

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

KUSUMA NIO, *et al.*,

Plaintiffs,

v.

**UNITED STATES DEPARTMENT OF
HOMELAND SECURITY, *et al.*,**

Defendants.

Civil Action No. 17-0998 (ESH)

ORDER

For the reasons stated at the January 23, 2018 hearing, it is hereby

ORDERED that defendants' motion to dismiss (ECF No. 80) is **DENIED WITHOUT PREJUDICE**; it is further

ORDERED that defendants shall file an index of the administrative record, in compliance with D.C. Local Rule 7, by **March 1, 2018**; it is further

ORDERED that defendants shall file a motion to dismiss, or in the alternative, a motion for summary judgment by **March 16, 2018**, in compliance with D.C. Local Civil Rule 7(h)(2). The motion should address the second amended complaint, and for purposes of the motion, the final agency action under review is DOD's October 13, 2017 Guidance and USCIS's July 7, 2017 Guidance. Defendants need not brief issues or reargue issue that have previously been decided in *Kirwa v. DOD*, 17-cv-1793, ECF Nos. 59–60; it is further

ORDERED that plaintiffs shall file their response by **April 6, 2018**; it is further

ORDERED that defendants shall file a reply by **April 20, 2018**; and it is further

ORDERED that defendants shall update their responses to the questions posed by the

Court, ECF No. 91, by **February 28, 2018**, if the parties have not reached an agreement about an alternative reporting system with Magistrate Judge Meriweather before that time. Defendants should provide an un-redacted copy to plaintiffs' counsel whenever referencing *Nio* class members.

SO ORDERED.

/s/ Ellen Segal Huvelle
ELLEN SEGAL HUVELLE
United States District Judge

Date: January 23, 2018