By [Dylan Moroses](#) · December 14, 2020, 3:49 PM EST

An Illinois federal judge Monday allowed an unnamed U.S. citizen to proceed with a suit claiming the government improperly denied economic impact payments to couples that include immigrant spouses without a Social Security number.

The Northern District of Illinois courthouse in Chicago. A federal judge allowed a lawsuit to proceed that claims the government improperly denied economic impact payments to couples that include immigrant spouses, but dismissed individual defendants from the suit, including President Donald Trump. (AP Photo/Christian K. Lee)

The judge partially rejected the government's request to toss the putative class action challenging the government's administration of the payments of up to $1,200 authorized earlier this year in a stimulus law intended to curb the downturn caused by the novel coronavirus pandemic.

Because the suit is seeking injunctive relief other than money damages, the Internal Revenue Service and Treasury are not immune from the suit because it qualifies for an exception under the Administrative Procedure Act, the opinion said.

The unnamed John Doe who brought the suit "argues that the Administrative Procedure Act … provides immunity to bring this lawsuit against Treasury and the IRS even though Doe is not seeking review of a final agency action. The court agrees," U.S. District Judge Sharon Johnson Coleman said in the opinion.

Judge Coleman, however, tossed individually named defendants from the suit, including IRS Commissioner Chuck Rettig, President Donald Trump, Senate Majority Leader Mitch McConnell, R-Ky., and Treasury Secretary Steve Mnuchin, saying the claims raised against them were duplicative of those raised against the federal government. That left the United States, the IRS and the U.S. Department of the Treasury as defendants.

In April, the man referred to as John Doe filed a complaint claiming that the denial of EIP

checks to couples that include immigrant spouses without a Social Security number deprived him of his rights of association, due process and equal protection under the U.S. Constitution.

Doe said that he was married to an immigrant who filed tax returns with an Individual Taxpayer Identification Number, or ITIN, issued to her by the IRS, and that they file joint tax returns, according to court documents.

Under the $2.2 trillion Coronavirus Aid, Relief and Economic Security Act or CARES Act, U.S. citizens with Social Security numbers are eligible for the $1,200 per adult and $500 per child stimulus benefit. But John Doe said the government deemed him ineligible based on whom he chose to marry and he had not received his check, according to his complaint.

The complaint said there are an estimated 1.2 million Americans married to immigrants who do not hold Social Security numbers, and those who filed joint tax returns and who are not in the military are ineligible for a stimulus check.

One of Doe's attorneys, Guinevere Marie Moore of Moore Tax Law Group LLC, told Law360 in an email that the court's ruling was favorable for her client.

"Accordingly, Doe's constitutional challenges to the CARES Act and the provision that excluded him and others similarly situated will be considered on the merits," Moore said.

Legal representatives for the government didn't immediately respond to requests for comment.

The putative class is represented by Elisabeth Anne Gavin, Thomas John Nitschke, Lana B. Nassar, and Heather Lea Blaise of Blaise & Nitschke PC, Omar A. Abuzir and Vivian R. Khalaf of Khalaf & Abuzir LLC, and Guinevere Marie Moore of Moore Tax Law Group LLC.

The government is represented by Jordan Andrew Konig and Christopher James Williamson of the U.S. Department of Justice's Tax Division.

The case is John Doe v. Donald J. Trump et al., case number 1:20-cv-02531, in the U.S. District Court for the Northern District of Illinois.

--Additional reporting by Hannah Albarazi. Editing by Joyce Laskowski.

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