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15 IN THE UNITED STATES DISTRICT COURT  
16 FOR THE CENTRAL DISTRICT OF CALIFORNIA

17 JORGE RODRIGUEZ RUIZ; ELEUTERIO )  
RODRIGUEZ RUIZ; JANE DOE 1; JANE DOE ) Case No. EDCV 05-0966  
18 2; )  
JANE DOE 3; JANE DOE 4; MINOR 1 and ) COMPLAINT FOR MANDAMUS,  
19 MINOR 2, through their next friend, JANE ) DECLARATORY AND INJUNCTIVE RELIEF  
DOE 3; MINOR 3, through her next friend, )  
20 JANE DOE 4; EL RESCATE; CENTRAL ) [CLASS ACTION]  
AMERICAN RESOURCE CENTER; )  
21 HERMANDAD MEXICANA NACIONAL, )  
22 )  
Plaintiffs, )  
23 )  
-vs- )  
24 )  
MICHAEL CHERTOFF, Secretary, )  
25 U.S. Department of Homeland Security; )  
UNITED STATES CITIZENSHIP AND )  
26 IMMIGRATION SERVICES, U.S. )  
DEPARTMENT )  
27 OF HOMELAND SECURITY, )  
28 )  
Defendants. )

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## PRELIMINARY STATEMENT

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4 1. This is a class action seeking mandamus, declaratory, and injunctive relief  
5 compelling Defendants Michael Chertoff, Secretary of the U.S. Department of Homeland  
6 Security (“DHS”) and the United States Citizenship and Immigration Services (“USCIS”)  
7 to discharge their statutory duty to confer temporary lawful immigration status on crime  
8 victims, including survivors of criminal domestic violence, who are assisting or have  
9 assisted law enforcement officers in investigating or prosecuting criminal offenders.

10 2. On October 28, 2000—nearly five years ago—the Victims of Trafficking and  
11 Violence Protection Act of 2000, Pub. L. No. 106-386, Div. A, 114 Stat. 1464 (2000), *codified*  
12 *at, inter alia*, 8 U.S.C. § 1101(a)(15)(U) (“Crime Victims Act” or “Act”), was signed into law.  
13 Among other things, the Act permits undocumented immigrants who are victims of  
14 serious crimes, and who cooperate with law enforcement in the investigation or  
15 prosecution of those crimes, to apply for and receive “U” visas. 8 U.S.C. § 1101(a)(15)(U).  
16 This provision reflects Congress’s judgment that certain crime victims should be  
17 permitted to remain lawfully in the United States both for humanitarian reasons and to  
18 bring dangerous, violent criminals to justice.  
19

20 3. Defendants DHS Secretary Michael Chertoff and one of the agencies that he  
21 directs, the USCIS, have flouted and violated this important law – a law intended, among  
22 other things, to promote the national safety and security by encouraging crime victims  
23 and survivors to cooperate with local and federal law enforcement agencies to secure  
24 convictions of violent criminals.  
25

26 4. Despite knowing for nearly five years that they were required to afford crime  
27 victims a path to legal status, Defendants and their predecessors in office have unlawfully  
28 refused and failed to implement the U visa provisions of the Crime Victims Act.

1 Defendants have refused to promulgate regulations, establish procedures or publish  
2 application forms by which the victims of serious crimes might apply for U visas.  
3 Consequently, crime victims, including the survivors of criminal domestic violence, have  
4 no way to apply for the relief Congress said five years ago should be available to them:  
5 There is no formal application form, no application fee, no filing instructions, no formal  
6 application procedure, nor any DHS officers trained or assigned to adjudicate U visa  
7 applications. When individuals who are prima facie eligible for U visas, including the  
8 named individual Plaintiffs herein, have demanded that Defendants issue such relief, or  
9 issue regulations and procedures permitting them to obtain such relief, Defendants have  
10 refused to do so.  
11

12 5. Rather than granting crime victims U visas as directed by Congress, DHS  
13 Secretary Chertoff and the CIS have instead issued to some U visa-eligible crime victims a  
14 quasi-legal, non-statutory temporary status known as “deferred action.” Essentially,  
15 deferred action is equivalent to an exercise of prosecutorial discretion not to seek a crime  
16 victim’s deportation or removal. However, it confers no legal status and simply defers an  
17 individual’s deportation from the United States. In contrast, recipients of U visa status,  
18 among other benefits, are entitled to travel abroad and, most importantly, may, pursuant  
19 to INA § 245(m), 8 § 1255(m), be granted lawful permanent residence after they have held  
20 a U visa for three years.  
21

22 6. The named individual Plaintiffs have repeatedly requested Defendants to issue  
23 them U visas or to issue regulations and procedures so that that may apply for U visas.  
24 Defendants have ignored these entreaties, and these Plaintiffs now seek judicial relief on  
25 behalf of themselves and those similarly situated—namely, crime victims, including  
26 survivors of criminal domestic violence, who are eligible U visa applicants—requiring  
27 Defendants to promulgate regulations implementing the U visa law without further delay  
28 and to adjudicate pending applications for U visas in accordance with the Crime Victims  
Complaint

1 Act.

2 II

3 JURISDICTION AND VENUE

4 7. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 (federal  
5 question jurisdiction) and 8 U.S.C. § 1361 (jurisdiction to compel an officer to perform a  
6 duty owed to plaintiffs).

7 8. Declaratory judgment is sought pursuant to 28 U.S.C. §§ 2201-02.

8 9. Venue is properly in this district pursuant to 28 U.S.C. § 1391(b) and (e)(1), (2),  
9 (4) because the some of the acts complained of occurred in this district, some of the  
10 plaintiffs reside in this district, defendants have offices in this district, and no real  
11 property is involved in this action.  
12

13 III

14 PARTIES

15 10. Plaintiffs JORGE RODRIGUEZ RUIZ, ELEUTERIO RODRIGUEZ RUIZ, JANE DOE 1,  
16 JANE DOE 2, JANE DOE 3, and JANE DOE 4, are victims of violent crime in the United States.  
17 Each plaintiff is *prima facie* eligible for a U visa under federal law because —

- 18 (a) she or he “suffered substantial physical or mental abuse as a result of having been  
19 the victim of criminal activity;”  
20 (b) she or he “possesses information concerning the criminal activity;”  
21 (c) she or he “has been helpful, is being helpful, or is likely to be helpful to Federal,  
22 State, or local law enforcement official investigating or prosecuting...[the] criminal  
23 activity;”  
24 (d) “the criminal activity...violated the laws of the United States or occurred in the  
25 United States,” and  
26 (e) the criminal activity...involv[ed] ... rape, ... trafficking, ... domestic violence, ...  
27 sexual assault, false imprisonment ... [or] felonious assault...”  
28

1 8 U.S.C. § 1101(a)(15)(U).

2 11. The individual named Plaintiffs, and each of them, have petitioned Defendants,  
3 in writing, to issue them U visas and to promulgate regulations implementing the Crime  
4 Victims Act. Defendants have unlawfully ignored these requests, just as they have  
5 ignored for nearly five years their duty to faithfully execute the law as enacted by  
6 Congress.

7  
8 12. Plaintiffs MINOR 1 and MINOR 2 are minor children of Plaintiff JANE DOE 3.  
9 Plaintiff MINOR 3 is a minor child of Plaintiff JANE DOE 4. The Crime Victims Act provides  
10 in part that “the Attorney General may also grant status ... based upon certification of a  
11 government official listed in clause (i)(III) [including “Federal, State, or local law  
12 enforcement official[s]...”] that an investigation or prosecution would be harmed without  
13 the assistance of the ... child ... of the [crime victim].” INA § 101(a)(15)(U)(ii). Local law  
14 enforcement officials made such certifications for each of the above-mentioned minor  
15 Plaintiffs. Defendants have unlawfully refused to adjudicate the U visa applications filed  
16 on behalf of plaintiffs MINOR 1, MINOR 2, and MINOR 3.

17  
18 13. Plaintiff JORGE RODRIGUEZ RUIZ is a citizen and national of Mexico. He is a  
19 resident of the City of Stockton, State of California. He is a victim of an aggravated assault  
20 perpetrated by a United States citizen vigilante armed with a deadly weapon and is  
21 statutorily eligible for the issuance of a U visa. On or about June 30, 2005, he petitioned  
22 the USCIS to issue him a U visa and promulgate regulations pursuant to which he and  
23 those similarly situated may have their eligibility for U visas lawfully determined in  
24 accordance with the Crime Victims Act. Defendants have refused to grant or respond to  
25 either of Plaintiff JORGE RODRIGUEZ RUIZ’s requests.

26  
27 14. Plaintiff ELEUTERIO RODRIGUEZ RUIZ is a citizen and national of Mexico. He is a  
28 resident of the City of Stockton, State of California. He is a victim of an aggravated assault  
perpetrated by a United States citizen vigilante armed with a deadly weapon and is

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1 statutorily eligible for the issuance of a U visa. On or about June 30, 2005, he petitioned  
2 the USCIS to issue him a U visa and promulgate regulations pursuant to which he and  
3 those similarly situated may have their eligibility for U visas lawfully determined in  
4 accordance with the Crime Victims Act. Defendants have refused to grant or respond to  
5 either of Plaintiff ELEUTERIO RODRIGUEZ RUIZ's requests.

6 15. JANE DOE 1 is a citizen and national of Mexico. She resides in the City of Los  
7 Angeles, State of California. She is a survivor of criminal domestic violence and is  
8 statutorily eligible for a U visa. On or about August 17, 2005, she petitioned the USCIS to  
9 issue her a U visa and promulgate regulations pursuant to which she and those similarly  
10 situated may have their eligibility for U visas lawfully determined in accordance with the  
11 Crime Victims Act. Defendants have refused to grant or respond to either of Plaintiff JANE  
12 DOE 1's requests.

14 16. Plaintiff JANE DOE 2 is a citizen and national of Mexico. She resides in the City  
15 of Los Angeles, State of California. She is a crime victim and is statutorily eligible for the  
16 issuance of a U visa. On or about August 26, 2005, she petitioned the USCIS to issue her a  
17 U visa and promulgate regulations pursuant to which she and those similarly situated  
18 may have their eligibility for U visas lawfully determined in accordance with the Crime  
19 Victims Act. Defendants have refused to grant or respond to either of Plaintiff JANE DOE  
20 2's requests.

22 17. Plaintiff JANE DOE 3 is a citizen and national of Mexico. She resides in the City  
23 of Phoenix, State of Arizona. She is a survivor of criminal domestic violence and is  
24 statutorily eligible for the issuance of a U visa. On or about August 30, 2005, she  
25 petitioned the USCIS to issue her a U visa and promulgate regulations pursuant to which  
26 she and those similarly situated may have their eligibility for U visas lawfully determined  
27 in accordance with the Crime Victims Act. Defendants have refused to grant or respond  
28 to either of Plaintiff JANE DOE 3's requests.

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1 18. Plaintiffs MINOR 1 and MINOR 2 are minors and citizens and nationals of  
2 Mexico and the children of Plaintiff JANE DOE 3. They are residents of the City of Phoenix,  
3 State of Arizona. An authorized law enforcement official has certified that an  
4 investigation or prosecution would be harmed without the assistance of MINOR 1 and  
5 MINOR 2 and they are otherwise statutorily eligible for a U visa. On or about August 30,  
6 2005, their mother petitioned the USCIS to issue MINOR 1 and MINOR 2 U visas and to  
7 promulgate regulations pursuant to which her children and those similarly situated may  
8 have their eligibility for U visas lawfully determined in accordance with the Crime  
9 Victims Act. Defendants have refused to grant or respond to either request. Plaintiffs  
10 MINOR 1 and MINOR 2 sue by and through their next friend and parent, Plaintiff JANE  
11 DOE 3.  
12

13 19. Plaintiff JANE DOE 4 is a citizen and national of Mexico. She resides in the City  
14 of Austin, State of Texas. She is a survivor of criminal domestic violence and is statutorily  
15 eligible for the issuance of a U visa. On or about September 9, 2005, she petitioned the  
16 USCIS to issue her a U visa and promulgate regulations pursuant to which she and those  
17 similarly situated may have their eligibility for U visas lawfully determined in accordance  
18 with the Crime Victims Act. Defendants have refused to grant or respond to either of  
19 Plaintiff JANE DOE 4's requests.  
20

21 20. Plaintiff MINOR 3 is a minor citizen and national of Mexico. She is the daughter  
22 of Plaintiff JANE DOE 4. An authorized law enforcement official has certified that an  
23 investigation or prosecution would be harmed without the assistance of MINOR 3, and she  
24 is otherwise statutorily eligible for a U visa. On or about September 9, 2005, her mother  
25 petitioned the USCIS to issue MINOR 3 a U visa and to promulgate regulations pursuant  
26 to which her daughter and those similarly situated may have their eligibility for U visas  
27 lawfully determined in accordance with the Crime Victims Act. Defendants have refused  
28 to grant or respond to either request. Plaintiff MINOR 3 sues by and through her next  
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1 friend and parent, Plaintiff JANE DOE 4.

2 21. Plaintiff EL RESCATE is a California not-for-profit corporation located in Los  
3 Angeles, California, that, among other activities, represents low-income immigrants  
4 generally unable to afford retained counsel and who appear to be eligible to legalize their  
5 status in the United States under the Immigration and Nationality Act, 8 U.S.C. § 1101, et  
6 seq., including clients who are prima facie eligible for the issuance of U visas because they  
7 are the victims of violent crimes, including the survivors of domestic violence, who have  
8 or are cooperating with appropriate law enforcement authorities in order to secure  
9 investigations or prosecutions of the crimes perpetrated on them. The failure of the  
10 Defendants to process U visas or to issue U visa regulations, forms, procedures, or  
11 decisions, interferes with and makes the achievement of EL RESCATE's goals and the  
12 implementation of its work on behalf of U visa-eligible immigrants substantially more  
13 difficult to achieve.

15 22. Plaintiff CENTRAL AMERICAN RESOURCE CENTER is a California not-for-profit  
16 corporation located in Los Angeles, California, that, among other activities, works to  
17 support permanent resident status, family reunification, and active citizenship and  
18 provides no-fee representation and consultation for immigration court proceedings and  
19 procedures to Central American immigrants. CENTRAL AMERICAN RESOURCE CENTER  
20 represents low-income immigrants generally unable to afford retained counsel and who  
21 appear to be eligible to legalize their status in the United States under the Immigration  
22 and Nationality Act, 8 U.S.C. § 1101, et seq., including clients who are prima facie eligible  
23 for the issuance of U visas because they are the victims of violent crimes, including the  
24 survivors of domestic violence, who have or are cooperating with appropriate law  
25 enforcement authorities in order to secure investigations or prosecutions of the crimes  
26 perpetrated on them. The failure of the Defendants to process U visas or to issue U visa  
27 regulations, forms, procedures, or decisions, interferes with and makes the achievement  
28

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1 of CENTRAL AMERICAN RESOURCE CENTER's goals and the implementation of its work on  
2 behalf of U visa-eligible immigrants substantially more difficult to achieve.

3 23. Plaintiff HERMANDAD MEXICANA NACIONAL is a membership and social and  
4 legal services not-for-profit California corporation with several offices located in the  
5 County of Los Angeles. HERMANDAD MEXICANA NACIONAL has approximately 15,000  
6 members, most of whom are documented and undocumented immigrants. HERMANDAD  
7 MEXICANA NACIONAL has members who are the victims of violent crimes in the United  
8 States, including survivors of domestic violence, who suffered extreme mental or physical  
9 injuries as a result of such crimes, have reported such crimes to law enforcement officers  
10 and cooperated with such officers, and are prima facie eligible for U visas. HERMANDAD  
11 MEXICANA NACIONAL's members are unable to obtain such visas because of Defendants'  
12 refusal to process or issue such visas. Some members are unwilling to apply for U visas  
13 before the Defendants issue regulations or guidelines relating to eligibility standards  
14 because they fear that they may be placed in deportation proceedings if Defendants later  
15 issue guidelines or regulations deeming them to be ineligible for U visas after they apply  
16 for such relief. The Defendants' failure to process U visa applications or issue U visa  
17 regulations also makes the implementation of HERMANDAD MEXICANA NACIONAL's goals  
18 and objectives, including the provision of legal services to undocumented immigrants  
19 who are eligible to legalize their status under laws enacted by Congress, substantially  
20 more difficult to achieve.  
21

22  
23 24. Defendant Michael CHERTOFF is the Secretary of the United States Department  
24 of Homeland Security. Defendant CHERTOFF is charged with the implementation of the  
25 Immigration and Nationality Act, 8 U.S.C. §§ 1101, *et seq.*, and with the administration of  
26 the United States Citizenship and Immigration Services. He is sued in his official capacity.  
27

28 25. Defendant United States Citizenship and Immigration Services is a Bureau of  
the U.S. Department of Homeland Security. USCIS is charged with the implementation of  
Complaint

1 the Immigration and Nationality Act, 8 U.S.C. §§ 1101, *et seq.*, including those provisions  
2 establishing the U visa and requiring the promulgation of regulations and forms pursuant  
3 to which the individual named Plaintiffs and those similarly situated may have their  
4 eligibility for U visas lawfully determined in accordance with the Crime Victims Act.

5 IV

6 FACTUAL ALLEGATIONS

7  
8 26. Plaintiff JORGE RODRIGUEZ RUIZ is a victim of felonious aggravated assault,  
9 false imprisonment, and unlawful criminal restraint. On or about April 10, 2005, he was  
10 falsely imprisoned at gunpoint and otherwise victimized in an act of vigilante violence  
11 along the Mexico-United States border in the State of Arizona, and suffered extreme  
12 mental abuse as a result. Section 1512 of the Crime Victims Act of 2000 declares the  
13 victims of such crimes eligible for U visas. Plaintiff JORGE RODRIGUEZ RUIZ gave detailed  
14 statements to law enforcement officials regarding this crime, and the perpetrator was  
15 arrested for felonious aggravated assault with a deadly weapon. A law enforcement  
16 officer has certified that Plaintiff JORGE RODRIGUEZ RUIZ possesses information  
17 concerning the criminal activity, has been helpful to local law enforcement in its  
18 investigation, and remains willing to cooperate with any further investigation into the  
19 crime. On or about June 30, 2005, Plaintiff JORGE RODRIGUEZ RUIZ presented Defendants  
20 with a written request for the issuance of U visa regulations and for the approval and  
21 issuance of a U visa pursuant to the Victims Protection Act. However Defendants have  
22 failed to issue regulations implementing the U visa provisions of the Victims Protection  
23 Act, and have failed to adjudicate Plaintiff JORGE RODRIGUEZ RUIZ's application for a U  
24 visa. On information and belief, Plaintiff JORGE RODRIGUEZ RUIZ alleges that Defendants  
25 have not and will not adjudicate his application for a U visa until and unless Defendants  
26 first issue implementing regulations. Defendants' failure to issue implementing  
27  
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1 regulations deprives Plaintiff JORGE RODRIGUEZ RUIZ and those similarly situated of  
2 procedures, standards, and forms by which they may obtain a U visa. Defendants'  
3 unlawful failure and refusal to adjudicate Plaintiff JORGE RODRIGUEZ RUIZ's application  
4 for a U visa blocks his ability to travel abroad or accrue three years temporary residence  
5 as required by the Victims Protection Act before he may obtain permanent residence.

6         27. Plaintiff ELEUTERIO RODRIGUEZ RUIZ is a victim of felonious aggravated assault,  
7 false imprisonment, and unlawful criminal restraint. On or about April 10, 2005, he was  
8 falsely imprisoned at gunpoint and otherwise victimized in an act of vigilante violence  
9 along the Mexico-United States border in the State of Arizona, and suffered extreme  
10 mental abuse as a result. Section 1512 of the Crime Victims Act of 2000 declares the  
11 victims of such crimes eligible for U visas. Plaintiff ELEUTERIO RODRIGUEZ RUIZ gave  
12 detailed statements to law enforcement officials regarding this crime, and the perpetrator  
13 was arrested for felonious aggravated assault with a deadly weapon. A law enforcement  
14 officer has certified that Plaintiff ELEUTERIO RODRIGUEZ RUIZ possesses information  
15 concerning the criminal activity, has been helpful to local law enforcement in its  
16 investigation, and remains willing to cooperate with any further investigation into the  
17 crime. On or about June 30, 2005, Plaintiff ELEUTERIO RODRIGUEZ RUIZ presented  
18 Defendants with a written request for the issuance of U visa regulations and for the  
19 approval and issuance of a U visa pursuant to the Victims Protection Act. However  
20 Defendants have failed to issue regulations implementing the U visa provisions of the  
21 Victims Protection Act, and have failed to adjudicate Plaintiff ELEUTERIO RODRIGUEZ  
22 RUIZ's application for a U visa. On information and belief, Plaintiff ELEUTERIO RODRIGUEZ  
23 RUIZ alleges that Defendants have not and will not adjudicate his application for a U visa  
24 until and unless Defendants first issue implementing regulations. Defendants' failure to  
25 issue implementing regulations deprives Plaintiff ELEUTERIO RODRIGUEZ RUIZ and those  
26 similarly situated of procedures, standards, and forms by which they may obtain a U visa.

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Complaint

1 Defendants' unlawful failure and refusal to adjudicate Plaintiff ELEUTERIO RODRIGUEZ  
2 RUIZ's application for a U visa blocks his ability to travel abroad and accrue three years  
3 temporary residence as required by the Victims Protection Act before he may obtain  
4 permanent residence.

5           28. Plaintiff JANE DOE 1 is a victim of rape, domestic violence, and felonious  
6 assault. Section 1512 of the Crime Victims Act of 2000 declares the victims of such crimes  
7 eligible for U visas. Plaintiff JANE DOE 1 reported these crimes to the Los Angeles Police  
8 Department, and the perpetrator was arrested and prosecuted as a result. A law  
9 enforcement officer has certified that Plaintiff JANE DOE 1 possesses information  
10 concerning this criminal activity and was helpful to the prosecution of the perpetrator. On  
11 or about August 17, 2005, Plaintiff JANE DOE 1 presented Defendants with a written  
12 request for a U visa, including a request for the immediate issuance of regulations  
13 implementing the U visa provisions of the Victims Protection Act. Defendants have  
14 refused and failed to issue such regulations and to adjudicate Plaintiff JANE DOE 1's  
15 application for a U visa. On information and belief, Plaintiff JANE DOE 1 alleges that  
16 Defendants have not and will not adjudicate her application for a U visa until after they  
17 promulgate implementing regulations, something they have failed to do for almost five  
18 years. Defendants' failure to issue implementing regulations deprives Plaintiff JANE DOE 1  
19 and those similarly situated of procedures, standards, and forms by which they may  
20 obtain a U visa. Defendants' unlawful failure and refusal to adjudicate Plaintiff JANE DOE  
21 1's application for a U visa blocks her ability to travel abroad and accrue three years  
22 temporary residence as required by the Victims Protection Act before she may obtain  
23 permanent residence.

24           29. Plaintiff JANE DOE 2 is a victim of false imprisonment and human trafficking.  
25 Section 1512 of the Crime Victims Act of 2000 declares the victims of such crimes eligible  
26 for U visas. Plaintiff JANE DOE 2 reported this criminal activity to the Riverside County  
27 Complaint

1 Sheriff's Department and one of the perpetrators was arrested for false imprisonment. A  
2 law enforcement officer has certified that Plaintiff JANE DOE 2 possesses information  
3 concerning this criminal activity, has been helpful and is likely to be helpful, to local law  
4 enforcement in the investigation of crime. On or about August 30, 2005, Plaintiff JANE  
5 DOE 2 presented Defendants with a written request for a U visa, including a request for  
6 the immediate issuance of regulations implementing the U visa provisions of the Victims  
7 Protection Act. Defendants have refused and failed to issue such regulations and to  
8 adjudicate Plaintiff JANE DOE 2's application for a U visa. On information and belief,  
9 Plaintiff JANE DOE 2 alleges that Defendants have not and will not adjudicate her  
10 application for a U visa until after they promulgate implementing regulations, something  
11 they have failed to do for almost five years. Defendants' failure to issue implementing  
12 regulations deprives Plaintiff JANE DOE 2 and those similarly situated of procedures,  
13 standards, and forms by which they may obtain a U visa. Defendants' unlawful failure  
14 and refusal to adjudicate Plaintiff JANE DOE 2's application for a U visa blocks her ability  
15 to travel abroad and accrue three years temporary residence as required by the Victims  
16 Protection Act before she may obtain permanent residence.  
17

18  
19 30. Plaintiff JANE DOE 3 is a victim of rape, criminal assault, and death threats.  
20 Section 1512 of the Crime Victims Act of 2000 declares the victims of such crimes eligible  
21 for U visas. Plaintiff JANE DOE 3 reported these crimes to the City of Phoenix Police  
22 Department; as a result the perpetrator was arrested and is being prosecuted. A law  
23 enforcement officer has certified that Plaintiff JANE DOE 3 possesses information  
24 concerning criminal activity and is being helpful in its prosecution. The law enforcement  
25 certification also states that the criminal investigation and prosecution would be harmed  
26 without the assistance of Plaintiff JANE DOE 3's children, Plaintiffs MINOR 1 and MINOR 2.  
27 On or about August 30, 2005, Plaintiff JANE DOE 3 presented Defendants a written request  
28 that they issue her and her children, Plaintiffs MINOR 1 and MINOR 2, U visas. She also  
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1 requested that defendants immediately issue regulations implementing the U visa  
2 provisions of the Victims Protection Act. Defendants have refused and failed to issue such  
3 regulations and to adjudicate Plaintiff JANE DOE 3's, MINOR 1's and MINOR 2's  
4 applications for U visas. On information and belief, Plaintiff JANE DOE 3 alleges that  
5 Defendants have not and will not adjudicate her or her children's applications for U visas  
6 until after they promulgate implementing regulations, something Defendants have failed  
7 to do for almost five years. Defendants' failure to issue implementing regulations  
8 deprives Plaintiffs JANE DOE 3, MINOR 1, and MINOR 2, and those similarly situated of  
9 procedures, standards, and forms by which they may obtain a U visa. Defendants'  
10 unlawful failure and refusal to adjudicate Plaintiffs JANE DOE 3's, MINOR 1's, and MINOR  
11 2's applications for a U visa blocks their ability to travel abroad and accrue three years  
12 temporary residence as required by the Victims Protection Act before they may obtain  
13 permanent residence.

15           31. Plaintiff JANE DOE 4 is a victim of rape, domestic violence, and felonious  
16 assault. Section 1512 of the Crime Victims Act of 2000 declares the victims of such crimes  
17 eligible for U visas. Plaintiff JANE DOE 4 reported this criminal activity to law enforcement  
18 and the perpetrator was arrested and convicted of assault as a result. A law enforcement  
19 officer has certified that Plaintiff JANE DOE 4 possesses information concerning criminal  
20 activity and was helpful to local law enforcement in the investigation and prosecution of  
21 the criminal activity. The law enforcement certification also states that the investigation or  
22 prosecution would have been harmed without the assistance of Plaintiff JANE DOE 4's  
23 child, Plaintiff MINOR 3. On or about September 9, 2005, Plaintiff JANE DOE 4 presented  
24 Defendants a written request that they issue her and her child, MINOR 3, U visas. She also  
25 requested that defendants immediately issue regulations implementing the U visa  
26 provisions of the Victims Protection Act. Defendants have refused and failed to issue such  
27 regulations and to adjudicate Plaintiff JANE DOE 4's and MINOR 3's applications for U  
28

1 visas. On information and belief, Plaintiff JANE DOE 4 alleges that Defendants have not  
2 and will not adjudicate her or her child's applications for U visas until after they  
3 promulgate implementing regulations, something Defendants have failed to do for almost  
4 five years. Defendants' failure to issue implementing regulations deprives Plaintiffs JANE  
5 DOE 4 and MINOR 3, and those similarly situated, of procedures, standards, and forms by  
6 which they may obtain a U visa. Defendants' unlawful failure and refusal to adjudicate  
7 Plaintiffs JANE DOE 4's and MINOR 3's applications for a U visa blocks their ability to  
8 travel abroad and accrue three years temporary residence as required by the Victims  
9 Protection Act before they may obtain permanent residence.  
10

11  
12 V

13 CLASS ALLEGATIONS

14 32. Plaintiffs bring this action on behalf of themselves and all other persons  
15 similarly situated pursuant to Fed.R.Civ.Proc. Rule 23(a) and 23(b)(2). Plaintiffs  
16 provisionally propose this action be certified on behalf of the following class:

17 All persons who are *prima facie* eligible for a U visa, who have applied for legal  
18 benefits under § 1512 of the Victims of Trafficking and Violence Protection Act of  
19 2000, and whose right to a U visa is blocked or delayed by Defendants' failure to  
20 issue U visas or promulgate regulations implementing § 1512 of the Victims of  
21 Trafficking and Violence Protection Act of 2000.  
22

23 33. Members of the proposed class number in the hundreds or thousands. The class  
24 members are so numerous that joinder of all members is impracticable. The claims of the  
25 proposed class representatives and those of the proposed class members raise common  
26 questions of law and fact concerning, *inter alia*, whether the USCIS may lawfully refuse to  
27 provide a path by which individuals who are *prima facie* eligible for U visas may apply for  
28 the immigration benefit Congress has made available to them. These questions are

1 common to the named Plaintiffs and to the members of the proposed class because  
2 Defendants have acted and will continue to act on grounds generally applicable to both  
3 the named Plaintiffs and proposed class members. The individual named Plaintiffs'  
4 claims are typical of the class claims. The individual named Plaintiffs will adequately  
5 represent all members of the proposed class.

6         34. The prosecution of separate actions by individual members of the class would  
7 create a risk of inconsistent or varying adjudications establishing incompatible standards  
8 of conduct for Defendants. The issuance of regulations, forms, standards and/or  
9 procedures is a national function of the USCIS, not a function performed differently in  
10 each individual case or in each USCIS district or region. Prosecution of separate actions  
11 would also create the risk that individual class members will secure court orders that  
12 would as a practical matter be dispositive of the claims of other class members not named  
13 parties to this litigation, thereby substantially impeding the ability of unrepresented class  
14 members to protect their interests.

15         35. Defendants, their agents, employees, and predecessors and successors in office  
16 have acted or refused to act, and will continue to act or refuse to act, on grounds generally  
17 applicable to the class, thereby making appropriate injunctive relief or corresponding  
18 declaratory relief with respect to the class as a whole. The individual named Plaintiffs will  
19 vigorously represent the interests of unnamed class members. All members of the  
20 proposed class will benefit by the action brought by the individual named Plaintiffs. The  
21 interests of the individual named Plaintiffs and those of the proposed class members are  
22 identical. Plaintiffs are represented by counsel associated with non-profit public interest  
23 law firms and pro bono counsel including attorneys highly experienced in federal class  
24 action litigation involving the rights of foreign nationals, children, and refugees within  
25 the United States.  
26  
27  
28

VI

IRREPARABLE INJURY

36. The Plaintiffs and those similarly situated to the individual named Plaintiffs will suffer irreparable injury unless this Court orders equitable relief. Such injury includes, *inter alia*, deprivation of due process and equal protection through denial of rights under the U visa provisions of the Victims Protection Act and the tolling of the three years immigrants must hold U visas before they may apply for permanent resident status. Damages cannot adequately address the injuries suffered by Plaintiffs and their proposed class members, including the inability to legalize their immigration status in a manner made available by the United States Congress, the loss of ancillary benefits available to U visa holders, or the accrual of time toward eligibility for lawful permanent residence.

VII

FIRST CAUSE OF ACTION

[Refusal to adjudicate U visa applications or issue U visas]

37. Plaintiffs incorporate by this reference the allegations set out in Paragraphs 1-36 above as though fully re-alleged here.

38. Defendants' refusal and failure to issue U visas to, and to adjudicate the U visa applications of, the individual named Plaintiffs and similarly situated individuals and the clients and members of the organizational Plaintiffs who are *prima facie* eligible for U visas, is agency action unlawfully withheld or unreasonably delayed, and is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

39. Defendants' refusal and failure to issue U visas to, and to adjudicate the U visa applications of, Plaintiffs and similarly situated individuals and the clients and members of the organizational Plaintiffs who are *prima facie* eligible for U visas violate (i) the

Complaint

1 Victims Protection Act of 2000, Pub. L. No. 106-386, Div. A, 114 Stat. 1464 (2000), *codified*  
2 *at, inter alia*, 8 U.S.C. § 1101(a)(15)(U); (ii) the Immigration and Nationality Act, 8 U.S.C. §  
3 1103; (iii) the Administrative Procedure Act, §§ 5 U.S.C. §§ 551 *et seq.*; (iv) the due process  
4 clause and equal protection guarantee of the Fifth Amendment to the United States  
5 Constitution; and (v) Article II, §§ 1 and 3, of the United States Constitution.

6  
7 VIII

8 SECOND CAUSE OF ACTION

9 [Failure to promulgate regulations implementing 8 U.S.C. § 1101(a)(15)(U)]

10 40. Plaintiffs incorporate by this reference the allegations set out in Paragraphs 1-36  
11 above as though fully re-alleged here.

12 41. Defendants' refusal and failure to promulgate regulations implementing 8  
13 U.S.C. § 1101(a)(15)(U) is agency action unlawfully withheld or unreasonably delayed,  
14 and is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with  
15 law.  
16

17 42. Defendants' refusal and failure to promulgate regulations implementing 8  
18 U.S.C. § 1101(a)(15)(U) violate (i) the Victims Protection Act of 2000, Pub. L. No. 106-386,  
19 Div. A, 114 Stat. 1464 (2000), *codified at, inter alia*, 8 U.S.C. § 1101(a)(15)(U); (ii) the  
20 Immigration and Nationality Act, 8 U.S.C. § 1103; (iii) the Administrative Procedure Act,  
21 §§ 5 U.S.C. §§ 551 *et seq.*; (iv) the due process clause and equal protection guarantee of the  
22 Fifth Amendment to the United States Constitution; and (v) Article II, §§ 1 and 3, of the  
23 United States Constitution.  
24

25 IX

26 PRAYER FOR RELIEF

27 WHEREFORE, Plaintiffs pray that this Court:

28 1. Assume jurisdiction over this action;

Complaint

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2. Certify this action as a class action pursuant to Rule 23(b)(2), Fed.R.Civ.Proc.;

3. Declare that Defendants' refusal to adjudicate duly submitted applications for U visas, and failure to issue U visa regulations or procedures to adjudicate U visa applications, violate the Immigration and Nationality Act, as amended by the Victims Protection Act; the Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*; the due process clause and equal protection guarantee of the Fifth Amendment to the United States Constitution; and Article II, §§ 1 and 3, of the United States Constitution;

4. Issue preliminary and permanent injunctions requiring that Defendants, their agents, employees, and successors in office timely adjudicate U visa applications presented by the individual named Plaintiffs, their proposed class members, and the members and clients of the organizational Plaintiffs, and promulgate regulations or procedures implementing the U visa provisions of the Victims Protection Act;

///

1 5. Award Plaintiffs costs of suit and attorney's fees reasonably incurred as a result  
2 of this lawsuit; and

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

4  
5 Dated: October 17, 2005.

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