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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

CATHOLIC CHARITIES CYO (SAN FRANCISCO);	)	Case No.
INTERNATIONAL INSTITUTE OF THE EAST BAY;	)	
VOCES UNIDAS PROJECT;	)	COMPLAINT FOR
CENTRAL AMERICAN RESOURCE CENTER (LOS ANGELES);	)	DECLARATORY AND
HERMANDAD MEXICANA NACIONAL;	)	INJUNCTIVE RELIEF
SANCTUARY FOR FAMILIES (NEW YORK);	)	[CLASS ACTION]
FRIENDLY HOUSE (PHOENIX);	)	
DIOCESAN MIGRANT & REFUGEE SERVICES, INC. OF EL PASO;	)	
SERGIO BUCIO PEREZ AND ANDRES BUCIO PEREZ, THROUGH THEIR NEXT FRIEND, SANDRA BUCIO; SANDRA BUCIO;	)	
XIOMARA CASTRO; RAMONA QUINTERO; LUIS R. NUNEZ HERNANDEZ; RICARDO NUNEZ HERNANDEZ; ELIZABETH LOPEZ GOMEZ;	)	
MARIA ESTERVINA PEREZ; GIOVANA SAAVEDRA; ELEUTERIO RODRIGUEZ RUIZ;	)	
FELIPE SANCHEZ MARTINEZ; FRANCISCA RAMIREZ ALVAREZ; CONSTANTINA CAMPOS;	)	
IRMA MORENO SANVICENTE; ROSA GALAVIZ;	)	

1 MARIA LUISA ARROYO; JUAN FRANCISCO )  
 2 ROCHA ROCHA; JORGE DOMINGUEZ RIVERA, )  
 )  
 3 Plaintiffs, )  
 4 -vs- )  
 )  
 5 MICHAEL CHERTOFF, Secretary, )  
 6 U.S. Department of Homeland Security; )  
 )  
 7 UNITED STATES CITIZENSHIP AND )  
 8 IMMIGRATION SERVICES, U.S. DEPARTMENT )  
 9 OF HOMELAND SECURITY, )  
 )  
 10 Defendants. )  
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Complaint

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## PRELIMINARY STATEMENT

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4 1. This is a class action seeking declaratory and injunctive relief  
5 compelling Defendants Michael Chertoff, Secretary of the U.S. Department of  
6 Homeland Security (“DHS”) and the United States Citizenship and Immigration  
7 Services (“USCIS”) to discharge their statutory duty to permit immigrant crime  
8 victims who assist law enforcement officials in the investigation or prosecution of  
9 criminal offenders to apply for lawful immigration status. On October 28, 2000—  
10 over six years ago—the Victims of Trafficking and Violence Protection Act of  
11 2000, Pub. L. No. 106-386, Div. A, 114 Stat. 1464 (2000), codified at, *inter alia*, 8  
12 U.S.C. § 1101(a)(15)(U) (“Crime Victims Act” or “Act”), was signed into law.  
13  
14 Among other things, the Crime Victims Act permits immigrants who are victims  
15 of serious crimes and who assist law enforcement to apply for and receive “U”  
16 visas. After possessing U status for three years, such immigrants may apply for  
17 lawful permanent resident status. Section 1101(a)(15)(U) reflects Congress’s  
18 judgment that certain crime victims should be permitted to remain lawfully in  
19 the United States both for humanitarian reasons and so that they may help bring  
20 dangerous, violent criminals to justice.  
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23 2. Despite having six years to do so, defendants have unlawfully failed to  
24 implement the U visa program. Defendants have failed to promulgate  
25 regulations, establish procedures, or publish application forms through which  
26 crime victims may apply for U visas. Defendants have set no filing fee, nor have  
27 they trained and assigned officers to adjudicate U visa applications. Nor have  
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1 defendants referred immigrant crime victims for social services, as required by  
2 the 6-year old U visa law. When individuals who are *prima facie* eligible for U  
3 visas, including the named individual plaintiffs herein, request defendants to  
4 issue them U visas (or promulgate regulations and procedures permitting them  
5 to apply for such visas), defendants have refused. Consequently, immigrant  
6 crime victims have no way to apply for the immigration benefits Congress  
7 conferred on them some six years ago.  
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10 3. Plaintiffs and crime victims' advocates have repeatedly urged  
11 defendants to promulgate regulations and procedures implementing the U visa  
12 program and to begin issuing eligible individuals U visas without further delay.  
13 Defendants have ignored these entreaties, and plaintiffs now seek judicial relief  
14 on behalf of themselves and those similarly situated requiring defendants to  
15 discharge their statutory duty and to restore plaintiffs and their class members to  
16 the position they would be in but for defendants' persistent non-feasance of their  
17 lawful obligations. Defendants' failure to implement the U visa statute not only  
18 unlawfully ignores an existing law, it also discourages immigrant victims of  
19 crimes from reporting such crimes and cooperating with law enforcement, and  
20 more importantly often allows the perpetrators of crimes to avoid arrest and  
21 conviction for such crimes.  
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II

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 (federal question jurisdiction). Declaratory judgment is sought pursuant to 28 U.S.C. §§ 2201-02.

5. Venue is properly in this district pursuant to 28 U.S.C. § 1391(b) and (e)(1), (2) and (4), because some of the acts complained of occurred in this district, some of the plaintiffs reside in this district, defendants have offices in this district, and no real property is involved in this action.

III

PARTIES

6. Plaintiff CATHOLIC CHARITIES CYO is a non-profit organization serving the immigrant communities of San Francisco, Marin, and San Mateo Counties in California. Among other activities, CATHOLIC CHARITIES CYO provides legal aid to indigent immigrants who wish to legalize their status. These services include assistance to immigrant victims of serious crimes who have cooperated with law enforcement agencies. Defendants’ failure to implement the U visa provisions of the Crime Victims Act and refusal to grant crime victims U visas interferes with CATHOLIC CHARITIES CYO’s work and makes the achievement of its goals substantially more difficult. The unavailability of U visas requires CATHOLIC CHARITIES CYO to assist clients to apply for two benefits instead of one. First, it must assist clients to apply for “deferred action,” a discretionary status offered by the USCIS to temporarily suspend removal proceedings against certain

1 immigrants and for temporary employment authorization, relief that must be  
2 renewed through a new application annually. This is the only temporary relief  
3 that defendants have offered to U visa applicants willing to seek relief prior to  
4 the issuance of a formal application form and regulations describing those  
5 immigrants whom defendants consider eligible for U visa status. Second, if and  
6 when implementing regulations are finally promulgated, CATHOLIC CHARITIES  
7 CYO must then assist its clients to apply for U visas. Defendants' non-feasance  
8 and other unlawful policies as herein alleged are therefore diverting the limited  
9 resources of CATHOLIC CHARITIES CYO and making their work and achievement  
10 of their goals more difficult and costly. CATHOLIC CHARITIES CYO's delivery of  
11 services to crime victims eligible for U visas is more difficult, time-consuming,  
12 and expensive than is its delivery of like services to persons who seek lawful  
13 status under provisions of the Immigration and Nationality Act for which  
14 implementing regulations have been duly promulgated.

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18 7. Plaintiff INTERNATIONAL INSTITUTE OF THE EAST BAY ("IIEB") is a non-  
19 profit legal organization that provides free and low-cost legal and social services  
20 to immigrants and refugees in the East Bay of Northern California. Among other  
21 activities, IIEB provides legal aid to indigent immigrants who wish to legalize the  
22 status. These services include assistance to immigrant victims of serious crimes  
23 who have cooperated with law enforcement agencies. The unavailability of U  
24 visas requires IIEB to assist clients to apply for two benefits instead of one. First,  
25 it must assist clients to apply for "deferred action" and for temporary  
26 employment authorization, relief that must be renewed through a new  
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1 application annually. Second, if and when implementing regulations are finally  
2 promulgated, IIEB must then assist its clients to apply for U visas. Defendants'  
3 non-feasance and other unlawful policies as herein alleged are therefore  
4 diverting the limited resources of IIEB and making their work and achievement  
5 of their goals more difficult and costly. IIEB's delivering services to crime victims  
6 eligible for U visas is more difficult, time-consuming, and expensive than is its  
7 delivering like services to persons who seek lawful status under provisions of the  
8 Immigration and Nationality Act for which implementing regulations have been  
9 duly promulgated.

12 8. Plaintiff VOCES UNIDAS PROJECT OF THE CENTER FOR HUMAN RIGHTS  
13 AND CONSTITUTIONAL LAW ("VOCES UNIDAS") is a national program addressing  
14 the needs of Mexican national immigrants residing in the United States who are  
15 survivors of domestic abuse and victims of crime. The VOCES UNIDAS project  
16 provides technical support and funding for numerous non-profit organizations  
17 providing free legal services to immigrant survivors of domestic violence and  
18 victims of crime. It also provides free legal services to low-income and under-  
19 served immigrants, including those who wish to apply for U visas. Defendants'  
20 failure to implement the U visa provisions of the Crime Victims Act and refusal  
21 to grant crime victims U visas interferes with VOCES UNIDAS's work and makes  
22 the achievement of VOCES UNIDAS's goals substantially more difficult. The  
23 unavailability of U visas requires that VOCES UNIDAS provide a range of technical  
24 support services it would not have to provide if defendants issued regulations  
25 setting forth eligibility standards and procedures for adjudicating U visas. The

1 absence of regulations also requires that the VOCES UNIDAS project assist its  
2 direct services clients to apply for two benefits instead of one. First, it must assist  
3 clients to apply for “deferred action” and for temporary employment  
4 authorization, relief that must be renewed through a new application annually.  
5  
6 Second, if and when implementing regulations are finally promulgated, VOCES  
7 UNIDAS must then assist its clients to apply for U visas. Defendants’ non-feasance  
8 and other unlawful policies as herein alleged are therefore diverting the limited  
9 resources of VOCES UNIDAS and making their work and achievement of their  
10 goals more difficult and costly. VOCES UNIDAS’s delivering services to crime  
11 victims eligible for U visas is more difficult, time-consuming, and expensive than  
12 is its delivering like services to persons who seek lawful status under provisions  
13 of the Immigration and Nationality Act for which implementing regulations have  
14 been duly promulgated.  
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17         9. Plaintiff CENTRAL AMERICAN RESOURCE CENTER (“CARECEN”) is a  
18 California not-for-profit corporation located in Los Angeles, California.  
19 CARECEN’s purposes include protecting and promoting fair and lawful public  
20 policies toward immigrants, ensuring compliance with federal laws and the  
21 United States Constitution by federal, state and local government agencies in  
22 their treatment of immigrants, and delivering social services and humanitarian  
23 assistance to immigrants and their families. These services include assistance to  
24 immigrant victims of serious crimes who have cooperated with law enforcement  
25 agencies. The unavailability of U visas requires CARECEN to assist clients to  
26 apply for two benefits instead of one. First, it must assist clients to apply for  
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1 “deferred action” and for temporary employment authorization, relief that must  
2 be renewed through a new application annually. Second, if and when  
3 implementing regulations are finally promulgated, CARECEN must then assist  
4 its clients to apply for U visas. Defendants’ non-feasance and other unlawful  
5 policies as herein alleged are therefore diverting the limited resources of  
6 CARECEN and making their work and achievement of their goals more difficult  
7 and costly. CARECEN’s delivering services to crime victims eligible for U visas is  
8 more difficult, time-consuming, and expensive than is its delivering like services  
9 to persons who seek lawful status under provisions of the Immigration and  
10 Nationality Act for which implementing regulations have been duly  
11 promulgated.

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15 10. Plaintiff HERMANDAD MEXICANA NACIONAL (“HMN”) is a  
16 membership and social and legal services not-for-profit California corporation  
17 with several offices located in the County of Los Angeles, California. HMN’s ‘s  
18 purposes include protecting and promoting fair and lawful public policies  
19 toward immigrants, ensuring compliance with federal laws and the United States  
20 Constitution by federal, state and local government agencies in their treatment of  
21 immigrants, and delivering social services and humanitarian assistance to  
22 immigrants and their families. HMN has approximately 15,000 members, most of  
23 whom are immigrants. HMN has members and clients who are the victims of  
24 crime in the United States and who have cooperated with law enforcement  
25 agencies. As a direct and proximate result of defendants’ non-feasance as alleged  
26 herein, HMN’s members are unable to obtain U visas. Some members are  
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1 unwilling to apply for deferred action because they fear such applications may  
2 prejudice their eligibility for U visas if defendants later issue U visa guidelines or  
3 regulations that are inconsistent with the guidelines defendants currently use in  
4 determining whether to grant deferred action. The unavailability of U visas  
5 requires HMN to assist clients to apply for two benefits instead of one. First, it  
6 must assist clients to apply for “deferred action” and for temporary employment  
7 authorization, relief that must be renewed through a new application annually.  
8  
9 Second, if and when implementing regulations are finally promulgated, HMN  
10 must then assist its clients to apply for U visas. Defendants’ non-feasance and  
11 other unlawful policies as herein alleged are therefore diverting the limited  
12 resources of HMN and making their work and achievement of their goals more  
13 difficult and costly. HMN’S delivering services to crime victims eligible for U  
14 visas is more difficult, time-consuming, and expensive than is its delivering like  
15 services to persons who seek lawful status under provisions of the Immigration  
16 and Nationality Act for which implementing regulations have been duly  
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20 promulgated.

21 11. Plaintiff SANCTUARY FOR FAMILIES (“SFF”) is a New York not-for-  
22 profit corporation located in New York, New York. SFF is dedicated to providing  
23 services to victims of domestic violence. Among other activities, SFF provides  
24 free legal services to low-income and under-served immigrants. These services  
25 include assistance to immigrant victims of serious crimes who have cooperated  
26 with law enforcement agencies. Defendants’ failure to implement the U visa  
27 provisions of the Crime Victims Act and refusal to grant crime victims U visas  
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1 interferes with SFF's work and makes the achievement of SFF's goals  
2 substantially more difficult. The unavailability of U visas requires SFF to assist  
3 clients apply for two benefits instead of one: deferred action and, when and if  
4 implementing regulations are promulgated, U visas. In addition, SFF has been  
5 required to expend resources urging defendants to promulgate U visa  
6 regulations and to issue its clients actual U visas. Defendants' non-feasance and  
7 other unlawful policies as herein alleged are therefore diverting the limited  
8 resources of SFF and making their work and achievement of their goals more  
9 difficult and costly. SFF's delivering services to crime victims eligible for U visas  
10 is more difficult, time-consuming, and expensive than is its delivering like  
11 services to persons who seek lawful status under provisions of the Immigration  
12 and Nationality Act for which implementing regulations have been duly  
13 promulgated.  
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17 12. Plaintiff FRIENDLY HOUSE is an Arizona not-for-profit corporation  
18 located in Phoenix, Arizona. Among other activities, FRIENDLY HOUSE provides  
19 low cost, on-site immigration services to the immigrant community in greater  
20 Maricopa County in the State of Arizona. These services include assistance to  
21 immigrant victims of serious crimes who have cooperated with law enforcement  
22 agencies. The unavailability of U visas requires FRIENDLY HOUSE to assist clients  
23 to apply for two benefits instead of one. First, it must assist clients to apply for  
24 "deferred action" and for temporary employment authorization, relief that must  
25 be renewed through a new application annually. Second, if and when  
26 implementing regulations are finally promulgated, FRIENDLY HOUSE must then  
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1 assist its clients to apply for U visas. Defendants' non-feasance and other  
2 unlawful policies as herein alleged are therefore diverting the limited resources  
3 of FRIENDLY HOUSE and making their work and achievement of their goals more  
4 difficult and costly. FRIENDLY HOUSE's delivering services to crime victims  
5 eligible for U visas is more difficult, time-consuming, and expensive than is its  
6 delivering like services to persons who seek lawful status under provisions of the  
7 Immigration and Nationality Act for which implementing regulations have been  
8 duly promulgated.  
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11 13. Plaintiff DIOCESAN MIGRANT & REFUGEE SERVICES, INC ("DMRS") is a  
12 not-for-profit legal aid clinic located in El Paso, Texas. Among other activities,  
13 DMRS provides free and low cost legal services to the low-income immigrants  
14 eligible to legalize their status, including immigrant victims of crime who  
15 cooperated with law enforcement agencies. The unavailability of U visas requires  
16 DMRS to assist clients to apply for two benefits instead of one. First, it must  
17 assist clients to apply for "deferred action" and for temporary employment  
18 authorization, relief that must be renewed through a new application annually.  
19 Second, if and when implementing regulations are finally promulgated, DMRS  
20 must then assist its clients to apply for U visas. DMRS also has several clients  
21 who are the immigrant parents of United States citizen children who are the  
22 victims of crime and who or whose parents cooperated with law enforcement  
23 agencies in the investigation or prosecution of such crimes, such that 8 U.S.C. §§  
24 1101(U)(i)(III) in conjunction with 1184(p) operate to deny U visa eligibility to  
25 these clients while granting such benefit to the immigrant parents of  
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1 undocumented and lawful permanent resident children. Defendants' non-  
2 feasance and other unlawful policies as herein alleged are therefore diverting the  
3 limited resources of DMRS and making their work and achievement of their  
4 goals more difficult and costly. DMRS's delivering services to crime victims  
5 eligible for U visas is more difficult, time-consuming, and expensive than is its  
6 delivering like services to persons who seek lawful status under provisions of the  
7 Immigration and Nationality Act for which implementing regulations have been  
8 duly promulgated.

11 14. Plaintiffs Sandra Bucio, Xiomara Castro, Ramona Quintero, Luis R.  
12 Nuñez Hernandez, Ricardo Nuñez Hernandez, Elizabeth Lopez Gomez, Maria  
13 Estervina Perez, Giovana Saavedra, Eleuterio Rodriguez Ruiz, Felipe Sanchez  
14 Martinez, Francisca Ramirez Alvarez, Constantina Campos, Irma Moreno  
15 Sanvicente, Rosa Galaviz, Maria Luisa Arroyo, Juan Francisco Rocha Rocha, and  
16 Jorge Dominguez Rivera are victims of crime in the United States. Each plaintiff  
17 is *prima facie* eligible for a U visa under federal law because –

19 (a) she or he “suffered substantial physical or mental abuse as a result of  
20 having been the victim of criminal activity;”

21 (b) she or he “possesses information concerning the criminal activity;”

22 (c) she or he “has been helpful, is being helpful, or is likely to be helpful to  
23 Federal, State, or local law enforcement official investigating or  
24 prosecuting...[the] criminal activity;”

25 (d) “the criminal activity...violated the laws of the United States or  
26 occurred in the United States,” and

1 (e) “the criminal activity...involv[ed] ... rape, ... trafficking, ... domestic  
2 violence, ... sexual assault, false imprisonment ... [or] felonious assault...”  
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4 8 U.S.C. § 1101(a)(15)(U). As alleged herein defendants have unlawfully refused  
5 to afford said plaintiffs a means to apply for and receive U visas.

6 15. Plaintiffs have petitioned Defendants, in writing, to issue them U visas  
7 and to promulgate regulations implementing the Crime Victims Act. Defendants  
8 have unlawfully ignored these requests, just as they have ignored for over six  
9 years their duty to faithfully execute the law as enacted by Congress.

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11 16. Plaintiffs SERGIO BUCIO PEREZ and ANDRES BUCIO PEREZ are minor  
12 children of Plaintiff SANDRA BUCIO. The Crime Victims Act provides in part that  
13 “the Attorney General may also grant status ... based upon certification of a  
14 government official listed in clause (i)(III) [including “Federal, State, or local law  
15 enforcement official[s]...”] that an investigation or prosecution would be harmed  
16 without the assistance of the ... child ... of the [crime victim].” 8 U.S.C. §  
17 1101(a)(15)(U)(ii). Local law enforcement officials made such certifications for  
18 each of the above-mentioned minor plaintiffs. Defendants have unlawfully  
19 refused to adjudicate the U visa applications filed on behalf of Plaintiffs MINOR 1  
20 and MINOR 2. Plaintiffs SERGIO and ANDRES BUCIO PEREZ sue by and through  
21 their next friend and parent, Plaintiff SANDRA BUCIO.

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25 17. Plaintiff SANDRA BUCIO is a citizen and national of Mexico. She is a  
26 resident of the City of San Francisco, State of California. Plaintiff BUCIO is a  
27 victim of an aggravated battery, false imprisonment and aggravated assault. She  
28 cooperated with law enforcement and is statutorily eligible for the issuance of a

1 U visa. On or about February 1, 2004 Plaintiff BUCIO presented Defendants a  
2 written request that they issue her and her children, Plaintiffs SERGIO and  
3 ANDRES BUCIO PEREZ, lawful status in accordance with the Crime Victims Act.  
4 Defendants have refused to grant or deny Plaintiff BUCIO'S and Plaintiffs SERGIO  
5 and ANDRES BUCIO PEREZ U visa status.  
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7 18. Plaintiff XIOMARA CASTRO is a citizen and national of El Salvador. She  
8 is a resident of the City of San Francisco, State of California. Plaintiff XIOMARA  
9 CASTRO is a victim of criminal assault and domestic violence. She cooperated  
10 with law enforcement and is statutorily eligible for the issuance of a U visa. On  
11 or about July 30, 2004 Plaintiff XIOMARA CASTRO presented Defendants a written  
12 request for benefits under the Crime Victims Act. Defendants have refused to  
13 grant or deny Plaintiff CASTRO a U visa.  
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16 19. Plaintiff RAMONA QUINTERO is a citizen and national of Mexico. She is  
17 a resident of the City of San Francisco, State of California. Plaintiff QUINTERO is a  
18 victim of criminal threats, Restraining Order violation, and battery (domestic  
19 violence). She cooperated with law enforcement and is statutorily eligible for the  
20 issuance of a U visa. On or about October 6, 2004 Plaintiff QUINTERO presented  
21 Defendants a written request for benefits under the Crime Victims Act.  
22 Defendants have refused to grant or deny Plaintiff QUINTERO a U visa.  
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25 20. Plaintiff LUIS R. NUNEZ HERNANDEZ is a citizen and national of  
26 México. He is a resident of the City of San Francisco, State of California. Plaintiff  
27 NUNEZ HERNANDEZ is a victim of aggravated assault with a gun and attempted  
28 murder. He cooperated with law enforcement and is statutorily eligible for the

1 issuance of a U visa. On or about September 17, 2004, Plaintiff NUNEZ  
2 HERNANDEZ presented Defendants a written request for benefits under the  
3 Crime Victims Act. Defendants have refused to grant or deny plaintiff NUNEZ  
4 HERNANDEZ a U visa.  
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6 21. Plaintiff RICARDO NUNEZ HERNANDEZ is a citizen and national of  
7 México. He is a resident of the City of San Francisco, State of California. Plaintiff  
8 RICARDO NUNEZ HERNANDEZ is a victim of aggravated assault with a gun and  
9 attempted murder. He cooperated with law enforcement and is statutorily  
10 eligible for the issuance of a U visa. On or about September 17, 2004, Plaintiff  
11 NUNEZ HERNANDEZ presented Defendants a written request for benefits under  
12 the Crime Victims Act. Defendants have refused to grant or deny plaintiff  
13 NUNEZ HERNANDEZ a U visa.  
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16 22. Plaintiff ELIZABETH LOPEZ GOMEZ is a citizen and national of México.  
17 She is a resident of the City of San Mateo, State of California. Plaintiff ELIZABETH  
18 LOPEZ GOMEZ is a victim of the infliction of corporal injury on a spouse, criminal  
19 assault, and criminal threats. She cooperated with law enforcement and is  
20 statutorily eligible for the issuance of a U visa. On or about May 21, 2004,  
21 Plaintiff LOPEZ GOMEZ presented Defendants with a written request for benefits  
22 in accordance with the Crime Victims Act. Defendants have refused to grant or  
23 deny Plaintiff LOPEZ GOMEZ a U visa.  
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26 23. Plaintiff MARIA ESTERVINA PEREZ is a citizen and national of El  
27 Salvador. She is a resident of the City of Menlo Park, State of California. Plaintiff  
28 ESTERVINA PEREZ is a victim of the infliction of corporal injury and criminal

1 assault. She cooperated with law enforcement and is statutorily eligible for the  
2 issuance of a U visa. On or about July 28, 2004, Plaintiff ESTERVINA PEREZ  
3 presented Defendants with a written request for benefits in accordance with the  
4 Crime Victims Act. Defendants have refused to grant or deny Plaintiff  
5 ESTERVINA PEREZ a U visa.  
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7 24. Plaintiff GIOVANA SAAVEDRA is a citizen and national of Peru. She is a  
8 resident of the City of Newark, State of California. She is a victim of domestic  
9 violence and is statutorily eligible for the issuance of a U visa. On or about  
10 November 21, 2006, she petitioned the USCIS to issue her benefits under the  
11 Crime Victims Act. Plaintiff SAAVEDRA submitted her application without a U  
12 certification after making several good faith efforts to obtain one from the  
13 Newark Police Department and the Alameda County District Attorney's office,  
14 but they refused despite the fact that the abuser in her case was prosecuted and  
15 pled guilty. Defendants have refused to grant or deny Plaintiff SAAVEDRA a U  
16 visa.  
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19 25. Plaintiff ELEUTERIO RODRIGUEZ RUIZ is a citizen and national of  
20 Mexico. He is a resident of the City of Stockton, State of California. He is a victim  
21 of an aggravated assault perpetrated by a United States citizen vigilante armed  
22 with a deadly weapon, cooperated with law enforcement that investigated the  
23 crime, and is statutorily eligible for the issuance of a U visa. On or about June 30,  
24 2005, he petitioned the USCIS to issue him a U visa. Defendants have refused to  
25 grant or deny Plaintiff RODRIGUEZ RUIZ's request for a U visa.  
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1           26. Plaintiff FELIPE SANCHEZ MARTINEZ is a citizen and national of  
2 Mexico. He is a resident of the City of Phoenix, State of Arizona. He is a victim of  
3 an aggravated assault perpetrated by a United States citizen vigilante armed  
4 with a deadly weapon, cooperated with law enforcement that investigated the  
5 crime, and is statutorily eligible for the issuance of a U visa. On or about June 30,  
6 2005, he petitioned the USCIS to issue him a U visa. Defendants have refused to  
7 grant or deny Plaintiff SANCHEZ MARTINEZ's request for a U visa.  
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10           27. Plaintiff FRANCISCA RAMIREZ ALVAREZ is a citizen and national of  
11 Mexico. She is a resident of the City of Louisville, State of Kentucky. She is a  
12 victim of domestic violence and is statutorily eligible for the issuance of a U visa.  
13 On or about March 19, 2002, she petitioned the Louisville, KY Immigration and  
14 Naturalization Service office for benefits under the Crime Victims Act. On  
15 January 2, 2003, she petitioned the USCIS for benefits under the Crime Victims  
16 Act. Defendants have refused to grant or deny Plaintiff FRANCISCA RAMIREZ  
17 ALVAREZ a U visa.  
18

19  
20           28. Plaintiff CONSTANTINA CAMPOS is a citizen and national of Mexico.  
21 She is a resident of the City of New York, State of New York. She is a victim of  
22 domestic violence, cooperated with law enforcement, and is statutorily eligible  
23 for the issuance of a U visa. On or about July 12, 2002, she petitioned the USCIS  
24 for benefits under the Crime Victims Act. Defendants have refused to grant or  
25 deny Plaintiff CAMPOS a U visa.  
26

27           29. Plaintiff IRMA MORENO SANVICENTE is a citizen and national of  
28 Mexico. She is a resident of the City of New York, State of New York. She is a

1 victim of criminal domestic violence, cooperated with law enforcement, and is  
2 statutorily eligible for the issuance of a U visa. She first petitioned the USCIS for  
3 U visa benefits in late 2005, but the USCIS refused to adjudicate her petition on  
4 the basis that her law enforcement certification had expired. On or about  
5 February 3, 2006, Plaintiff MORENO SANVICENTE petitioned the USCIS again for  
6 benefits under the Crime Victims Act. In January 2007, Plaintiff MORENO  
7 SANVICENTE petitioned the USCIS for a renewal of deferred action status and for  
8 a U visa. Absent regulations allowing for the issuance of U visas, Plaintiff  
9 MORENO SANVICENTE's 17-year-old daughter in Meixco is in danger of aging out  
10 of eligibility as a derivative to her mother's U visa application. Defendants have  
11 refused to grant or deny Plaintiff IRMA MORENO SANVICENTE a U visa.  
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15 30. Plaintiff ROSA GALAVIZ is a citizen and national of Mexico. She is a  
16 resident of the State of Indiana. She is a victim of criminal domestic violence, has  
17 cooperated with law enforcement, and is statutorily eligible for the issuance of a  
18 U visa. On or about June 28, 2006, she petitioned the USCIS to issue her a U visa  
19 in accordance with the Crime Victims Act. She has also petitioned on behalf of  
20 her seven minor children who reside in Mexico and are eligible for U visas as  
21 derivatives. The domestic violence perpetrated against Plaintiff GALAVIZ by her  
22 abusive husband resulted in his deportation. Absent regulations allowing for the  
23 issuance of U visas, Plaintiff ROSA GALAVIZ's children are in danger of aging out  
24 of eligibility as derivatives to her U visa application. Defendants have refused to  
25 grant or deny Plaintiff ROSA GALAVIZ or her children U visas.  
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1           31. Plaintiff MARIA LUISA ARROYO TORRES is a citizen and national of  
2 Mexico. She is a resident of the City of Mercedes, State of Texas. She is a victim of  
3 assault and domestic violence and is statutorily eligible for the issuance of a U  
4 visa. On or about July 10, 2006, she petitioned the USCIS for benefits under the  
5 Crime Victims Act. Plaintiff TORRES submitted her application with a U  
6 certification signed on August 5, 2005 by Assistant Criminal District Attorney of  
7 the County of Hidalgo, over six months before the date on which she applied for  
8 U visa benefits. Defendants rejected her request for a U visa because her U  
9 certification was not signed within six months of her request for a U visa.  
10

11  
12           32. Plaintiff JUAN FRANCISCO ROCHA ROCHA is a citizen and national of  
13 Mexico. He is a resident of the City of Alamo, State of Texas. He and his family  
14 were the victims of a felonious assault and attempted murder, cooperated with  
15 law enforcement, and are statutorily eligible for the issuance of a U visa. On or  
16 about November 30, 2006, he petitioned the USCIS to issue him benefits under  
17 the Crime Victims Act. At the same time, Plaintiff ROCHA ROCHA filed an I-765  
18 application for employment authorization. Prior to November 2006, the USCIS  
19 accepted concurrent filing of U visa or deferred action status and employment  
20 authorization applications. On information and belief, in or about November  
21 2006, without complying with the notice and comment provisions of the  
22 Administrative Procedures Act, defendants changed their policy and now no  
23 longer accept employment authorization applications along with applications for  
24 U visas or deferred action status. Plaintiff ROCHA ROCHA was issued a denial of  
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1 his application for employment authorization on or about January 17, 2007, and  
2 his application for U visa benefits remains pending.

3 33. Plaintiff JORGE DOMINGUEZ RIVERA is a citizen and national of Mexico  
4 temporarily residing in Tucson, Arizona. He is the victim of felonious assault  
5 perpetrated by a U.S. Border Patrol agent on January 12, 2007, when that agent  
6 tried to run Plaintiff DOMINGUEZ RIVERA over with his vehicle. Plaintiff  
7 DOMINGUEZ RIVERA has cooperated with law enforcement agents investigating  
8 the incident. Plaintiff DOMINGUEZ RIVERA has applied for a U visa and requested  
9 that Defendants issue a U certification since Defendants' agents are investigating  
10 the alleged felonious assault. In February 2007, Defendants threatened Plaintiff  
11 DOMINGUEZ RIVERA with execution of an order of expedited removal before his  
12 application for a U visa is adjudicated. Defendants have refused and failed to  
13 issue regulations and to adjudicate Plaintiff JORGE DOMINGUEZ RIVERA's  
14 application for a U visa.  
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18 34. Defendant Michael CHERTOFF is the Secretary of the United States  
19 Department of Homeland Security. Defendant CHERTOFF is charged with the  
20 implementation of the Immigration and Nationality Act, 8 U.S.C. §§ 1101 *et seq.*,  
21 and with the administration of the United States Citizenship and Immigration  
22 Services. He is sued in his official capacity.  
23  
24

25 35. Defendant UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES  
26 ("USCIS") is a bureau of the U.S. Department of Homeland Security. USCIS is  
27 charged with the implementation of the Immigration and Nationality Act, 8  
28 U.S.C. §§ 1101 *et seq.*, including the U visa provisions, as well as enactments of

1 Congress requiring the promulgation of implementing regulations pursuant to  
2 which plaintiffs and those similarly situated may have their eligibility for U visas  
3 lawfully determined.  
4

5 IV

6 CLASS ALLEGATIONS

7 36. Plaintiffs bring this action on behalf of themselves and all other  
8 persons similarly situated pursuant to Fed.R.Civ.Proc. Rule 23(a) and 23(b)(2).  
9 Plaintiffs provisionally propose this action be certified on behalf of the following  
10 class:  
11

12 All persons who are *prima facie* eligible for a U visa and who have applied  
13 for or would apply for issuance of a U visa but for defendants' failure to  
14 issue U visas or promulgate regulations implementing § 1512 of the  
15 Victims of Trafficking and Violence Protection Act of 2000.  
16

17 37. Members of the proposed class likely number in the thousands and are  
18 so numerous that joinder of all members is impracticable. The claims of the  
19 proposed class representatives and those of the proposed class members raise  
20 common questions of law and fact concerning, *inter alia*, whether defendants  
21 may lawfully refuse to provide a path by which individuals who are *prima facie*  
22 eligible for U visas may apply for the immigration benefit Congress has made  
23 available to them. These questions are common to the named plaintiffs and to the  
24 members of the proposed class because Defendants have acted and will continue  
25 to act on grounds generally applicable to both the named plaintiffs and proposed  
26 class members. The individual named plaintiffs' claims are typical of the class  
27  
28

1 claims. The named plaintiffs will adequately represent all members of the  
2 proposed class.

3 38. The prosecution of separate actions by individual members of the class  
4 would create a risk of inconsistent or varying adjudications establishing  
5 incompatible standards of conduct for defendants. The issuance of regulations,  
6 forms, standards and procedures is a national function, not a function performed  
7 differently in each individual case or in each USCIS district or region.  
8

9 Prosecution of separate actions would create the risk that individual class  
10 members will secure court orders that would as a practical matter be dispositive  
11 of the claims of other class members not named parties to this litigation, thereby  
12 substantially impeding the ability of unrepresented class members to protect  
13 their interests.  
14

15 39. Defendants, their agents, employees, and predecessors and successors  
16 in office have acted or refused to act, and will continue to act or refuse to act, on  
17 grounds generally applicable to the class, thereby making appropriate injunctive  
18 relief or corresponding declaratory relief with respect to the class as a whole.  
19

20 Plaintiffs will vigorously represent the interests of unnamed class members. All  
21 members of the proposed class will benefit by the action brought by the  
22 plaintiffs. The interests of the plaintiffs and those of the proposed class members  
23 are identical. Plaintiffs are represented by counsel associated with non-profit  
24 public interest law firms and reputable private firms acting *pro bono publico* and  
25 include attorneys highly experienced in federal class action litigation involving  
26 the rights of foreign nationals, children, and refugees within the United States.  
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## FACTUAL ALLEGATIONS

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4 40. Although the Crime Victims Act set no specific date by which  
5 defendants were required to promulgate regulations implementing the U visa  
6 program, several years after its enactment, in the Violence Against Women and  
7 Department of Justice Reauthorization Act of 2005, Pub. L. 109-162, 119 Stat. 2960  
8 (2006) (“VAWA Reauthorization Act”), Congress directed defendants to  
9 “promulgate regulations to implement” the U visa program “[n]o later than 180  
10 days after the date of enactment of this Act...” *Id.* at § 828. On January 5, 2006,  
11 the VAWA Reauthorization Act was signed into law, and defendants were  
12 thereafter under an unambiguous legal duty to promulgate U visa regulations no  
13 later than July 4, 2006.  
14  
15

16 41. Defendants have nevertheless persisted in their failure to afford crime  
17 victims a means to apply for and obtain U visas. Instead, defendants have  
18 granted some U visa-eligible persons a quasi-legal, non-statutory temporary  
19 status known as “deferred action.” Deferred action is no more than an exercise of  
20 prosecutorial discretion not to seek a crime victim’s immediate deportation or  
21 removal. Deferred action confers no cognizable legal status and simply defers an  
22 individual’s deportation from the United States. In contrast, recipients of actual  
23 U visas are entitled, among other benefits, to be employed, to travel abroad, to be  
24 referred for social and related services, and to accrue time toward eligibility for  
25 lawful permanent residence. 8 U.S.C. § 1255(m) (U visa holders eligible for  
26 permanent residence after three years).  
27  
28

1           42. Pursuant to 8 U.S.C. § 1101(U)(ii), the spouses, children, and, if the  
2 applicant is under 21, the unmarried siblings, of persons who are issued U visas  
3 are entitled to “derivative” U visas if they are “accompanying or following to  
4 join” a U visa holder. *Id.* 8 U.S.C. § 1101(b)(1) defines the term “child” as “an  
5 unmarried person under twenty-one years of age ...” Persons eligible for  
6 derivative U visas as “children” accordingly become ineligible for such visas  
7 upon turning 21 years of age. Because defendants have failed to issue U visas,  
8 persons eligible for derivative U visas have been denied and will be denied  
9 benefits Congress intended to extend to them because the defendants have  
10 permitted them to “age out” of eligibility.  
11

12           43. Shortly after enactment of the Crime Victims Act, defendants adopted  
13 a policy and practice permitting persons who sought U visas or deferred action  
14 on the basis of asserted eligibility for U visas to apply for employment  
15 authorization concurrently with their requests for deferred action. This policy  
16 and practice allowed persons whom defendants granted deferred action status to  
17 work lawfully in the United States after a maximum delay of 90 days. 8 C.F.R. §  
18 274a.13(d). The policy and practice was consistent with defendants’ treatment of  
19 applicants for other immigration benefits who are permitted to apply for  
20 employment authorization concurrently with their applications for lawful status.  
21 *See, e.g.* 8 C.F.R. § 274a.13(a)(2).  
22

23           44. However on or about November 2, 2006, defendants discontinued the  
24 afore-alleged policy and practice and adopted a new policy to reject applications  
25 for employment authorization from persons seeking U visas or deferred action  
26  
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1 based on asserted eligibility for a U visa until after deferred action is actually  
2 granted. Defendants take an average of several months to decide a request for  
3 deferred action based on asserted eligibility for a U visa. Defendants' new policy  
4 and practice accordingly delay for an additional several months the time when  
5 persons statutorily eligible for U visas are permitted to work lawfully in the  
6 United States. Said policy and practice encode a substantive value judgment and  
7 substantially alter the rights or interests of regulated parties, but were adopted  
8 entirely informally and without compliance with any of the rulemaking  
9 provisions of the Administrative Procedure Act, 5 U.S.C. § 553.  
10

11  
12 45. 8 U.S.C. § 1184(p)(3)(A) requires defendants to "provide aliens  
13 [holding U visas] with referrals to nongovernmental organizations to advise the  
14 aliens regarding their options while in the United States and the resources  
15 available to them..." As a matter of policy and practice, defendants fail to  
16 provide persons statutorily eligible for U visas with referrals as required by 8  
17 U.S.C. § 1184(p)(3)(A).  
18

19  
20 46. 8 U.S.C. § 1184(p)(1) requires that "[t]he petition filed by an alien [for a  
21 U visa] shall contain a certification from a Federal, state or local law enforcement  
22 official, prosecutor, judge, or other Federal State or local authority investigation  
23 criminal activity ... This certification shall state that the alien 'has been helpful, is  
24 being helpful, or is likely to be helpful' in the investigation or prosecution of  
25 criminal activity..." Nothing in § 1184(p) or elsewhere requires that the specified  
26 certification be executed within any specific time proximate to the filing of an  
27 application for a U visa.  
28

1           47. However, defendants, as a matter of policy and practice, deny deferred  
2 action to individuals who seek such relief based on asserted eligibility for U visas  
3 whenever they do not furnish a § 1184(p)(1) certification executed within six  
4 months of their requests for deferred action. Said policy and practice graft onto §  
5 1184(p)(1) an *ultra vires* and unlawful eligibility requirement.

7           48. Plaintiff SANDRA BUCIO is a citizen and national of Mexico. She is a  
8 resident of the City of San Francisco, State of California. Plaintiff BUCIO is a  
9 victim of an aggravated assault and battery and false imprisonment. Section  
10 1512 of the Crime Victims Act of 2000 declares the victims of such crimes eligible  
11 for U Visas. Plaintiff BUCIO reported these crimes to the Hidalgo Police Station  
12 in New Mexico and the perpetrator was arrested and was charged with several  
13 crimes, including aggravated battery, false imprisonment, and child abuse. On  
14 December 20, 2002 a Deputy District Attorney of Grant County in New Mexico  
15 certified that Plaintiff BUCIO had been helpful in the investigation and  
16 prosecution of the crime. On October 3, 2003, a new certification was obtained  
17 from the same District Attorney's office. The law enforcement certification  
18 further states that the criminal investigation and prosecution would be harmed  
19 without the assistance of Plaintiff SANDRA BUCIO's children, Plaintiffs SERGIO  
20 BUCIO PEREZ AND ANDRES BUCIO PEREZ. On or about February 1, 2004 Plaintiff  
21 SANDRA BUCIO presented Defendants a written request for benefits for her and  
22 her children under the Crime Victims Act. Defendants have refused and failed to  
23 issue U visas to Plaintiff SANDRA BUCIO or SERGIO or ANDRES BUCIO PEREZ. On  
24 information and belief, Plaintiff BUCIO alleges that Defendants have not and will  
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1 not adjudicate her or her children's applications for U visas until after they  
2 promulgate implementing regulations, something Defendants have failed to do  
3 for six years.

4  
5 49. Plaintiff XIOMARA CASTRO is a victim of criminal assault and domestic  
6 violence. On or about January 26, 2002, Plaintiff XIOMARA CASTRO was  
7 physically attacked by her husband and suffered extreme physical abuse as a  
8 result. Section 1512 of the Crime Victims Act of 2000 declares the victims of such  
9 crimes eligible for U Visas. Plaintiff XIOMARA CASTRO reported these crimes to  
10 the Rosenberg Police Department in Rosenberg, TX and the perpetrator was  
11 found guilty as charged. Additionally, on March 30, 2004, a Police Officer from  
12 the Rosenberg Police Department certified that XIOMARA CASTRO was being  
13 helpful in the investigation and prosecution of the crime. On or about July 30,  
14 2004, Plaintiff XIOMARA CASTRO presented Defendants a written request for  
15 benefits under the Crime Victims Act. Defendants have refused and failed to  
16 issue regulations and or to issue Plaintiff XIOMARA CASTRO a U visa. On  
17 information and belief, Plaintiff XIOMARA CASTRO alleges that Defendants have  
18 not and will not adjudicate an application for a U visa until after they  
19 promulgate implementing regulations, something Defendants have failed to do  
20 for six years. Defendants' failure to issue implementing regulations deprives  
21 Plaintiff XIOMARA CASTRO, and those similarly situated of procedures,  
22 standards, and forms by which they may obtain a U visa. Defendants' unlawful  
23 failure and refusal to adjudicate Plaintiff XIOMARA CASTRO's application for a U  
24 visa blocks their ability to travel abroad and accrue three years temporary  
25  
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1 residence as required by the Victims Protection Act before they may obtain  
2 permanent residence.

3           50. Plaintiff RAMONA QUINTERO is a victim of criminal threats, Restraining  
4 Order violation, and battery (Domestic Violence). On or about July 15, 2003  
5 RAMONA QUINTERO was physically attacked by her former husband and  
6 suffered extreme physical abuse. Plaintiff RAMONA QUINTERO reported these  
7 crimes to the San Francisco Police Department and on August 26, 2004, an  
8 Assistant District Attorney of the San Francisco District Attorney's Office  
9 certified that RAMONA QUINTERO has been helpful in the prosecution of the  
10 crime. On or about October 6, 2004, Plaintiff RAMONA QUINTERO presented  
11 Defendants a written request for benefits under the Crime Victims Act.  
12 Defendants have refused and failed to issue regulations or to grant Plaintiff  
13 RAMONA QUINTERO a U visa. On information and belief, Plaintiff RAMONA  
14 QUINTERO alleges that Defendants have not and will not adjudicate an  
15 application for a U visa until after they promulgate implementing regulations,  
16 something Defendants have failed to do for six years. Defendants' failure to issue  
17 implementing regulations deprives Plaintiff RAMONA QUINTERO, and those  
18 similarly situated of procedures, standards, and forms by which they may obtain  
19 a U visa. Defendants' unlawful failure and refusal to adjudicate Plaintiff  
20 RAMONA QUINTERO's application for a U visa blocks their ability to travel abroad  
21 and accrue three years temporary residence as required by the Victims Protection  
22 Act before they may obtain permanent residence.  
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1           51. Plaintiff LUIS R. NUNEZ HERNANDEZ is a victim of aggravated assault  
2 with a gun and attempted murder. Section 1512 of the Crime Victims Act of 2000  
3 declares the victims of such crimes eligible for U Visas. Plaintiff HERNANDEZ  
4  
5 reported these crimes to the San Francisco Police Station in California and an  
6 Assistant District Attorney has certified that Plaintiff HERNANDEZ has been  
7 helpful in the investigation of the crime. On or about September 17, 2004,  
8 Plaintiff HERNANDEZ presented Defendants a written request for a U visa.  
9  
10 Defendants have refused and failed to issue U visa regulations or to grant  
11 Plaintiff HERNANDEZ a U visa. On information and belief, Plaintiff HERNANDEZ  
12 alleges that Defendants have not and will not adjudicate an application for a U  
13 visa until after they promulgate implementing regulations, something  
14  
15 Defendants have failed to do for six years.

16           52. Plaintiff RICARDO NUNEZ HERNANDEZ is a victim of aggravated  
17 assault with a gun and attempted murder. On or about March 21, 2003, Plaintiff  
18 NUNEZ HERNANDEZ was shot in the chest. Section 1512 of the Crime Victims Act  
19 of 2000 declares the victims of such crimes eligible for U Visas. Plaintiff NUNEZ  
20 HERNANDEZ reported these crimes to the San Francisco Police Department in  
21 California and an Assistant District Attorney has certified that NUNEZ  
22 HERNANDEZ has been helpful in the investigation of the crime. On or about  
23 September 17, 2004, Plaintiff NUNEZ HERNANDEZ presented Defendants with a  
24 written request for relief under the Crime Victims Act. Defendants have refused  
25 and failed to issue U visa regulations or to grant Plaintiff NUNEZ HERNANDEZ a  
26  
27 U visa. On information and belief, Plaintiff RICARDO NUNEZ HERNANDEZ alleges  
28

1 that Defendants have not and will not adjudicate an application for a U visa until  
2 after they promulgate implementing regulations, something Defendants have  
3 failed to do for six years.

4  
5 53. Plaintiff ELIZABETH LOPEZ GOMEZ is a victim of felonious assault,  
6 infliction of corporal injury, and criminal threats. Section 1512 of the Crime  
7 Victims Act of 2000 declares the victims of such crimes eligible for U visas.  
8 Plaintiff LOPEZ GOMEZ reported these crimes to the Menlo Park Police  
9 Department, and the perpetrator was arrested and prosecuted as a result. On or  
10 about April 30, 2004, a San Mateo County deputy district attorney certified that  
11 plaintiff LOPEZ GOMEZ possesses information concerning this criminal activity  
12 and was being helpful in the prosecution of the perpetrator. On or about May 21,  
13 2004 plaintiff LOPEZ GOMEZ presented defendants with a written request for  
14 benefits under the Crime Victims Act. Defendants have refused and failed to  
15 issue regulations or to grant plaintiff LOPEZ GOMEZ a U visa. On information and  
16 belief, defendants have not and will not adjudicate an application for a U visa  
17 until after they promulgate implementing regulations, something they have  
18 failed to do for more than six years.

19  
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21  
22 54. Plaintiff MARIA ESTERVINA PEREZ is a victim of the infliction of corporal  
23 injury and criminal assault. Section 1512 of the Crime Victims Act of 2000  
24 declares the victims of such crimes eligible for U visas. Plaintiff ESTERVINA PEREZ  
25 reported these crimes to the Menlo Park Police Department, and the perpetrator  
26 was arrested and prosecuted as a result. On or about May 4, 2004, a San Mateo  
27 County deputy district attorney certified that plaintiff ESTERVINA PEREZ  
28

1 possesses information concerning this criminal activity and was being helpful to  
2 the prosecution of the perpetrator. On or about July 28, 2004 Plaintiff ESTERVINA  
3 PEREZ presented defendants with a written request for benefits under the Crime  
4 Victims Act. Defendants have refused and failed to issue regulations or to grant  
5 plaintiff ESTERVINA PEREZ a U visa. On information and belief, Plaintiff  
6 ESTERVINA PEREZ alleges that Defendants have not and will not adjudicate an  
7 application for a U visa until after they promulgate implementing regulations,  
8 something they have failed to do for more than six years.

11 55. Plaintiff GIOVANA SAAVEDRA ANGULO is a victim of criminal domestic  
12 violence perpetrated by her husband in 2005. In or around July 2005, Plaintiff  
13 SAAVEDRA ANGULO called the Newark police and reported the crime. Section  
14 1512 of the Crime Victims Act of 2000 declares the victims of such crimes eligible  
15 for U visas. Plaintiff SAAVEDRA ANGULO gave detailed statements to law  
16 enforcement officials regarding this crime, and the perpetrator was arrested for  
17 and charged with criminal domestic violence. The perpetrator was convicted.  
18 Despite Plaintiff SAAVEDRA ANGULO's cooperation, the documented domestic  
19 violence, and the guilty plea in this case, both the Newark Police Department  
20 that arrested the perpetrator, and the Alameda County District Attorney's office  
21 that prosecuted the perpetrator, declined as a matter of policy to sign a U  
22 certification. On or about November 21, 2006, Plaintiff SAAVEDRA ANGULO  
23 presented defendants with a written request for benefits under the Crime  
24 Victims Act. On information and belief, Plaintiff SAAVEDRA ANGULO alleges that  
25 defendants have not and will not adjudicate an application for a U visa until and  
26  
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1 unless defendants first issue implementing regulations, including regulations  
2 addressing the circumstance when a crime victim is unable to secure a U  
3 certification from a local law enforcement agency.  
4

5 56. Plaintiff ELEUTERIO RODRIGUEZ RUIZ is a victim of felonious  
6 aggravated assault, false imprisonment, and unlawful criminal restraint. On or  
7 about April 10, 2005, he was falsely imprisoned at gunpoint and otherwise  
8 victimized in an act of vigilante violence along the Mexico-United States border  
9 in the State of Arizona; he suffered extreme mental abuse as a result. Section 1512  
10 of the Crime Victims Act of 2000 declares the victims of such crimes eligible for U  
11 visas. Plaintiff RODRIGUEZ RUIZ gave detailed statements to law enforcement  
12 officials regarding this crime, and the perpetrator was arrested for felonious  
13 aggravated assault with a deadly weapon. A law enforcement officer has  
14 certified that plaintiff RODRIGUEZ RUIZ possesses information concerning the  
15 criminal activity, has been helpful to local law enforcement in its investigation,  
16 and remains willing to cooperate with any further investigation into the crime.  
17 On or about June 30, 2005, Plaintiff RODRIGUEZ RUIZ presented defendants with a  
18 written request for a U visa pursuant to the Crime Victims Act. However  
19 defendants have failed to issue regulations implementing the U visa provisions  
20 of the Crime Victims Act, and have failed to adjudicate Plaintiff RODRIGUEZ  
21 RUIZ's application for a U visa. On information and belief, Plaintiff RODRIGUEZ  
22 RUIZ alleges that defendants have not and will not adjudicate his application for  
23 a U visa until and unless defendants first issue implementing regulations.  
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1           57. Plaintiff FELIPE SANCHEZ MARTINEZ is a victim of felonious aggravated  
2 assault, false imprisonment, and unlawful criminal restraint. On or about April  
3 10, 2005, he was falsely imprisoned at gunpoint and otherwise victimized in an  
4 act of vigilante violence along the Mexico-United States border in the State of  
5 Arizona; he suffered extreme mental abuse as a result. Section 1512 of the Crime  
6 Victims Act of 2000 declares the victims of such crimes eligible for U visas.  
7 Plaintiff SANCHEZ MARTINEZ gave detailed statements to law enforcement  
8 officials regarding this crime, and the perpetrator was arrested for felonious  
9 aggravated assault with a deadly weapon. A law enforcement officer has  
10 certified that plaintiff SANCHEZ MARTINEZ possesses information concerning the  
11 criminal activity, has been helpful to local law enforcement in its investigation,  
12 and remains willing to cooperate with any further investigation into the crime.  
13 On or about June 30, 2005, plaintiff SANCHEZ MARTINEZ presented defendants  
14 with a written request for a U visa pursuant to the Crime Victims Act. However  
15 defendants have failed to issue regulations implementing the U visa provisions  
16 of the Crime Victims Act, and have failed to adjudicate plaintiff SANCHEZ  
17 MARTINEZ's application for a U visa. On information and belief, plaintiff  
18 SANCHEZ MARTINEZ alleges that defendants have not and will not adjudicate his  
19 application for a U visa until and unless defendants first issue implementing  
20 regulations.  
21  
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26           58. Plaintiff FRANCISCA RAMIREZ ALVAREZ is a victim of criminal domestic  
27 violence and is statutorily eligible for the issuance of a U visa. Plaintiff RAMIREZ  
28 ALVAREZ was threatened with guns and knives and was beaten and sexually

1 assaulted. Plaintiff RAMIREZ ALVAREZ has been issued a U visa certification,  
2 signed by a law enforcement official on March 18, 2002, stating that Plaintiff  
3 RAMIREZ ALVAREZ has been helpful to local law enforcement in its criminal  
4 investigation. On or about June March 19, 2002, she petitioned the local  
5 Louisville, KY Immigration and Naturalization Service (INS) office for a U visa  
6 or deferred action status. Having been granted no benefits, on or about January  
7 2, 2003, Plaintiff RAMIREZ ALVAREZ petitioned the Vermont Service Center of  
8 INS for relief under the Crime Victims Act. She was finally granted deferred  
9 action status on or about October 17, 2003. On information and belief, Plaintiff  
10 RAMIREZ ALVAREZ alleges that Defendants have not and will not adjudicate her a  
11 U visa until and unless Defendants first issue implementing regulations.  
12  
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15 59. Plaintiff CONSTANTINA CAMPOS was a victim of domestic violence in  
16 the City of New York. The perpetrator was arrested and prosecuted in Kings  
17 County Criminal Court and Plaintiff CAMPOS received a Criminal Court Order of  
18 Protection against him. Section 1512 of the Crime Victims Act declares the  
19 victims of such crimes eligible for U visas. Plaintiff CAMPOS reported these  
20 crimes to the New York City Police Department and a law enforcement official  
21 certified that Plaintiff CAMPOS has been helpful in the prosecution of the crime.  
22 On or about June 21, 2002, and several times thereafter, Plaintiff CAMPOS has  
23 presented Defendants with written request for relief under the Crime Victims  
24 Act. Defendants have refused and failed to issue regulations or to grant Plaintiff  
25 CAMPOS a U visa. On information and belief, Plaintiff CAMPOS alleges that  
26 Defendants have not and will not adjudicate an application for a U visa until  
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1 after they promulgate implementing regulations, something Defendants have  
2 failed to do for six years.

3           60. Plaintiff IRMA MORENO SANVICENTE is a victim of domestic violence  
4 perpetrated by her husband. Plaintiff MORENO SANVICENTE has suffered  
5 substantial physical and mental harm as a result. In or around March of 2005,  
6 Plaintiff MORENO SANVICENTE's husband was arrested following an incident of  
7 domestic violence. Her husband was prosecuted in New York County Criminal  
8 Court. Plaintiff MORENO SANVICENTE cooperated with the police and District  
9 Attorney throughout the investigation and prosecution of the crime. Plaintiff  
10 MORENO SANVICENTE obtained a certification from the New York County  
11 District Attorney's Office describing her cooperation. In or around late 2005,  
12 Plaintiff MORENO SANVICENTE presented Defendants with a written request for  
13 relief under the Crime Victims Act. On November 15, 2005, Defendants refused  
14 to grant relief on the basis that her law enforcement certification was not signed  
15 within six months of her request. Plaintiff MORENO SANVICENTE sought and  
16 obtained an updated U certification. On or about February 3, 2006, Plaintiff  
17 MORENO SANVICENTE presented Defendants with a second request for benefits  
18 under the Crime Victims Act. She was eventually granted deferred action status  
19 however she has not been granted U visa status and her 17-year old daughter  
20 who remains in México is in danger of "aging out" of U visa derivative  
21 eligibility. Plaintiff MORENO SANVICENTE is unable to reunite with her daughter  
22 because of defendants' failure to issue U visas or derivative U visas.  
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1           61. Plaintiff ROSA GALAVIZ is a victim of criminal domestic violence  
2 perpetrated by her husband. Plaintiff GALAVIZ has suffered substantial physical  
3 and mental abuse as a result of this criminal abuse. On or about March 20, 2006,  
4 her husband pled guilty to charges of domestic battery against Plaintiff GALAVIZ  
5 and was sentenced to a period of incarceration. In or about May 2006 Plaintiff  
6 GALAVIZ's husband was deported to México and now resides with Plaintiff  
7 GALAVIZ's seven minor children, the oldest of whom is 14 years of age. In 2006,  
8 a Deputy Prosecuting Attorney from Marion County, Indiana certified that  
9 Plaintiff GALAVIZ had been helpful in the criminal investigation and prosecution.  
10 On or about June 28, 2006, Plaintiff GALAVIZ petitioned the USCIS for benefits  
11 under the Crime Victim Act. On or about February 13, 2007, Plaintiff GALAVIZ  
12 also petitioned the USCIS on behalf of her seven minor children in México,  
13 seeking to reunite with them in the United States and remove them from the  
14 danger of their abusive father. Defendants have refused and failed to issue  
15 regulations or to grant Plaintiff ROSA GALAVIZ's or her children U visas. On  
16 information and belief, Plaintiff GALAVIZ alleges that Defendants have not and  
17 will not adjudicate an application for a U visa until after they promulgate  
18 implementing regulations, something Defendants have failed to do for six years.  
19 Defendants' failure and refusal to grant Plaintiff ROSA GALAVIZ a U visa blocks  
20 her ability to travel abroad and to seek reunification with her dependent children  
21 in a timely manner that protects their safety and well-being.

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27           62. Plaintiff MARIA LUISA ARROYO TORRES is a victim of criminal assault  
28 and domestic violence perpetrated by her ex-husband. She reported these crimes

1 to the Hidalgo County Sheriff's Department on or about September 11, 2004 and  
2 August 2, 2005. On or about July 10, 2006, she petitioned the USCIS for benefits  
3 under the Crime Victims Act. Plaintiff ARROYO TORRES submitted her application  
4 with a U certification signed on or about August 5, 2005 by Assistant Criminal  
5 District Attorney of the County of Hidalgo, stating that Plaintiff ARROYO TORRES  
6 possesses information concerning the criminal activity, has been helpful to local  
7 law enforcement in its investigation, and remains willing to cooperate with any  
8 further investigation into the crime. That certification was issued more than six  
9 months before Plaintiff ARROYO TORRES applied for a U visa or deferred action  
10 status. In or about October 2006 defendants denied Plaintiff ARROYO TORRES  
11 relief under the Crime Victims Act because her U certification was signed more  
12 than six months before it was submitted to the USCIS. On or about December 1,  
13 2006, Plaintiff TORRES received a denial of her employment authorization  
14 application.

18 63. Plaintiff JUAN FRANCISCO ROCHA ROCHA is a victim of felonious  
19 assault and attempted murder perpetrated by unknown assailants. Plaintiff  
20 ROCHA ROCHA suffered substantial physical and mental abuse as a result, as did  
21 his wife and two young sons. A law enforcement officer has certified that  
22 Plaintiff ROCHA ROCHA and his family have been helpful to law enforcement in  
23 the investigation of the crime. On or about November 30, 2006, Plaintiff ROCHA  
24 ROCHA and each of his family members submitted applications for relief under  
25 the Crime Victims Act, concurrently with applications for employment  
26 authorization. On or about January 17, 2007, Plaintiff ROCHA ROCHA's  
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1 application for employment authorization was denied, on information an belief  
2 based upon defendants' new policy of not accepting employment authorization  
3 applications until the defendants have granted an applicant deferred action  
4 status. Defendants have refused and failed to issue regulations or to grant  
5 Plaintiff ROCHA ROCHA a U visa. On information and belief, Plaintiff ROCHA  
6 ROCHA alleges that Defendants have not and will not adjudicate an application  
7 for a U visa until after they promulgate implementing regulations, something  
8 Defendants have failed to do for six years.

11 64. Plaintiff JORGE DOMINGUEZ RIVERA is a victim of felonious assault  
12 perpetrated by a U.S. Border Patrol agent on January 12, 2007, when that agent  
13 tried to run Plaintiff DOMINGUEZ RIVERA over with his vehicle. That same day,  
14 Plaintiff DOMINGUEZ RIVERA witnessed the same Border Patrol agent shoot and  
15 kill his brother, Francisco Javier Dominguez Rivera. Plaintiff DOMINGUEZ  
16 RIVERA has suffered substantial mental abuse as a result. On or about February  
17 24, 2007, Plaintiff DOMINGUEZ RIVERA petitioned the USCIS for a U visa or  
18 deferred action status. A U certification has not been issued by any  
19 representative of the Government currently investigating the January 12, 2007  
20 incident, though requests have been made in an effort to obtain such  
21 certification. Defendants have threatened Plaintiff DOMINGUEZ RIVERA with  
22 execution of an order of expedited removal before his application for a U visa is  
23 adjudicated. Defendants have refused and failed to issue regulations and to  
24 adjudicate Plaintiff DOMINGUEZ RIVERA's application for a U visa. On  
25 information and belief, Plaintiff DOMINGUEZ RIVERA alleges that Defendants

1 have not and will not adjudicate his application for a U visa until after they  
2 promulgate implementing regulations, something Defendants have failed to do  
3 for six years.

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5 VI

6 IRREPARABLE INJURY

7 65. Plaintiffs and those similarly situated are suffering and will continue to  
8 suffer irreparable injury unless this Court orders relief as prayed for herein. Such  
9 injury includes, *inter alia*, deprivation of due process and equal protection  
10 through withholding of U visas. Damages cannot adequately address the injuries  
11 suffered by plaintiffs and their proposed class members, including the inability  
12 to legalize their immigration status in a manner made available by Congress and  
13 the loss of ancillary benefits available to U visa holders.  
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16 VII

17 FIRST CAUSE OF ACTION

18 [Failure to promulgate regulations implementing U visa program]

19 66. Plaintiffs incorporate by this reference the allegations set out in ¶¶ 1-65  
20 above as though fully re-alleged here.  
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22 67. Defendants' failure to promulgate regulations implementing 8 U.S.C. §  
23 1101(a)(15)(U) is agency action unlawfully withheld or unreasonably delayed, is  
24 arbitrary, capricious, an abuse of discretion, otherwise not in accordance with  
25 law, and violates (i) the Victims Protection Act of 2000, Pub. L. No. 106-386, Div.  
26 A, 114 Stat. 1464 (2000), *codified at, inter alia*, 8 U.S.C. § 1101(a)(15)(U); (ii) the  
27 Immigration and Nationality Act, 8 U.S.C. § 1103; (iii) the Violence Against  
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Complaint

1 Women and Department of Justice Reauthorization Act of 2005, Pub. L. 109-162,  
2 119 Stat. 2960 (2006); (iv) the Administrative Procedure Act, §§ 5 U.S.C. §§ 551 *et*  
3 *seq.*; (v) the due process clause and equal protection guarantee of the Fifth  
4 Amendment to the United States Constitution; and (vi) Article II, §§ 1 and 3, of  
5 the United States Constitution.  
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7 VIII

8 SECOND CAUSE OF ACTION

9 [Refusal to adjudicate U visa applications and issue U visas]

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11 68. Plaintiffs incorporate by this reference the allegations set out in ¶¶ 1-65  
12 above as though fully re-alleged here.

13 69. Defendants' failure to adjudicate applications for U visas and refusal to  
14 issue U visas is agency action unlawfully withheld or unreasonably delayed, and  
15 is arbitrary, capricious, an abuse of discretion, otherwise not in accordance with  
16 law, and violates (i) the Victims Protection Act of 2000, Pub. L. No. 106-386, Div.  
17 A, 114 Stat. 1464 (2000), *codified at, inter alia*, 8 U.S.C. § 1101(a)(15)(U); (ii) the  
18 Immigration and Nationality Act, 8 U.S.C. § 1103; (iii) the Violence Against  
19 Women and Department of Justice Reauthorization Act of 2005, Pub. L. 109-162,  
20 119 Stat. 2960 (2006); (iv) the Administrative Procedure Act, §§ 5 U.S.C. §§ 551 *et*  
21 *seq.*; (v) the due process clause and equal protection guarantee of the Fifth  
22 Amendment to the United States Constitution; and (vi) Article II, §§ 1 and 3, of  
23 the United States Constitution.  
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IX

THIRD CAUSE OF ACTION

[Refusal to adjudicate U visa applications Impact on the  
Right to Work and Travel]

70. Plaintiffs incorporate by this reference the allegations set out in ¶¶ 1-65 above as though fully re-alleged here.

71. Defendants' failure to adjudicate applications for U visas and refusal to issue U visas also deny eligible immigrants employment authorization during the pendency of their U status and the ability to travel abroad without having to make separate applications which are often denied for each trip abroad and violates (i) the Victims Protection Act of 2000, Pub. L. No. 106-386, Div. A, 114 Stat. 1464 (2000), *codified at, inter alia*, 8 U.S.C. § 1101(a)(15)(U); (ii) the Immigration and Nationality Act, 8 U.S.C. § 1103; (iii) the Violence Against Women and Department of Justice Reauthorization Act of 2005, Pub. L. 109-162, 119 Stat. 2960 (2006); (iv) the Administrative Procedure Act, §§ 5 U.S.C. §§ 551 *et seq.*; (v) the due process clause and equal protection guarantee of the Fifth Amendment to the United States Constitution; and (vi) Article II, §§ 1 and 3, of the United States Constitution.

2 FOURTH CAUSE OF ACTION

3 [Failure to adjudicate applications for or issue derivative U visas]

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5 72. Plaintiffs incorporate by this reference the allegations set out in ¶¶ 1-65  
6 above as though fully re-alleged here.

7 73. Defendants' failure to adjudicate applications for derivative U visas  
8 and to issue derivative U visas is agency action unlawfully withheld or  
9 unreasonably delayed, and is arbitrary, capricious, an abuse of discretion,  
10 otherwise not in accordance with law, and violates (i) the Victims Protection Act  
11 of 2000, Pub. L. No. 106-386, Div. A, 114 Stat. 1464 (2000), *codified at, inter alia*, 8  
12 U.S.C. § 1101(a)(15)(U); (ii) the Immigration and Nationality Act, 8 U.S.C. § 1103;  
13 (iii) the Violence Against Women and Department of Justice Reauthorization Act  
14 of 2005, Pub. L. 109-162, 119 Stat. 2960 (2006); (iv) the Administrative Procedure  
15 Act, §§ 5 U.S.C. §§ 551 *et seq.*; (v) the due process clause and equal protection  
16 guarantee of the Fifth Amendment to the United States Constitution; and (vi)  
17 Article II, §§ 1 and 3, of the United States Constitution.  
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22 FIFTH CAUSE OF ACTION

23 [Unlawful failure to publish employment authorization  
24 rule for notice and comment]  
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26 74. Plaintiffs incorporate by this reference the allegations set out in ¶¶ 1-65  
27 above as though fully re-alleged here.  
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XIII

SEVENTH CAUSE OF ACTION

[Unlawful rejection of law enforcement certifications]

78. Plaintiffs incorporate by this reference the allegations set out in ¶¶ 1-65 above as though fully re-alleged here.

79. Defendants’ policy and practice to reject certificates of cooperation executed by law enforcement more than six months prior to the filing of U visa applications violates (i) 8 U.S.C. §§ 1101(U)(i)(III) and 1184(p)(1); and (ii) the due process clause and equal protection guarantee of the Fifth Amendment to the United States Constitution.

XIV

EIGHTH CAUSE OF ACTION

[Unlawful failure to issue U Certifications]

80. Plaintiffs incorporate by this reference the allegations set out in ¶¶ 1-65 above as though fully re-alleged here.

81. Defendants’ policy and practice to reject or deny applications unaccompanied by U certifications when applicants are unable despite good faith efforts and U visa eligibility to obtain such certifications from other law enforcement agencies violates (i) 8 U.S.C. §§ 1101(U)(i)(III) and 1184(p)(1); and (ii) the due process clause and equal protection guarantee of the Fifth Amendment to the United States Constitution.

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XV

NINTH CAUSE OF ACTION

[Unconstitutional Restriction on U Visa Eligibility]

82. Plaintiffs incorporate by this reference the allegations set out in ¶¶ 1-65 above as though fully re-alleged here.

83. 8 U.S.C. §§ 1101(U)(i)(III) in conjunction with 1184(p) operate to deny U visa eligibility to the immigrant parents of United States citizen children who are the victims of crimes and who or whose parents cooperated with law enforcement agencies in the investigation or prosecution of such crimes, while granting such benefit to the immigrant parents of undocumented and lawful permanent resident children. This unequal treatment is irrational and violates the equal protection guarantee of the Fifth Amendment to the United States Constitution.

XVI

PRAYER FOR RELIEF

WHEREFORE, plaintiffs pray that this Court –

1. Assume jurisdiction over this action;
2. Certify this action as a class action pursuant to Rule 23(b)(2), Fed.R.Civ.Proc.;
3. Declare that defendants’ policies, procedures, and practices as alleged throughout this Complaint violate the Immigration and Nationality Act, as amended by the Victims Protection Act; the Violence Against Women and Department of Justice Reauthorization Act of 2005; the Administrative Procedure

Complaint

1 Act, 5 U.S.C. §§ 551 *et seq.*; the due process clause and equal protection guarantee  
2 of the Fifth Amendment to the United States Constitution; and Article II, §§ 1 and  
3 3, of the United States Constitution;

4  
5 4. Issue preliminary and permanent injunctions requiring that Defendants,  
6 their agents, employees, and successors in office timely adjudicate U visa  
7 applications presented by the individual named Plaintiffs, their proposed class  
8 members, and the members and clients of the organizational Plaintiffs,  
9 promulgate regulations or procedures implementing the U visa provisions of the  
10 Victims Protection Act, and otherwise comply with the terms of the Victims  
11 Protection Act and other applicable laws when adjudicating applications filed by  
12 the named Plaintiffs, their proposed class members, and the clients and members  
13 of the organizational Plaintiffs;  
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16 5. Award Plaintiffs costs of suit and attorney's fees reasonably incurred as  
17 a result of this lawsuit; and

18 6. Grant such further relief as the Court may deem just and proper.

19 Dated: March 6, 2007.

20 CENTER FOR HUMAN RIGHTS AND  
21 CONSTITUTIONAL LAW  
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23 Carlos R. Holguín  
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