W.D. Mich.	Gonzalo Valle Arrizon and Efren Valle Arrizon	<ul style="list-style-type: none"> <li>• 8/21/20: Case filed. Plaintiffs challenged defendants’ refusal to accept their applications for emergency advance parole. Plaintiffs proceeded on several legal theories, including seeking to enforce the Supreme Court ruling in <i>Regents</i>, arguing that plaintiffs’ advance parole applications present “exceptional circumstances” and should have been accepted under the Wolf memo, and that the Wolf memo is invalid because Wolf was not lawfully serving as the acting secretary of DHS.</li> <li>• 10/26/20: Defendants filed a motion to dismiss.<sup>26</sup></li> <li>• 11/19/20: The court ordered plaintiffs to file their response to defendants’ motion to dismiss on or before 12/7/20.</li> </ul>



LAWSUIT NAME	COURT	PLAINTIFF(S) <sup>1</sup>	STATUS OF CASE
			<ul style="list-style-type: none"> <li>• 11/24/20: Plaintiffs filed a motion to request an extension until 3/7/21 and noted that the parties were engaged in settlement discussions. The court denied the motion for extension on 12/2/20.</li> <li>• 12/4/20: The parties stipulated to the dismissal of plaintiffs' claims regarding the validity of the Wolf memo and claims pursuant to the APA regarding the rejection of plaintiffs' applications for emergency advance parole, noting that plaintiffs would fall within the class certified in the <i>Batalla Vidal v. Wolf</i> case. Plaintiffs maintained their claims under the Religious Freedom Restoration Act (RFRA). By order of the court, the stipulated dismissal took effect on 12/7/20.</li> <li>• 12/7/20: Plaintiffs filed an amended complaint reasserting their RFRA claim and adding a procedural due process claim alleging that defendants had, without due process of law, deprived them of their liberty to travel.</li> </ul>

**Table 2: Case Challenging the Creation of the 2012 DACA Policy**

LAWSUIT NAME	COURT	PLAINTIFF(S)	STATUS OF CASE
<p><b>Texas et al. v. United States et al.</b> Case No. 1:18-cv-00068 Before Judge Andrew S. Hanen</p>	<p>Filed in S.D. Tex., Brownsville Division</p>	<p>States of Texas, Alabama, Arkansas, Kansas, Louisiana, Nebraska, South Carolina, and West Virginia, and the governor of Mississippi</p>	<ul style="list-style-type: none"> <li>• 5/1/18: Case <a href="#">filed</a>.<sup>27</sup> Case first assigned to Judge Rolando Olvera, a President Obama appointee, but then later reassigned to Judge Hanen, who presided over the expanded DACA and DAPA (Deferred Action for Parents of Americans and Lawful Permanent Residents)–related litigation in <i>Texas v. United States</i>. Counter to case-relation rules, this new case was marked as related to <i>Texas v. U.S.</i>, even though the latter case was closed.</li> <li>• 5/2/18: Plaintiff states filed a <a href="#">request for a preliminary injunction</a> that would halt DACA 2012 from operating during the pendency of this lawsuit, both for initial and renewal applications.<sup>28</sup> Texas and the other states requested relief from Judge Hanen by July 23, 2018, the date on which the 90-day period set out in the <i>NAACP v. Trump</i> and <i>Princeton et al. v. Trump</i> cases had been scheduled to run out.</li> <li>• 5/15/18: The court granted a request by 22 individual DACA recipients, represented by the Mexican American Legal Defense and Educational Fund (MALDEF), to intervene, formally making them defendant-intervenors in the case.<sup>29</sup> The DACA recipients had argued that because the federal government and the plaintiff states both have taken the same position on the legality of DACA, the agencies of the federal government that are the defendants in the case will not adequately represent DACA</li> </ul>

LAWSUIT NAME	COURT	PLAINTIFF(S)	STATUS OF CASE
			<p>recipients’ interests if the court does not let the latter become part of the case.</p> <ul style="list-style-type: none"> <li>• 6/25/18: The court granted a request by the New Jersey to intervene, formally making it a defendant-intervenor in the case.</li> <li>• 8/8/18: A hearing was held on the plaintiff states’ motion for a preliminary injunction. (This hearing was originally scheduled for 7/17/18 but was postponed in light of the developments in the U.S. district court in DC, described above.)</li> <li>• 8/31/18: The court issued an <a href="#">opinion and order</a> denying the plaintiff states’ motion for a preliminary injunction.<sup>30</sup> Although the court found that the plaintiff states were likely to succeed on substantive and procedural APA claims, the court declined to issue a preliminary injunction, recognizing the harm it would cause to DACA recipients who have relied on DACA for protection from deportation and work authorization and reasoning that the plaintiff states could have challenged DACA in 2014, when they filed their suit challenging DAPA and <i>expanded</i> DACA. The court also issued an <a href="#">interlocutory appeal order</a> certifying the case for appeal to the Fifth Circuit and staying the case for 21 days to allow the parties to pursue an interlocutory appeal.<sup>31</sup></li> <li>• 2/4/19: Plaintiff states moved for summary judgment, stating that no further discovery was needed.</li> <li>• 11/22/19: The U.S. district court granted New Jersey’s motion to stay the proceedings in the case until 30 days after the Supreme Court ruled in the <i>Regents</i> case.</li> <li>• 6/18/20: The U.S. district court ordered the parties to file a joint status report by 7/24/20 setting out their respective positions given the Supreme Court’s <i>Regents</i> opinion and an agreed schedule to resolve the matter.</li> <li>• 8/21/20: The U.S. district court dismissed the plaintiff states’ motion for summary judgment without prejudice and granted plaintiffs leave to re-file the motion incorporating additional arguments from the <i>Regents</i> decision.</li> <li>• 10/7/20: The individual defendant-intervenors filed a motion to compel and extend the discovery period by an additional 30 days. Briefing was complete on 10/30/20.</li> <li>• 10/9/20: The plaintiff states filed a motion for summary judgment.</li> <li>• 11/6/20: The federal defendants, New Jersey defendant-Intervenors, and individual defendant-intervenors filed their responses. The individual</li> </ul>

LAWSUIT NAME	COURT	PLAINTIFF(S)	STATUS OF CASE
			<p>defendant-intervenors cross-moved for summary judgment. Briefing was complete on 11/30/20.</p> <ul style="list-style-type: none"> <li>12/7/20: The individual defendant-intervenors and New Jersey filed an opposed motion to continue the summary judgment hearing set for 12/22/20 until a date after 1/4/21 on the grounds, among others, that the status report ordered by the court in <i>Batalla Vidal v. Wolf</i> by that date would allow the parties to provide a status update to the court on the present practice of the federal government regarding DACA. Briefing was complete on 12/10/20.</li> <li>12/16/20: The U.S. district court denied the motion to continue the hearing.</li> <li>12/22/2020: The court heard oral argument on the motions for summary judgment. As of 1/14/21, the court has not issued an opinion.</li> </ul>

## URLs and Notes

<sup>1</sup> Plaintiffs listed are the plaintiffs on the operative complaint where complaints have been amended.

<sup>2</sup> The case name, like many others in this table, has changed over the course of the litigation as DHS has cycled through different secretaries and acting secretaries under the Trump administration.

<sup>3</sup> [www.nilc.org/wp-content/uploads/2017/09/Batalla-Vidal-v-Baran-et-al-complaint-2016-08-25.pdf](http://www.nilc.org/wp-content/uploads/2017/09/Batalla-Vidal-v-Baran-et-al-complaint-2016-08-25.pdf).

<sup>4</sup> [www.nilc.org/wp-content/uploads/2017/10/Batalla-Vidal-v-Duke-2d-Amended-Complaint-2017-09-19.pdf](http://www.nilc.org/wp-content/uploads/2017/10/Batalla-Vidal-v-Duke-2d-Amended-Complaint-2017-09-19.pdf).

<sup>5</sup> <https://www.nilc.org/wp-content/uploads/2018/02/Batalla-Vidal-v-Nielsen-updated-pi-order-2018-02-13.pdf>.

<sup>6</sup> <https://www.nilc.org/wp-content/uploads/2020/06/DHS-v-Regents-of-UC-2020-06-18.pdf>.

<sup>7</sup> <https://www.nilc.org/wp-content/uploads/2020/09/Batalla-fourth-amended-complaint-2020-08-28.pdf>.

<sup>8</sup> <https://www.nilc.org/wp-content/uploads/2020/11/Batalla-order-class-cert-Wolf-memo-2020-11-14.pdf>.

<sup>9</sup> <https://www.courtlistener.com/recap/gov.uscourts.nyed.406590.1.0.pdf>.

<sup>10</sup> <https://www.courtlistener.com/recap/gov.uscourts.nyed.406590/gov.uscourts.nyed.406590.271.0.pdf>.

<sup>11</sup> <https://universityofcalifornia.edu/sites/default/files/UC-DACA-Complaint.pdf>.

<sup>12</sup> <http://cdn.ca9.uscourts.gov/datastore/general/2018/11/08/18-15068%20Opinion.pdf>.

<sup>13</sup> <https://www.nilc.org/wp-content/uploads/2020/06/DHS-v-Regents-of-UC-2020-06-18.pdf>.

<sup>14</sup> <https://www.courtlistener.com/recap/gov.uscourts.cand.316722/gov.uscourts.cand.316722.304.0.pdf>.

<sup>15</sup> The amended complaints are available at <https://oag.ca.gov/sites/default/files/DACA%20FAC%20-%20Filed%2011.02.2020.pdf>; <https://www.courtlistener.com/recap/gov.uscourts.cand.316722/gov.uscourts.cand.316722.311.0.pdf>;

<https://www.courtlistener.com/recap/gov.uscourts.cand.317144/gov.uscourts.cand.317144.98.0.pdf>;  
<https://www.courtlistener.com/recap/gov.uscourts.cand.318004/gov.uscourts.cand.318004.87.0.pdf>;  
<https://www.courtlistener.com/recap/gov.uscourts.cand.316976/gov.uscourts.cand.316976.103.0.pdf>.

<sup>16</sup> [www.washlaw.org/pdf/daca\\_complint\\_10\\_05\\_17.PDF](http://www.washlaw.org/pdf/daca_complint_10_05_17.PDF).

<sup>17</sup> <http://cdn.cnn.com/cnn/2018/images/03/06/maryland-daca-opinion.pdf>.

<sup>18</sup> <https://www.ca4.uscourts.gov/Opinions/181521.P.pdf>.

<sup>19</sup> <https://bit.ly/2l8JZVX>.

<sup>20</sup> <https://www.nilc.org/wp-content/uploads/2021/01/CASA-v-DHS-4th-Dkt71-Mandate-2020-06-30.pdf>.

<sup>21</sup> <https://www.courtlistener.com/recap/gov.uscourts.mdd.403497/gov.uscourts.mdd.403497.97.0.pdf>.

<sup>22</sup> <https://www.courtlistener.com/recap/gov.uscourts.mdd.403497/gov.uscourts.mdd.403497.115.1.pdf>.

<sup>23</sup> <https://www.naacp.org/wp-content/uploads/2017/09/NAACP-DACA-complaint.pdf>.

<sup>24</sup> [https://ecf.dcd.uscourts.gov/cgi-bin/show\\_public\\_doc?2017cv2325-70](https://ecf.dcd.uscourts.gov/cgi-bin/show_public_doc?2017cv2325-70).

<sup>25</sup> <https://www.princeton.edu/sites/default/files/documents/2017/11/DACA%20Complaint%2011%203%2017%20FINAL.pdf>.

<sup>26</sup> <https://www.courtlistener.com/recap/gov.uscourts.miwd.98742/gov.uscourts.miwd.98742.12.1.pdf>.

<sup>27</sup> [https://www.texasattorneygeneral.gov/files/epress/File-Stamped\\_Complaint.pdf](https://www.texasattorneygeneral.gov/files/epress/File-Stamped_Complaint.pdf).

<sup>28</sup> [https://www.texasattorneygeneral.gov/files/epress/Mt\\_for\\_PI.pdf](https://www.texasattorneygeneral.gov/files/epress/Mt_for_PI.pdf).

<sup>29</sup> MALDEF's press release about this development is available at

[www.maldef.org/news/releases/2018\\_05\\_15\\_Federal\\_Court\\_Grants\\_MALDEF\\_Motion\\_to\\_Intervene\\_on\\_Behalf\\_of\\_Dreamers\\_in\\_Texas-Led\\_Lawsuit\\_Challenging\\_DACA/](http://www.maldef.org/news/releases/2018_05_15_Federal_Court_Grants_MALDEF_Motion_to_Intervene_on_Behalf_of_Dreamers_in_Texas-Led_Lawsuit_Challenging_DACA/).

<sup>30</sup> <https://www.nilc.org/wp-content/uploads/2018/08/Texas2-v-US-memorandum-opinion-and-order-2018-08-31.pdf>.

<sup>31</sup> <https://www.nilc.org/wp-content/uploads/2018/08/Texas2-v-US-interlocutory-appeal-order-2018-08-31.pdf>.