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6 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 HARSHINI NARAMBATLA, *et al.*,

9 Plaintiffs,

10 v.

11 UNITED STATES DEPARTMENT OF
HOMELAND SECURITY,

12 Defendant.

CASE NO. 2:23-cv-01275-JHC

ORDER

13
14 **I**

15 **INTRODUCTION**

16 This immigration matter comes before the Court on the parties' cross-motions for
17 summary judgment. Dkts. # 37, 40. Plaintiffs are noncitizens¹ who reside in the United States
18 and whose H-1B visas and corresponding "cap numbers" were revoked by Defendant United
19 States Department of Homeland Security (DHS).² *See generally* Dkts. ## 26–36. Plaintiffs sued
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22 ¹ The Court uses the term "noncitizen" as equivalent to the statutory term "alien." *See Barton v. Barr*, 590 U.S. 222, 226 n.2 (2020) (citing 8 U.S.C. § 1101(a)(3)).

23 ² The Homeland Security Act of 2002 made DHS a parent agency of USCIS. *See* 6 U.S.C § 101,
24 *et seq.* Both agencies have the authority to adjudicate and designate a noncitizen as inadmissible and
construe statutory grounds of inadmissibility. 8 U.S.C. § 1182(a). The parties do not dispute that the acts
of USCIS are imputed to its parent agency DHS. And the parties' briefing ascribes USCIS's actions to
DHS. *See* Dkts. # 37, 40.

1 DHS, contending that the agency violated the Administrative Procedure Act (APA). Dkt. # 8.
2 Both parties have moved for summary judgment as to Plaintiffs' sole remaining claim.³ Dkts.
3 # 37, 40. The Court has reviewed the materials filed in support of and in opposition to the
4 motions, the record, and the applicable law. Being fully advised, for the reasons below, the
5 Court DENIES Plaintiffs' motion for summary judgment, GRANTS DHS's cross-motion for
6 summary judgment, and DISMISSES this matter with prejudice.

7 **II**
8 **BACKGROUND**

9 The Immigration Act of 1990 provides for the H-1B visa, which allows an employer in
10 the United States to hire a noncitizen to fill a "specialty occupation" based on a "petition of the
11 importing employer." See 8 U.S.C. §§ 1101(a)(15)(H)(i)(B), 1184(c)(1). Noncitizens seeking
12 employment in the United States cannot apply directly for H-1B visas. See 8 U.S.C.
13 § 1184(c)(1). Instead, a U.S. employer agrees to hire a noncitizen and then applies for an H-1B
14 visa on their behalf. *Id.* Employers must show that (1) the job they wish to fill requires a highly
15 specialized body of knowledge and a bachelor's or higher degree in a specific specialty, and (2)
16 the prospective employee has this requisite degree and knowledge. 8 U.S.C. §§ 1184(g), (i).

17 The United States Citizenship and Immigration Services (USCIS) considers a limited
18 number of H-1B visas each year, with a statutory "cap" of 65,000 visas and another 20,000 visas
19 for noncitizens who have earned a master's or higher degree from a United States institution of
20 higher learning, totaling a per year allocation of 85,000 H-1B visas or grants of status. See 8
21 U.S.C. § 1184(g). Because the demand for H-1B status far exceeds the statutory cap, DHS

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24 ³ In its Order resolving DHS's Motion to Dismiss, the Court dismissed Plaintiffs' other claims
with prejudice. See Dkt. # 20 at 14.

1 regulations provide rules for the administration of the H-1B cap selection process, commonly
2 known as the visa “lottery.” *See* 8 C.F.R. § 214.2(h)(8)(iii).

3 An employer-petitioner must first register for the H-1B lottery, then be randomly selected
4 from the lottery, and given a “cap number” for the beneficiary-employee. Once the employee
5 has a cap number, the employer can submit a Form I-129 (Petition for Nonimmigrant Worker) on
6 behalf of the employee. 8 C.F.R. § 214.2(h)(8)(iii). The petition must adhere to the
7 requirements listed in 8 C.F.R. § 214.2(h)(4)(iii)(B). USCIS then notifies the employer of its
8 decision. *See* 8 C.F.R. §§ 214.2(h)(9)(i), (h)(10)(ii), (h)(11). USCIS informs the employer when
9 it approves, denies, intends to revoke, or revokes the H-1B petition. *Id.* USCIS sends a notice of
10 intent to revoke (NOIR) to the employer if, among other things, the agency determines that the
11 H-1B petition is fraudulent or misrepresented material facts. 8 C.F.R. § 214.2(h)(11)(iii)(A)(2).

12 Specifically, the regulation provides:

13 If USCIS believes that related entities (such as a parent company, subsidiary, or
14 affiliate) may not have a legitimate business need to file more than one H-1B
15 petition on behalf of the same [noncitizen] . . . USCIS may issue a request for
16 additional evidence or notice of intent to deny, or notice of intent to revoke each
17 petition. If any of the related entities fail to demonstrate a legitimate business need
18 to file an H-1B petition on behalf of the same [noncitizen], all petitions filed on that
19 [noncitizen’s] behalf by the related entities will be denied or revoked.

20 8 C.F.R. § 214.2(h)(2)(i)(G). The NOIR must contain a detailed statement of the grounds for
21 revocation and include the time allowed for the petitioner’s rebuttal. 8 C.F.R.

22 § 214.2(h)(11)(iii)(B). The denial or revocation of an H-1B petition may be appealed, but an
23 automatic revocation may not be appealed. 8 C.F.R. § 214.2(h)(12).

24 Further, 8 U.S.C. Section 1184(g)(3), states that a noncitizen

who was issued a visa or otherwise provided nonimmigrant status and counted
against the numerical limitations of paragraph (1) *is found to have been issued such
visa or otherwise provided such status by fraud or willfully misrepresenting a
material fact and such visa or nonimmigrant status is revoked, then one number
shall be restored to the total number of [noncitizens] who may be issued visas or*

1 otherwise provided such status under the numerical limitations of paragraph (1) in
2 the fiscal year in which the petition is revoked, regardless of the fiscal year in which
3 the petition was approved.

4 8 U.S.C. § 1184(g)(3) (emphasis added). Meaning that a noncitizen beneficiary of an H-1B visa
5 obtained by fraud or willful misrepresentation will lose their visa and cap number. *Id.* Once a
6 noncitizen loses their cap number, an employer would need to go through the H-1B lottery
7 process again in a new fiscal year. *Id.* If the H-1B registration is randomly selected in the
8 lottery, the noncitizen would then receive a new cap number. *Id.*

9 Plaintiffs Harshini Narambatla, Ashutosh Dubey, Aakash Hiralal Kapadia,
10 Chandramohan Oleti, Karan Amit Sanghavi, Shriya Sadana, Param Urjitbhai Shah, Abhinav
11 Mahesh Aralekar, Darshan Ramesh Bhanushali, and Sai Kalyan Kartheek Kondaveeti are
12 citizens of India residing in the United States. *See generally* Dkts. ## 26–36. Plaintiffs’
13 employers submitted H-1B visa petitions on their behalf. *Id.* USCIS approved the petitions and
14 issued H-1B visas to Plaintiffs. *Id.* Following the approvals, USCIS sent Plaintiffs’ employers
15 NOIRs, stating that the employers had committed fraud or made misrepresentations during the
16 visa registration process. *Id.* For example, USCIS sent a NOIR to Plaintiff Narambatla’s
17 employer, PRN IT Corp Inc., stating that PRN IT had worked with other companies to “unfairly
18 increase their chances of selection for [Narambatla].” Dkt. # 32-1 at 181. USCIS identified
19 multiple cap registrations filed on Narambatla’s behalf by other “related” companies. *Id.* The
20 agency determined that “the multiple cap registrations submitted by these companies for
21 [Narambatla] contain a willful misrepresentation of a material fact made to a USCIS official with
22 the intent to deceive for the purposes of obtaining an immigration benefit.” *Id.* USCIS also sent
23 NOIRs to the employers of the other Plaintiffs. *See* Dkts. ## 26–36. USCIS determined that
24 those employers also unfairly increased the other Plaintiffs chances of selection in the H-1B visa

1 lottery by submitting multiple cap registrations through related companies. *See generally* Dkts.
2 ## 26-36.

3 Plaintiffs do not challenge USCIS’s determination that their employers made willful
4 misrepresentations during the H-1B lottery process. *See* Dkt. # 37. Instead, they contend that
5 they were not given notice or otherwise provided with an opportunity to respond to the NOIRs.
6 Dkt. # 8 at 36 ¶¶ 261–63. Plaintiffs say that USCIS “should have confronted them with
7 derogatory information and allowed Plaintiffs to raise arguments and present facts regarding the
8 provenance of the cap number revocation.” *Id.* at 36 ¶ 263. The sole cause of action before the
9 Court is whether DHS, through USCIS’s actions, violated the APA by “arbitrarily, capriciously
10 and unlawfully revok[ing] Plaintiffs’ protected H-1B cap numbers under 8 U.S.C. § 1184(n)(1).”
11 *Id.* at 35–36 ¶¶ 256–65.

12 Plaintiffs now move for summary judgment contending that DHS acted arbitrarily and
13 capriciously by revoking Plaintiffs’ H-1B cap numbers without evidence that they committed
14 fraud or made willful misrepresentations. Dkt. # 37 at 13. They contend that a plain reading of
15 Section 1184(g)(3) supports their argument that revoking a noncitizen’s cap number for fraud or
16 misrepresentation requires *the noncitizen* to have made the false communication or
17 misrepresentation. *Id.* at 14. DHS cross-moves for summary judgment, contending that the
18 agency was not required to find that Plaintiffs committed the fraud or made the misrepresentation
19 before revoking their H-1B visas and cap numbers. Dkt. # 40 at 11.

20 III 21 DISCUSSION

22 A. Standard of Review

23 When reviewing a challenge to an agency’s decision brought under the APA, a court sets
24 aside an agency’s determination if it is “arbitrary, capricious, an abuse of discretion, or otherwise

1 not in accordance with law[.]” 5 U.S.C. § 706(2)(A). The district court’s review is generally
2 limited to the administrative record. *U.S. Citrus Sci. Council v. U.S. Dep’t of Agric.*, 312 F.
3 Supp. 3d 884, 894 (E.D. Cal. 2018) (citing 5 U.S.C. § 706). Under this standard, “a reviewing
4 court must determine whether an agency’s decision was based on a consideration of the relevant
5 factors and whether there has been a clear error of judgment.” *Mt. St. Helens Mining &*
6 *Recovery Ltd. P’ship v. United States*, 384 F.3d 721, 728 (9th Cir. 2004) (citing *Marsh v. Or.*
7 *Nat. Res. Council*, 490 U.S. 360, 378 (1989)). This standard is “narrow” and “a court is not to
8 substitute its judgment for that of the agency [.]” *F.C.C. v. Fox Television Stations, Inc.*, 556
9 U.S. 502, 513 (2009). The court determines “whether the agency articulated a rational
10 connection between the facts and the choice made.” *Mt. St. Helens Mining & Recovery Ltd.*
11 *P’ship*, 384 F.3d at 728 (citing *Ariz. Cattle Growers’ Ass’n v. U.S. Fish and Wildlife*, 273 F.3d
12 1229, 1236 (9th Cir.2001)). The court also decides “‘all relevant questions of law’ arising on
13 review of agency action [. . .]—even those involving ambiguous laws—and set[s] aside any such
14 action inconsistent with the law as [the court] interpret[s] it.” *Loper Bright Enters. v. Raimondo*,
15 603 U.S. 369, 392 (2024) (quoting 5 U.S.C. § 706) (emphasis in original). It “‘remains the
16 responsibility of the court to decide whether the law means what the agency says.’” *Id.* (quoting
17 *Perez v. Mortg. Bankers Ass’n.*, 575 U.S. 92, 109 (2015) (Scalia, J., concurring in judgment)).

18 Summary judgment is warranted when the evidence, viewed in the light most favorable to
19 the non-moving party, shows “that there is no genuine dispute as to any material fact and the
20 movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(a); see *Celotex Corp. v.*
21 *Catrett*, 477 U.S. 317, 322 (1986). The “genuine issues of material fact” standard that generally
22 applies at the summary judgment stage seldom applies to an APA case. See *Occidental Eng’g*
23 *Co. v. I.N.S.*, 753 F.2d 766, 769–70 (9th Cir. 1985). When reviewing an administrative decision,
24 “the function of the district court is to determine whether or not as a matter of law the evidence

1 in the administrative record permitted the agency to make the decision it did.” *Id.* at 769.

2 “[S]ummary judgment is an appropriate mechanism for deciding the legal question of whether
3 the agency could reasonably have found the facts as it did.” *Id.* Lastly, because cross-motions
4 for summary judgment are at issue, the Court will “evaluate each motion separately, giving the
5 nonmoving party in each instance the benefit of all reasonable inferences.” *A.C.L.U. of Nev. v.*
6 *City of Las Vegas*, 466 F.3d 784, 790–91 (9th Cir. 2006).

7 B. Revocation of Plaintiffs’ Cap Numbers

8 Plaintiffs contend that DHS acted beyond its authority when it revoked Plaintiffs’ H-1B
9 visas and associated cap numbers. Dkt. # 37 at 13. They say that 8 U.S.C. Section 1184(g)(3)
10 allows for revocation of H-1B cap numbers only when the *noncitizen* made the false
11 communication to USCIS. *Id.* They also assert that 8 U.S.C. Section 1184(g)(3) references
12 another statute, 8 U.S.C. Section 1182(a)(6)(C)(i) “which defines the sanction for fraud and
13 willful misrepresentation committed by a[] [noncitizen].” *Id.* Plaintiffs argue that the only party
14 who has an interest in the H-1B cap number is the noncitizen, and Congress intended that the cap
15 number be revoked only when the noncitizen has committed “disqualifying conduct.” *Id.*⁴

16 DHS responds that Plaintiffs’ argument conflicts with the plain text of Section
17 1184(g)(3). Dkt. # 40 at 11. It says that the statute “focuses on issuance of the visa by the
18 government as a result of fraud” and does not identify a specific fraud actor. *Id.* at 12. The

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20 ⁴ Plaintiffs also seemingly argue that DHS should have provided them with notice prior to
21 revoking their cap numbers. Dkt. # 37 at 15. Based on the record, USCIS provided Plaintiffs’ employers
22 with notice of the agency’s intent to revoke and its decision to revoke Plaintiffs’ H-1B visas and cap
23 numbers. *See generally* Dkts. ## 26–36. But DHS points out that Plaintiffs’ summary judgment briefing
24 “provides no further argument on this point or any explanation as to the significance of such notice” to
Plaintiffs. Dkt. # 40 at 17. Because Plaintiffs have failed to adequately develop this argument in their
briefing, they have waived this argument. *See DZ Bank AG Deutsche Zentral-Genossenschaftsbank v.*
Connect Ins. Agency, Inc., No. C14-5880JLR, 2016 WL 631574, at *25 (W.D. Wash. Feb. 16, 2016) (“A
party waives or abandons an argument at the summary judgment stage by failing to provide more than a
passing remark in support of its position.”); *see also United States v. Kimble*, 107 F.3d 712, 715 n.2 (9th
Cir. 1997) (deeming a party’s argument “abandoned” because it was not “coherently developed”).

1 agency explains that a plain reading of the statute is that *someone* caused the government to issue
2 the H-1B visa because of fraud or a willful misrepresentation of fact. *Id.* at 12. It asserts that the
3 fraud could have been committed by the petitioner-employer or by the beneficiary-employee. *Id.*
4 DHS also contends that Section 1184(g)(3) incorporates no other section by reference. *Id.* at 13.
5 It states that there is no explicit reference to Section 1182(a)(6)(C)(i) in Section 1184(g)(3). *Id.*
6 at 14. The agency also contends that Plaintiffs’ reliance on Section 1182(a)(6)(C)(i) to limit the
7 scope of Section 1184(g)(3) is misplaced given that a noncitizen’s eligibility for an H-1B visa is
8 based on a petition filed by the noncitizen’s employer. *Id.* (citing 8 U.S.C. § 1184(c)(1)).

9 The Court disagrees with Plaintiffs’ interpretation of Section 1184(g)(3). The statute
10 provides,

11 If a[] [noncitizen] who was issued a visa or otherwise provided nonimmigrant status
12 and counted against the numerical limitations of paragraph (1) *is found to have been*
13 *issued such visa or otherwise provided such status by fraud or willfully*
14 *misrepresenting a material fact and such visa or nonimmigrant status is revoked,*
15 then one number shall be restored to the total number of [noncitizens] who may be
16 issued visas or otherwise provided such status. . .

17 8 U.S.C. § 1184(g)(3) (emphasis added). The statute does not say that a cap number can *only* be
18 revoked because of the noncitizen’s fraud or misrepresentation. The statutory text centers on the
19 issuance of an H-1B visa based on a fraudulent act or misrepresentation, not on the fraudulent
20 actions or misrepresentation of any particular party. As DHS points out, the statute covers
21 fraudulent acts or misrepresentations committed by the petitioner-employer *or* the beneficiary-
22 employee. *See also Parcha v. Cuccinelli*, No. 4:20-CV-015-SDJ, 2020 WL 607103, at *9 (E.D.
23 Tex. Feb. 7, 2020) (stating that the “plain language” of Section 1184(g)(3) “provides for
24 revocation of a visa whenever it ‘is found to have been issued’ on the basis of fraud or willful
misrepresentation without regard for which party committed the wrongful acts.”); *Manney v.*
U.S. Dep’t of Homeland Sec., 735 F. Supp. 3d 590, 600 (E.D. Pa. 2024) (reasoning that the

1 plaintiffs' interpretation of Section 1184(g)(3) would require the court to "read a word into the
2 statute: nowhere does it specify that a cap number can *only* be revoked through an individual's
3 own fraud or misrepresentation." (emphasis in original).

4 Moreover, Section 1184(g)(3) does not incorporate Section 1182(a)(6)(C)(i) by reference.
5 The statute does not cross-reference or otherwise mention Section 1182(a)(6)(C)(i). *See* 8
6 U.S.C. § 1184(g)(3). And the Court disagrees with Plaintiffs' contention that the two statutes are
7 meant to be read together. Section 1182(a)(6)(C)(i) states that any noncitizen "who, by fraud or
8 willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has
9 procured) a visa, other documentation, or admission into the United States or other benefit
10 provided under this chapter is *inadmissible*." 8 U.S.C. § 1182 (a)(6)(C)(i) (emphasis added).
11 When a noncitizen is rendered "inadmissible" this means that they cannot apply for a visa or
12 otherwise be admitted into the United States. *See* 8 U.S.C. § 1182. The consequences of
13 violating Section 1182 (a)(6)(C)(i) are more severe than the penalty of having an H-1B cap
14 number revoked under Section 1184(g)(3). If a noncitizen's cap number is revoked, they can
15 still obtain a new cap number in another fiscal year and are otherwise admissible into to the
16 United States. The considerable difference in the consequences for violating Section 1182
17 (a)(6)(C)(i) as compared to Section 1184(g)(3) "undermines Plaintiffs' position because it shows
18 that Congress recognized a distinction between situations where an employee is culpable and
19 where the employee is blameless." *Manney*, 735 F. Supp. 3d at 600.

20 Further, Sharon Orise, the Adjudications Division Chief for the Service Center
21 Operations Directorate USCIS, stated that USCIS's "records confirm that not a single Plaintiff in
22 this case has been found inadmissible pursuant to 8 U.S.C. § 1182(a)(6)(C)(i) by USCIS or any
23 agency within DHS." Dkt. # 31-1 at 5 (Dec. of Sharon Orise). USCIS has also not "found a
24 single Plaintiff ineligible for the H-1B visa lottery." *Id.* Instead, based on "current information,

1 *there is nothing preventing the Plaintiffs from re-entering the H-1B lottery through a different*
2 *company.” Id. (emphasis added). Thus, Plaintiffs would still be able to obtain new cap numbers*
3 *through different employers and are not barred from entering the United States.*

4 Plaintiffs also assert that DHS’s revocation of their cap numbers violated the Eighth
5 Amendment. Dkt. # 41 at 11. Plaintiffs did not raise an Eight Amendment claim in either the
6 Amended Complaint or their opening brief. *See* Dkts. ## 8, 37. The Court will not consider this
7 new claim raised for the first time at the summary judgment stage. *See Burrell v. Cnty. of Santa*
8 *Clara*, No. 11–CV–04569–LHK, 2013 WL 2156374, at *11 (N.D. Cal. May 17, 2013) (“The
9 [c]ourt will not consider claims raised for the first time at summary judgment which [the]
10 [p]laintiffs did not raise in their pleadings.”). The Court also observes that the cases Plaintiffs
11 cite in support of this constitutional argument concern the Excessive Fines Clause of the Eighth
12 Amendment. Dkt. # 41 at 11; *see United States v. Schwarzbaum*, 114 F.4th 1319, 1329 (11th
13 Cir. 2024), *opinion vacated and superseded on reh’g*, 127 F.4th 259 (11th Cir. 2025) (analyzing
14 whether monetary civil penalties levied against Schwarzbaum by the IRS violated the Excessive
15 Fines Clause); *Johnson v. Becerra*, 674 F. Supp. 3d 949, 954–59 (D. Mont. 2023) (analyzing the
16 imposition of civil fines under the Excessive Fines Clause). No fines are at issue.

17 Based on the above, as a matter of law, DHS did not act arbitrarily and capriciously in
18 revoking Plaintiffs’ H-1B cap numbers because of their employers’ misrepresentations during
19 the registration process.⁵

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21 ⁵ Separately, Plaintiffs also assert that “DHS bypassed notice and comment rulemaking to create
22 an anti-collusion rule with authority to sanction employers.” Dkt. # 37 at 20–22. They say that DHS
23 updated the H-1B registration website to include this anti-collusion rule without going through the notice-
24 and-comment process. *Id.* at 20. But as DHS points out, Plaintiffs brought no such claim in their
Amended Complaint. Dkt. # 40 at 17. Given that Plaintiffs failed to raise this claim in their Amended
Complaint, *see generally* Dkt. # 8, the Court will not consider this new allegation asserted for the first
time in a summary judgment motion. *See Navajo Nation v. U.S. Forest Serv.*, 535 F.3d 1058, 1080 (9th
Cir. 2008) (reasoning that when “the complaint does not include the necessary factual allegations to state
a claim, raising such claim in a summary judgment motion is insufficient to present the claim to the

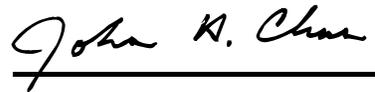
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IV

CONCLUSION

For the above reasons, the Court DENIES Plaintiffs’ motion for summary judgment, Dkt. # 37, and GRANTS DHS’s cross-motion for summary judgment, Dkt. # 40. The Court DISMISSES Plaintiffs’ claim with prejudice.

Dated this 10th day of March, 2025.



John H. Chun
United States District Judge

district court”); *Wasco Products, Inc. v. Southwall Techs., Inc.*, 435 F.3d 989, 992 (9th Cir. 2006) (“Simply put, summary judgment is not a procedural second chance to flesh out inadequate pleadings”).