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20 **UNITED STATES DISTRICT COURT**
21 **NORTHERN DISTRICT OF CALIFORNIA**

22 CHASE BOURQUE, RENEE BAUTISTA,
23 MELISSA MIRABELLO, RON
24 POZNANSKY, *and* JAMES
25 WOODMANSEE, *individually and on behalf*
26 *of all others similarly situated,*

27 Plaintiffs,

28 vs.

29 UNITED STATES OF AMERICA *and*
30 UNITED STATES DEPARTMENT OF
31 STATE,

32 Defendants.

Case No: 3:24-cv-06994-EMC

AMENDED CLASS ACTION COMPLAINT

The Honorable Edward M. Chen

INTRODUCTION

1
2 1. The United States Department of State offers expedited passport processing for a fee, through
3 which it issues or renews a passport faster than through routine processing. Since at least 2018, the
4 State Department has charged \$60 for expedited passport processing.¹ The State Department is
5 authorized to charge a fee for expedited processing covering only the cost it takes to provide this
6 service.² Notwithstanding this limitation, the State Department has repeatedly failed to show, and
7 cannot show, how the cost of providing expedited passport processing justifies its \$60 fee.
8 Accordingly, the State Department has overcharged Americans for expedited passport processing.

9 2. Plaintiffs bring this action on behalf of themselves and all other similarly situated persons
10 who paid a \$60 expedited passport processing fee. Plaintiffs challenge the fee on the grounds that the
11 State Department acted unlawfully when it arbitrarily and capriciously set the fee at \$60. Further,
12 this fee is not in accordance with law and is in excess of the State Department’s statutory authority
13 as it exceeds the amount the State Department was authorized to charge under 31 U.S.C. § 9701.
14 Accordingly, Plaintiffs seek to have this Court declare the State Department’s expedited passport fee
15 unlawfully excessive, in violation of 31 U.S.C. § 9701, and award Plaintiffs and the proposed Class
16 recovery of amounts charged in excess of statutory authorization.

PARTIES

17
18 3. Plaintiff Chase Bourque is a resident of California and resides in Oakland, California. In
19 2024, Plaintiff Bourque submitted an application to renew his passport to the State Department. With
20 his application, Plaintiff Bourque paid the State Department’s \$60 expedited processing fee.

21 4. Plaintiff Renee Bautista is a resident of California and resides in San Francisco, California. In
22 2019, Plaintiff Bautista submitted an application to renew her passport to the State Department. With
23 her application, Plaintiff Bautista paid the State Department’s \$60 expedited processing fee.

24 5. Plaintiff Melissa Mirabello is a resident of California and resides in Aptos, California. In
25 2024, Plaintiff Mirabello submitted an application to renew her passport to the State Department.

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27 ¹ 22 C.F.R. § 22.1 (Sept. 17, 2009).

28 ² 31 U.S.C. § 9701.

1 With her application, Plaintiff Mirabello paid the State Department’s \$60 expedited processing fee.

2 6. Plaintiff Ron Poznansky is a resident of California and resides in San Francisco, California.
3 In 2022, Plaintiff Poznansky submitted an application to renew his passport to the State Department.
4 With his application, Plaintiff Poznansky paid the State Department’s \$60 expedited processing fee.

5 7. Plaintiff James Woodmansee is a resident of California and resides in El Cerrito, California.
6 In 2025, Plaintiff Woodmansee submitted an application to renew his passport to the State
7 Department. With his application, Plaintiff Woodmansee paid the State Department’s \$60 expedited
8 passport fee.

9 8. Defendant United States of America, through the Department of State’s Bureau of Consular
10 Affairs (“the Bureau”), issues and renews passports and charges fees for these services, including the
11 expedited passport fee.

12 9. Defendant United States of America Department of State (“State Department”) is the
13 executive department of the United States of America charged with issuing and renewing passports,
14 services for which it charges fees, including the expedited passport fee.

15 **JURISDICTION AND VENUE**

16 10. This Court has subject-matter jurisdiction over this action under 5 U.S.C. § 702, 28 U.S.C. §
17 1346(a), and 28 U.S.C. § 1331. Plaintiffs’ individual claims against the Defendants, as well as those
18 of each member of the proposed Class, do not exceed \$10,000.

19 11. Defendants have waived sovereign immunity under 28 U.S.C. § 1346(a) or 5 U.S.C. § 702.

20 12. The Court has personal jurisdiction over all parties to this lawsuit, and venue is proper under
21 5 U.S.C. § 703, 28 U.S.C. § 1391, and 28 U.S.C. § 1402(a).

22 **FACTUAL ALLEGATIONS**

23 13. Government agencies, including the State Department, have the authority to establish user
24 charges, or fees, for goods or services of value, under 31 U.S.C. § 9701, otherwise known as Title V
25 of the Independent Offices Appropriations Act of 1952, or the “IOAA”.³

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28 ³ 31 U.S.C. § 9701. *See also* Schedule of Fees for Consular Services, Department of State and Overseas Embassies and Consulates, 62 Fed. Reg. 63478-01 (Dec. 1, 1997) (to be codified at 22 C.F.R. §§ 22, 51, 53); Fee for Expedited Passport Processing, 59 Fed. Reg. 48998-01 (Sept. 26,

1 14. Under 31 U.S.C. § 9701, these “user charges” are meant to 1) ensure that goods and services
 2 provided by a government agency to a specific recipient are self-sustaining, and 2) “promote
 3 efficient allocation of the [United States’] resources” by recouping the costs to the government of
 4 providing these goods and services.⁴

5 15. User charges, including those authorized by 31 U.S.C. § 9701, cannot exceed the cost
 6 incurred by the government agency to provide the value conferred to the fee payor through the
 7 service. Additionally, if the service the agency charges for provides distinct benefits to an
 8 identifiable beneficiary and to the public, then the agency must prorate its costs: the agency cannot
 9 charge the individual beneficiary for costs attributable to the public benefit.

10 16. The State Department’s expedited passport processing fee is a user charge established under
 11 31 U.S.C. § 9701 to recover the cost of providing expedited processing to those passport applicants
 12 who request it.⁵

13 **I. In 1994, the State Department First Established a Fee to Cover the Cost of**
 14 **Expedited Passport Processing.**

15 17. Until 1994, the State Department provided expedited passport processing for no additional
 16 charge for applicants who could demonstrate urgent travel needs. The 1994 Appropriations Act,
 17 however, permitted the State Department to retain the receipts from an expedited passport processing
 18 fee as an offsetting collection rather than to be paid into the Treasury.⁶

19 18. One month after passage of the 1994 Appropriations Act, the State Department noticed its
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21
 22 1994) (to be codified at 22 C.F.R §§ 22, 51).

23 ⁴ Off. of Mgmt. & Budget, Exec. Off. of the President, OMB Circular A-25 Revised,
Transmittal Memorandum #1 - User Charges (1993).

24 ⁵ See Schedule of Fees for Consular Services, Department of State and Overseas Embassies and
 25 Consulates, 62 Fed. Reg. 63478-01. See also Dep’t of State, 8 Foreign Affairs Manual § 602.2-1(d),
Passport Fees (2023).

26 ⁶ Compare Pub. L. 103–317 (codified as 22 U.S.C. § 214 Note) (specifying “[t]hat hereafter all
 27 receipts received from a new charge from expedited passport processing shall be deposited in this
 28 account as an offsetting collection and shall be available until expended”) with 22 U.S.C. § 214(a)(1)
 (establishing that “[t]here shall be collected and paid into the Treasury of the United States a
 fee...for the filing of each application for a passport ... and a fee... for executing each such
 application”). !!

1 proposed expedited passport processing rule and fee.⁷ The new expedited processing regulation
2 contemplated a 3-day processing time frame and a \$30 fee for the expedited services.⁸

3 19. The State Department's justification for the \$30 fee at that time was to "ensure that the costs
4 of processing passports on an expedited basis, as reflected in the [State] Department's 1991 consular
5 fees cost study, are borne by those who receive that service and that the State Department recovers
6 additional costs associated with implementing this fee and eliminating the separate charge for
7 overtime work. (As noted by Congress, for example, [at the time] up to 60% more time is required to
8 process a passport application on an expedited basis than to provide normal processing services.)"⁹

9 **II. The State Department Repeatedly Raised the Expedited Processing Fee Without**
10 **Justifying the Increase.**

11 20. On December 1, 1997, the State Department proposed increasing the expedited passport
12 processing fee from \$30 to \$35 to "recover the costs of guaranteeing a maximum turn-around time of
13 three business days to qualified users."¹⁰

14 21. While the State Department generally explained that a number of its consular service fees
15 were changing based on a cost-of-service study conducted from September 1995 to September 1996,
16 there was no breakdown of the specific costs included in the expedited processing fee or how the
17 State Department determined the amount of each cost. Though, the notice of the proposed fee
18 change did suggest more detailed information from the cost-of-service study could be obtained from
19 the Bureau of Consular Affairs.¹¹

20 22. On March 28, 2002, the State Department proposed revisions to a number of its consular
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23 ⁷ Fee for Expedited Passport Processing, 59 Fed. Reg. 48998-01.

24 ⁸ *Id.*

25 ⁹ *Id.*

26 ¹⁰ Schedule of Fees for Consular Services, Department of State and Overseas Embassies and
27 Consulates, 62 Fed. Reg. 63478-01 (Dec. 1, 1997). This fee increase was set forth as a final rule at
28 Schedule of Fees for Consular Services, Department of State and Overseas Embassies and
Consulates, 63 Fed. Reg. 5098-01 (Jan. 30, 1998) (to be codified at 22 C.F.R. § 22.1).

¹¹ Schedule of Fees for Consular Services, Department of State and Overseas Embassies and
Consulates, 62 Fed. Reg. 63478-01.

1 service fees based on a cost-of-service study conducted from September 1999 to October 2001.¹² In
 2 proposing these fees, the State Department publicly reiterated that its fees are “designed to recover
 3 some or all—but not more than— actual fully allocated costs the State Department expects to incur .
 4”¹³

5 23. As part of its 2002 fee revisions, the State Department proposed raising the expedited
 6 passport processing fee from \$35 to \$60.¹⁴ The proposed rule asserted the fee “pays for all of the
 7 additional costs associated with expediting the processing and issuance of an applicant's passport at a
 8 U.S. Passport Agency, so that the applicant can receive a passport in three days or less,” but it did
 9 not specify what those “additional costs” were or how those costs were calculated.¹⁵ The increase to
 10 the expedited processing fee was adopted.

11 24. In 2009, the State Department amended its expedited passport processing regulation to
 12 change the processing timeline from three business days to the amount of time specified on its
 13 website.¹⁶

14 25. The State Department “aims to update [its] Schedule of Fees biennially”.¹⁷

15 26. This aim accords with federal policy established by the Office of Management and Budget,
 16 which makes agencies responsible for reviewing user charges biennially.¹⁸ Agencies are to discuss
 17 the results of their biennial review in the Chief Financial Officers Annual Report.¹⁹

18 27. The expedited passport processing fee remains set at \$60.²⁰

20 ¹² Schedule of Fees for Consular Services, Department of State and Overseas Embassies and
 21 Consulates, 67 Fed. Reg. 14895-01 (Mar. 28, 2002) (to be codified at 22 C.F.R. § 22).

21 ¹³ *Id.*

22 ¹⁴ *Id.*

23 ¹⁵ *Id.*

24 ¹⁶ Passport Procedures - Amendment to Expedited Passport Processing Regulation, 74 Fed. Reg.
 47726-01 (Sept. 17, 2009).

25 ¹⁷ Schedule of Fees for Consular Services - Nonimmigrant and Special Visa Fees, 88 Fed. Reg.
 18243-01 (March 28, 2023) (to be codified at 22 C.F.R. pt. 22).

26 ¹⁸ Off. of Mgmt. & Budget, Exec. Off. of the President, OMB Circular A-25 Revised,
 27 *Transmittal Memorandum #1 - User Charges* (6)(a)(2)(a) (1993).

27 ¹⁹ *Id.*

28 ²⁰ 22 C.F.R. § 22.1 (Sept. 17, 2009).

1 28. Expedited passport processing times, however, are now weeks not days. The expedited
2 processing time for applications submitted between November 6, 2023 and December 17, 2023 was
3 three to five weeks; the expedited processing time for applications submitted after December 18,
4 2023 has been two to three weeks, as of September 2024.²¹

5 29. The fee does not cover “any costs of mailing above the normal level of service,” which must
6 be covered separately by the applicant.²²

7 30. The State Department has never provided a sufficient justification for setting the expedited
8 passport processing fee at \$60.

9 **III. The State Department Cannot Justify the Amount Charged for the Expedited**
10 **Processing Fee.**

11 31. Sources both within and outside the State Department have asserted that the expedited
12 passport processing fee cannot be justified based on an acceptable, cost-recovery basis. These
13 sources include a former senior government official the State Department’s Office of the Inspector
14 General (OIG), through its independent auditor Kearney & Company, and the U.S. Government
15 Accountability Office (GAO).

16 *A. A former senior government official believes the expedited processing fee cannot be*
17 *justified.*

18 32. Confidential Witness (“CW”) is a former senior government official at the Bureau of
19 Consular Affairs, which oversees the passport issuance and renewal process.

20 33. According to CW, when the expedited passport fee went through a regular, periodic review
21 process in or around 2017, there was a desire within the Bureau to raise the fee due to a predicted
22 increase in demand for passport renewals, among other reasons.

23 34. During this review, however, CW learned that the Bureau of Consular Affairs’ comptroller
24 and analysts believed that the Bureau could not justify even the current expedited processing fee of
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26 ²¹ Bureau of Consular Affs., U.S. Dep’t of State, *Get Your Processing Time*, Travel.State.Gov
27 (last modified June 28, 2024), [https://travel.state.gov/content/travel/en/passports/how-
apply/processing-times.html](https://travel.state.gov/content/travel/en/passports/how-apply/processing-times.html) (last visited Sept. 6, 2024).

28 ²² 22 C.F.R. § 51.56(c) (Nov. 19, 2007).

1 \$60, let alone an increase, because the cost to the State Department for providing the service was
2 significantly less.

3 35. Analysis of the costs at the time showed the additional cost to provide expedited passport
4 processing, compared to normal processing, was closer to \$30 or \$35, according to CW.

5 36. That the fee charged to the public for passport expedition approached double the cost to the
6 State Department for providing this service was documented and confirmed through internal studies
7 and email correspondence discussing the results of such studies.

8 37. Despite this analysis, the State Department did not reduce the expedited fee to reflect the cost
9 incurred by the State Department.

10 38. Given the information CW learned from the Comptroller's office and other policymakers
11 about the calculation and justification for the expedited passport fee, CW concluded at the time that
12 the expedited passport fee of \$60 was unjustified and unjustifiable.

13 39. Accordingly, CW believed at the time and continues to believe the State Department
14 knowingly charges the American public more than is permissible for expedited passport processing.

15 *B. A 2017 audit of the Bureau found that the State Department failed to follow appropriate*
16 *guidelines when setting its fees.*

17 40. In 2017, Kearney & Company, acting on behalf of OIG, performed an independent audit of
18 the Bureau of Consular Affairs to ensure the Bureau collected fees in accordance with Office of
19 Management and Budget Circular A-25 ("OMB Circular A-25") and with fee-governing statutes.²³

20 41. OMB Circular A-25 provides guidance to federal departments and agencies on compliance
21 with user charge authorizing statutes, in particular 31 U.S.C. § 9701.

22 42. OMB Circular A-25 states that "user charges will be sufficient to recover the full cost to the
23 Federal Government . . . of providing the service."²⁴ Accordingly, agencies must set charges so that
24 they recover the cost of providing the related service.

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26 ²³ See generally Off. of the Inspector Gen., U.S. Dep't of State, AUD-FM-17-53, *Audit of the*
27 *Bureau of Consular Affairs Fee-Setting Methodology for Selected Consular Services* (2017).

28 ²⁴ Off. of Mgmt. & Budget, Exec. Off. of the President, OMB Circular A-25 Revised,
Transmittal Memorandum #1 - User Charges (6)(a)(2)(a) (1993).

1 43. OIG's audit revealed that the Bureau “did not fully comply with OMB Circular A-25 or
 2 Federal statutes that allow [the Bureau] to charge and retain certain fees at the cost of providing
 3 those services.”²⁵ In FYs 2014 and 2015, the Bureau collected revenue from consular fees of \$3.7
 4 billion and \$4.1 billion, though the costs of services both years were approximately \$3.3 billion.²⁶
 5 OIG wrote that at least some of this excess revenue was unlawful because it was the result of
 6 unacceptable fee-setting.²⁷

7 44. Further, the Bureau had insufficient records showing how it determined the cost of a given
 8 service in order to set its fees. The auditors observed that the Bureau failed to maintain
 9 documentation of how it collected and modified the data used in its cost-of-service model.²⁸

10 45. OIG concluded that “[b]ecause [the Bureau] is not complying with the OMB Circular A-25
 11 requirement to cover the full cost of services, [the Bureau] cannot ensure that consular fees are
 12 reasonable.”²⁹

13 46. OIG reiterated that “the Bureau does not have the legal authority to charge more than the
 14 estimated cost for providing each specific consular service.”³⁰

15 *C. A 2022 GAO report concluded that the State Department could be overcharging*
 16 *Americans.*

17 47. After the 2017 audit found that the State Department had failed to ensure its compliance with
 18 a fee authorizing statute, the State Department did not address the flaws in its fee-setting
 19 methodology.

20 48. The GAO observed, in a 2022 report, that the State Department’s lack of methodology risks
 21 fee increases “that do not align with actual needs” and that “[a]s a result, State could collect consular
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23 ²⁵ Off. of the Inspector Gen., U.S. Dep’t of State, AUD-FM-17-53, *Audit of the Bureau of*
Consular Affairs Fee-Setting Methodology for Selected Consular Services 5 (2017).

24 ²⁶ *Id.*

25 ²⁷ *Id.*

26 ²⁸ *Id.* at 16-19.

27 ²⁹ *Id.* at 19-20.

28 ³⁰ Off. of the Inspector Gen., U.S. Dep’t of State, AUD-FM-17-53, *Audit of the Bureau of*
Consular Affairs Fee-Setting Methodology for Selected Consular Services, at What Was Found 1
 (2017).

1 fees in excess of its costs for some services, thereby over-charging visa or passport applicants.³¹

2 49. Despite the lack of documentation supporting the State Department's fee-setting, the State
3 Department continues to propose increases to its consular fees.

4 **PLAINTIFFS' EXPERIENCES**

5 **I. Chase Bourque**

6 50. On July 15, 2024, Plaintiff Chase Bourque mailed his application to renew his passport to the
7 State Department via the United States Postal Service.

8 51. With his application he paid a \$130 application fee.

9 52. In addition, he paid the \$60 fee for expedited passport processing.

10 53. Plaintiff Bourque received his passport with a date of issue of July 31, 2024.

11 54. Plaintiff Bourque's passport will expire on July 30, 2034, when he will need to renew his
12 passport and again have to pay an unlawful and excessive fee to receive the State Department's
13 expedited passport processing service.

14 **II. Renee Bautista**

15 55. On May 27, 2019, Plaintiff Renee Bautista applied in person at the San Francisco Passport
16 Agency to renew her passport.

17 56. With her application she paid a \$110 application fee.

18 57. In addition, she paid the \$60 fee for expedited passport processing.

19 58. Plaintiff Bautista received her passport with a date of issue of May 29, 2019.

20 59. Plaintiff Bautista's passport will expire on May 28, 2029, when she will need to renew her
21 passport and, if she chooses to request expedited processing, would again have to pay an unlawful
22 and excessive fee to receive the State Department's expedited passport processing service.

23 **III. Melissa Mirabello**

24 60. On or around August 1, 2024, Plaintiff Melissa Mirabello applied through the mail to renew
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27 ³¹ U.S. Gov't Accountability Off., GAO-22-104424, *Consular Affairs: State May Be Unable to*
28 *Cover Projected Cost if Revenues Do Not Quickly Rebound to Pre-Pandemic Levels, at What GAO*
Found 2 (2022).

1 her passport.

2 61. With her application she paid a \$130 application fee.

3 62. In addition, she paid the \$60 fee for expedited passport processing.

4 63. Plaintiff Mirabello received her passport with a date of issue of August 14, 2024.

5 64. Plaintiff Mirabello's passport will expire on August 13, 2034, when she will need to renew
6 her passport and, if she chooses to request expedited processing, would again have to pay an
7 unlawful and excessive fee to receive the State Department's expedited passport processing service.

8 **IV. Ron Poznansky**

9 65. On or about June 17, 2022, Plaintiff Ron Poznansky applied in person at the San Francisco
10 Passport Agency to renew his passport.

11 66. With his application he paid a \$130 application fee for a passport book and a \$30 application
12 fee for a passport card.

13 67. In addition, he paid the \$60 fee for expedited passport processing.

14 68. Plaintiff Poznansky received his passport with a date of issue of June 21, 2022.

15 69. Plaintiff Poznansky's passport will expire on June 20, 2032, when he will need to renew his
16 passport and again have to pay an unlawful and excessive fee to receive the State Department's
17 expedited passport processing service.

18 **V. James Woodmansee**

19 70. On February 3, 2025, Plaintiff James Woodmansee applied via mail to renew his passport.

20 71. With his application he paid a \$130 application fee for a passport book and a \$30 application
21 fee for a passport card.

22 72. In addition, he paid the \$60 fee for expedited passport processing.

23 73. Plaintiff Woodmansee received his passport with a date of issue of February 19, 2025.

24 74. Plaintiff Woomansee's passport will expire on February 18, 2035, when he will need to
25 renew his passport and again have to pay an unlawful and excessive fee to receive the State
26 Department's expedited passport processing service.
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1 **CLASS ALLEGATIONS**

2 75. Pursuant to Rules 23(b)(1), 23(b)(2), and/or 23(b)(3) of the Federal Rules of Civil Procedure,
3 Plaintiffs bring this action on behalf of themselves and the following proposed Class:

4 All persons who paid the expedited passport processing fee from October 4, 2018 to
5 the present.³²

6 76. **Numerosity**. The State Department has processed millions of expedited passports in the past
7 two decades. Members of the proposed Class are thus too numerous to practically join in a single
8 action. Class members may be notified of the pendency of this action by mail, supplemented by
9 published notice (if deemed necessary or appropriate by the Court).

10 77. **Commonality and Predominance**. Common questions of law and fact exist as to all
11 proposed Class members and predominate over questions affecting only individual Class members.
12 These common questions include, but are not limited to:

- 13 a. Does the expedited passport fee exceed the amount it costs the government to provide
14 expedited passport processing?
15 b. Did the State Department exceed its authority when it set and maintained the
16 expedited passport processing fee at \$60?

17 78. **Typicality**. Plaintiffs' claims are typical of the claims of members of the proposed Class.
18 Plaintiffs and the members of the proposed Class all paid the expedited passport processing fee to
19 the State Department for expedited passport processing during the class period, giving rise to
20 substantially the same claims.

21 79. **Adequacy**. Plaintiffs are adequate representatives of the proposed Class because their
22 interests do not conflict with the interests of the members of the Class Plaintiffs seek to represent.
23 Plaintiffs have retained counsel competent and experienced in complex class action litigation and
24 will prosecute this action vigorously on Class members' behalf.

25 80. **Superiority**. A class action is superior to other available means for the fair and efficient
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27 ³² Excluded from the proposed Class are counsel in this action; anyone employed by Plaintiffs'
28 counsel in this action; any judge to whom this case is assigned, his or her spouse; and members of
the judge's staff.

1 adjudication of this dispute. The injury suffered by each Class member, while meaningful on an
2 individual basis, is not of such magnitude as to make the prosecution of individual actions against
3 Defendants economically feasible. Even if Class members themselves could afford such
4 individualized litigation, the court system could not. Individualized litigation increases the delay and
5 expense to all parties and the court system presented by the legal and factual issues of the case. By
6 contrast, a class action presents far fewer management difficulties and provides the benefits of single
7 adjudication, economy of scale, and comprehensive supervision by a single court.

8 81. Moreover, in addition to the burden and expense of managing many actions arising from the
9 same issues, the prosecution of separate actions by the individual members of the proposed Class
10 would create a risk of inconsistent adjudications, which could establish incompatible standards of
11 conduct for Defendants.

12 82. Additionally, Defendants have acted or refused to act on grounds generally applicable to the
13 proposed Class, thereby making appropriate final and injunctive relief with respect to the members
14 of the proposed Class as a whole.

15 **COUNT ONE**

16 **Arbitrary, Unlawful, and Unauthorized Fee in Excess of Authority**

17 83. Plaintiffs reallege and incorporate paragraphs 1-90.

18 84. The State Department is an “agency” within the meaning of 5 U.S.C. § 701(1).

19 85. Setting the amount of the expedited passport processing fee is an “agency action” within the
20 meaning of 5 U.S.C. § 551(13).

21 86. The State Department committed an arbitrary and unlawful agency action under 5 U.S.C.
22 § 706(2) by charging Plaintiffs a \$60 fee each for expedited passport processing, in excess of what
23 the State Department was authorized to charge by law.

24 87. The State Department acted arbitrarily, capriciously, and otherwise not in accordance with
25 law in charging the expedited passport processing fee for at least the following reasons:

- 26 a. The State Department set the expedited passport processing fee, and twice increased
27 the fee, without specifying how it determined the rate to be charged, including not
28 specifying the costs included in the fee calculation nor how those costs were

1 95. Expedited passport processing is a “service or thing of value provided by [an] agency” within
2 the meaning of 31 U.S.C. § 9701.

3 96. The State Department overcharged Plaintiffs and members of the proposed Class for
4 expedited passport processing in excess of its statutory authorization provided by 31 U.S.C. § 9701.

5 97. Plaintiffs and members of the proposed Class have been overcharged for at least the
6 following reasons:

7 a. The expedited processing fee does not reasonably reflect cost of the services
8 performed by the State Department in violation of 31 U.S.C. § 9701.

9 b. The calculation of the expedited processing fee impermissibly includes costs that are
10 attributable to a public benefit.

11 98. To the extent it included impermissible costs, each charge of the \$60 expedited passport
12 processing fee was an illegal exaction by the State Department.

13 99. Plaintiffs and members of the proposed Class are entitled to a judgment declaring that the fee
14 they were each charged for expedited passport processing was excessive.

15 100. Plaintiffs and members of the proposed Class are entitled to the monetary damages
16 equivalent to the overcharge illegally exacted during the class period through the excessive
17 expedited passport processing fee, plus interest.

18 **PRAYER FOR RELIEF**

19 WHEREFORE, the Plaintiffs, on behalf of themselves and the proposed Class, requests the
20 following relief:

21 a. Certification of the Class under Federal Rule of Civil Procedure 23;

22 b. A judgement declaring that the State Department arbitrarily, unlawfully, and capriciously set
23 and continues to charge an excessive expedited passport processing fee;

24 c. A judgment declaring that the State Department unlawfully charged an expedited passport
25 processing fee in excess of the State Department’s authority;

26 d. Restitution or return of any expedited passport processing fees collected by the State
27 Department that are found to exceed the amount authorized by law, plus reasonable interest;

28 e. A judgment declaring that the State Department must revise its expedited passport processing

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fee to reflect the actual costs of providing the expedited processing;

f. An award to the Plaintiffs of their costs, expenses, and attorney fees under 28 U.S.C. § 2412;

g. Any further remedy the Court may deem just and proper.

Dated: April 24, 2025

By: Geoffrey Graber
Geoffrey Graber

Geoffrey Graber (SBN 211547)
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