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E-FILED 3/30/07

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

LIWEI QI, et al.,

No. C 07-01739 RS

Plaintiffs,

v.

SCHEDULING ORDER

ALBERTO GONZALES, et al.,

Defendants.

On March 27, 2007, plaintiffs Liwei Qi and Lei Xu, appearing through counsel, filed a “Complaint for Mandamus (Adjustment of Status)” against defendant Alberto Gonzales, Attorney General of the United States, and other government officials in their official capacities. Plaintiffs allege defendants have failed to process their I-485 applications in a timely manner, apparently as a result of delays in obtaining a completed background check clearance from the Federal Bureau of Investigation. Plaintiffs allege that, as a result, defendants have violated the Administrative Procedures Act, 5 U.S.C § 701 et. seq. Plaintiffs request that this Court enter an order compelling defendants to act upon their applications. In view of defendants’ previously stated position in cases like these that the Court lacks jurisdiction, and because the nature of this action is such that resolution of the issues will not be facilitated by the ordinary case management procedures,

Case No. C 07-01739
SCHEDULING ORDER

United States District Court
For the Northern District of California

1 IT IS HEREBY ORDERED as follows:

2 (1) The Clerk of the Court shall serve a copy of the complaint and a copy of this Order
3 upon counsel for Defendants, the Office of the United States Attorney. The Clerk of the Court also
4 shall serve a copy of this Order upon Plaintiffs' counsel.

5 (2) Defendants shall, within sixty (60) days after receiving service of the complaint, file
6 and serve any motion to dismiss they may wish to bring. Opposition and reply papers shall
7 thereafter be filed and served in conformance with the schedule provided by Civil Local Rule 7.

8 (3) Within twenty (20) days of the date of this order, the parties shall make their
9 determination regarding the issue of consent to the jurisdiction of the Magistrate Judge and file the
10 appropriate form. In the event any party declines to consent to the jurisdiction of the Magistrate
11 Judge, this action will be reassigned to a District Judge for further proceedings; in such event,
12 defendants shall notice their motion to dismiss before such judge.

13 (4) The Order Setting Initial Case Management Conference and ADR deadlines dated
14 March 27, 2007, in this action is hereby VACATED.

15 IT IS SO ORDERED.

16 Dated: March 30, 2007

17 
18 RICHARD SEEBORG
19 United States Magistrate Judge

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1 **THIS IS TO CERTIFY THAT NOTICE OF THIS ORDER WAS ELECTRONICALLY**
2 **PROVIDED TO:**

3 Tricia Wang, Esq.
4 Email: tricia@wangslaw.com

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6 Dated: March 30, 2007

7
8 /s/ BAK
9 Chambers of Magistrate Judge Richard Seeborg

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United States District Court
For the Northern District of California

Case No. C 07-01739
SCHEDULING ORDER