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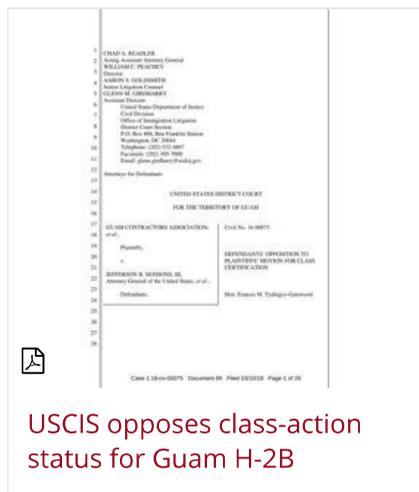
# USCIS opposes class-action status sought in foreign labor case

Request 'unripe' for judicial review

Kevin Kerrigan | The Guam Daily Post 7 hrs ago



**CONSTRUCTION:** A road construction site at the intersection of Route 1 and Route 3 is shown in December 2017. Civilian construction projects have experienced costly delays because of a shortage of skilled construction workers, the government of Guam and local construction industry managers have said. David Castro/The Guam Daily Post



USCIS opposes class-action status for Guam H-2B

The federal government has filed a motion opposing the class-action status sought by the Guam Contractors Association and 11 other plaintiffs in their lawsuit over the denial of H-2B visas for skilled foreign laborers.

The U.S. Justice Department's motion argues that the Guam businesses that filed the lawsuit "lack standing" because no relief can be granted since the periods of need for all the H-2B worker

plaintiffs

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"Our legal team ... will put forth the winning argument in this case."

– **John Robertson, Guam Contractors Association**

petitions that were denied have now expired. In addition, the U.S. Citizenship and Immigration Services contends the request for class action status is "unripe," or not ready, for judicial review because there aren't any current H-2B petitions at issue.

### **2016 lawsuit**

A group of Guam businesses filed the lawsuit against USCIS in October 2016. They accused USCIS of an about-face by imposing a new interpretation of the "temporary need" requirement for an H-2B application. They called the agency's "new interpretation" of the requirements "arbitrary and capricious," and charged USCIS with damaging their businesses and the economy of Guam.

In January, Chief Judge Frances Tydingco-Gatewood of the District Court of Guam issued a preliminary injunction against ordering the agency to reverse its previous denials of H-2B worker petitions, and to stop the blanket denial of future petitions – at least temporarily – until the merits of the case have been decided.

The Guam plaintiffs are seeking class-action status to cover all Guam employers who need skilled foreign labor, and they want the judge's temporary injunction made permanent.

### **Motion 'not a surprise'**

John Robertson, the chairman of the committee overseeing the Guam Contractors Association's lawsuit over the H-2B denials, called the opposition motion "bad news," but "not a surprise."

Robertson said from the beginning, their case was filed "on the basis that all those businesses similarly affected by the cessation of work-visa approvals would benefit."

"Class certification is a vital aspect of the case," said Robertson, who said he is confident "our legal team of Jeff Joseph, Jenn Davis and Melinda Swavely will put forth the winning argument in this case."

Kevin Kerrigan