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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

CIVIL MINUTES - GENERAL

Case No. SACV 07-1394 DOC (RNBx)

Date: November 18, 2008

Title: FLORES, ET AL. V. MUKASEY, ET AL.

DOCKET ENTRY

[I hereby certify that this document was served by first class mail or Government messenger service, postage prepaid, to all counsel (or parties) at their respective most recent address of record in this action on this date.]

Date: _____ Deputy Clerk: _____

PRESENT:

THE HONORABLE DAVID O. CARTER, JUDGE

Kristee Hopkins
Courtroom Clerk

Not Present
Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFFS: ATTORNEYS PRESENT FOR DEFENDANTS:

NONE PRESENT

NONE PRESENT

PROCEEDING (IN CHAMBERS): GRANTING IN PART AND DENYING IN PART PLAINTIFFS' MOTION TO LEAVE TO FILE SECOND AMENDED COMPLAINT

Before the Court is the Motion of Plaintiffs Carlos Guillermo Flores, et al. ("Plaintiffs") for Leave to File a Second Amended Complaint (the "Motion"). The Court finds the Motion appropriate for decision without oral argument. FED. R. CIV. P. 78; Local Rule 7-15. After considering the moving, opposing, and replying papers, the Court hereby GRANTS in part and DENIES in part the Motion.

The grant or denial of an opportunity to amend is within the discretion of the district court. *Foman v. Davis*, 371 U.S. 178, 182 (1962). "In the absence of any apparent or declared reason – such as undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, futility of amendment, etc. – the leave sought should, as the rules require, be 'freely given.'" *Id.*

MINUTES FORM 11 DOC
CIVIL - GEN

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Page 1 of 2

Plaintiffs are free to amend their complaint to substitute individual Plaintiffs. However, the Court cannot permit Plaintiffs to amend their complaint to include their requested changes to their factual and legal claims as such permission would, under the fairly unique circumstances of this case, invoke undue prejudice to the opposing party.

At a hearing on May 12, 2008, the Court ordered this case to be placed in abeyance pending Defendants' submission of three reports pertaining to the number of naturalization applications pending before the United States Citizenship and Immigration Services (USCIS). Defendants have submitted all three reports, as requested, and have demonstrated very significant progress therein. Allowing the complaint to be amended at this juncture in the litigation, so as to include the factual and legal changes requested by Plaintiffs, would invoke undue prejudice against the Defendants. In so ruling, the Court is mindful of the fact Plaintiffs' may voluntarily dismiss their case pursuant to Fed. R. Civ. P. 41(a) and re-file it with whatever factual and legal changes they choose.

For the reasons stated herein, the Court hereby GRANTS IN PART AND DENIES IN PART Plaintiff's Motion. The Clerk shall serve this minute order on all parties to the action.