

Businesses: Blanket H-2B denials not based on evidence

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(Photo: PDN file photo)

The federal government hasn't demonstrated a valid reason for its decision to deny visas for skilled foreign workers on Guam, according to the businesses that sued the federal government late last year.

The plaintiffs in the case, including the Guam Contractors Association and 11 businesses that have used laborers under the H-2B visa program, on Friday filed a response in federal court, disagreeing with a judge's recommendation that they should not be granted a temporary injunction.

U.S. District Court Magistrate Judge Joaquin Manibusan, in a report issued earlier this month, said he acknowledges the visa denials are hurting the businesses and the island, but said the plaintiffs have not shown

they can win their case.

But plaintiffs, through attorneys Jeff Joseph and Jennifer C. Davis, said Manibusan erred in finding that visa denials were not arbitrary and capricious.

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They argued the federal government has adopted a blanket policy to reject all applications for H-2B visas, regardless of the reasons and evidence presented by employers here.

The plaintiffs said the judge also erred in concluding that they are unlikely to win their case because the visa regulations clearly allow employers to use foreign laborers on a recurring basis, based on need.

They stated U.S. Citizenship and Immigration Services did not take into account the evidence provided by employers as to their temporary need, and instead issued "similar boiler-plate denials" for the many of the visa petitions.

They noted that even Manibusan finds the disparity between past approval rates and current denial rates "alarming."

The businesses have argued the federal government improperly changed the rules, but federal officials have stated the rules are being applied properly, and Guam for years has abused a program intended for temporary labor.

Nearly all of the plaintiffs have lost all of their H-2B workers since suing last October.

Reporter Haidee Eugenio covers Guam's Catholic church issues, education and more. Follow her on Twitter [@haidee_eugenio](https://twitter.com/haidee_eugenio) (https://twitter.com/haidee_eugenio). Follow Pacific Daily News on Facebook/GuamPDN (<http://www.facebook.com/guampdn/>) and Instagram [@guampdn](http://instagram.com/GuamPDN) (<http://instagram.com/GuamPDN>).

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