

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA
No. 02-CV-502 RHK/AJB

VENANTIUS NKAFOR NGWANYIA, WESENE)
AYELE GIZAW, MERDEKIOS DURESSA, MOHAMAD)
FARAH, VLADIMIR KASHIRSKY, SUSAN Y. PAFE,)
KUEVI RAFOU EKUE-HETTAH, OLEG AVERIANOV,)
SOKHAVUDDH MOEUN, MARY W. KARIUKI,)
MIGUEL CANDIDO SILVESTRE MONTEJO,)
ALOYSIUS TABUE, MAT DUPUY, SOLANGE PIERRE,)
DIDACE NZEYIMANA, ZOILA MARGARITA)
CASTILLO RAMIREZ, LUIS CARBALLO-)
MANZANARES, MARIA HERRERA, MARIE DIOGENE,)
GRACIELA MARTINEZ, FAWZY A. ABDELSAMAD,)
DIEULILA VIL, MURAD FAKHOURI, BASSAM)
HANTOULI, FAISAL USMAN, SHERMAN BROWN,)
LAURA TABUE, OLEKSANDER ZINKOVSKY,)
UNSHEJU MBU IZAMPUYE, PAVEL E. GUBANIKHIN,)
JOSEPH COLEMAN, ADRIENNE KAZARWA,)
AMONDIEU MILFORT, BINEYAM KASSAHUN,)
ISSETTE KASSAHUN, DRAGON CVETKOVIC, AMAN)
YAKOB, ALEXANDER MARFO, NINA IONESCU,)
SANTIAGO RUANO OLIVA, ABDIAZIZ HASSAN,)
TAREQ M. DREIZA, PATRICIA MUENDO, ALI)
MURTAZA, PIERRE BOUMTJE, MARTINE ERNESTINE)
BOUMTJE, ROSEMARY EKEADA, TOKO MAURICE)
MBUNGU, ILTAM S. JEAN-CAIDOR, ARTURO JAVIER)
REYNOSO MADRIGAL, BASSEM EL-KHATIB,)
DJAVANSHIR GRADJIEV, SONIA S. SANTISTEBAN)
GRIJALVA, GERARDO R. VIDAL SIC, SAMON SOM,)
and BEKANA HULUKA,)
on behalf of themselves and all others similarly situated,)

Plaintiffs,)

v.)

JOHN ASHCROFT, Attorney General, JAMES W.)
ZIGLAR, Commissioner of the Immigration)
and Naturalization Service, and)
THE IMMIGRATION AND)
NATURALIZATION SERVICE,)

Defendants.)

FIRST AMENDED
COMPLAINT FOR
DECLARATORY,
MANDAMUS AND
INJUNCTIVE RELIEF
CLASS ACTION

INTRODUCTION

Plaintiffs, by and through their undersigned counsel, sue the defendants and allege as follows:

1. This is a class action on behalf of people from many countries who were eligible for, sought, and received asylum in the United States. As more specifically explained herein, plaintiffs and class members they seek to represent were harmed by defendants' violations of federal statutes and their own regulations. Defendants have misadministered the system and waiting list that determine when asylees can become lawful permanent residents of the United States. Specifically, since Fiscal Year 1994, defendants' errors have prevented approximately 21,281 waiting asylees -- named plaintiffs and class members -- from becoming lawful permanent residents of the United States.

2. Plaintiffs and class members all fled to the United States as refugees from persecution in their home countries. All plaintiffs and class members were given asylum in this country by the United States government and are, therefore, "asylees." All plaintiffs and class members are in valid asylee status and as such are eligible to become lawful permanent residents and, then, citizens of the United States.

3. Defendants' failures have prevented plaintiffs and class members from adjusting their immigration status to lawful permanent resident status and thereby stabilizing their lives. These failures also delayed plaintiffs' and class members' becoming United States citizens. Defendants' other actions and misinterpretations of law have cost many plaintiffs and class members hundreds of dollars in unnecessary fees and untold lost opportunities for employment and advancement.

4. Plaintiffs, class members, and where they have been represented, their lawyers on their behalf have inquired and complained repeatedly to the defendants about the delays without any resolution.

5. Plaintiffs seek declaratory, mandamus, and injunctive relief against the defendants for the defendants' policies, practices, interpretations of law, and failures to properly administer the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq. and applicable regulations.

JURISDICTION

6. This Court has subject matter jurisdiction of this action under 28 U.S.C. § 1331 (federal question jurisdiction) because plaintiffs' claims arise under the laws of the United States, specifically § 209(b) of the INA, 8 U.S.C. § 1159(b), and applicable regulations arising thereunder. This Court may grant relief in this action under 28 U.S.C. § 1361 (Mandamus Act); 28 U.S.C. § 1651 (All Writs Act); 28 U.S.C. § 2201 (Declaratory Judgment Act); and under 5 U.S.C. § 701 et seq. (Administrative Procedures Act).

7. There are no administrative remedies available to plaintiffs or class members to redress the grievances described herein. This action challenges only the defendants' procedural policies, practices, and interpretations of law, not the granting or denial of individual applications. Therefore, the jurisdictional limitations of INA § 242, 8 U.S.C. § 1252 are not applicable.

VENUE

8. Venue is proper in this Court under 28 U.S.C. § 1391(e) because this is a civil action in which the defendants John Ashcroft and James W. Ziglar are officers of the United States acting in their official capacities and the Immigration and Naturalization Service (INS)

is an agency of the United States; because plaintiffs Venantius Nkafor Ngwanyia, Wesene Ayele Gizaw, Merdekios Duressa, Mohamed Farah, Vladimir Kashirsky, Susan Y. Pafe, Kuevi Rafou Ekue-Hettah, Oleg Averianov, Sokhavuddh Moeun, and Mary W. Kariuki, and many class members reside in this judicial district; and because many of the events or omissions giving rise to the claim occurred in this judicial district.

DEFENDANTS

9. John Ashcroft is the Attorney General of the United States. He is charged with the administration and enforcement of the immigration laws. 8 U.S.C. § 1103(a). He is sued in his official capacity.

10. James W. Ziglar is the Commissioner of the INS. He is charged with any and all responsibilities and authority in the administration of the INS as have been delegated or prescribed by the Attorney General. He is sued in his official capacity.

11. The INS is an agency of the United States government. It has primary responsibility for implementation of the immigration laws, including the INA and applicable regulations.

RELEVANT STATUTORY AND REGULATORY BACKGROUND

Asylum and Asylee Adjustment

12. Under INA §208, 8 U.S.C. § 1158, noncitizens in the United States may apply for asylum. If they establish they are refugees as that term is defined in INA § 101(a)(42)(A), 8 U.S.C. § 1101(a)(42)(A), and meet the other conditions and requirements, they are granted asylum and become asylees. The government may not return asylees to their home country. Asylees are authorized to work within the United States and to travel outside the United States and be readmitted upon their return. INA § 208(c)(1)(C), 8 U.S.C. §

1158(c)(1)(C). Asylee status is indefinite; that is, it does not automatically terminate but continues indefinitely. 8 C.F.R. § 208.14(d).

13. However, asylee status can be revoked, and the asylee may be deported, if the conditions in the home or “sending” country change substantially. INA § 208(c)(2)(A), 8 U.S.C. § 1158(c)(2)(A). Asylees also are required to obtain a “refugee travel document” to reenter after travel outside the United States. INA § 208(c)(1)(C), 8 U.S.C. § 1158(c)(1)(C); 8 C.F.R. § 223.2. Defendants charge a fee for a refugee travel document. Defendants have increased the fee over the years and increased it again on February 19, 2002 to \$110. Adjustment of Certain Fees of the Immigration Examinations Fee Account, 66 Fed. Reg. 65811, 65814 (Dec. 21, 2001) (to be codified at 8 C.F.R. § 103.7).

14. After one year of physical presence in the United States as an asylee, asylees may apply to “adjust” their status to lawful permanent residence (LPR). INA § 209(b)(2), 8 U.S.C. § 1159(b)(2). LPRs are known colloquially as people who hold “green cards.” When asylees adjust their status, technically they are granted the immigration status of LPR. INA § 209(b), 8 U.S.C. § 1159(b).

15. Lawful permanent resident status confers many advantages over asylee status. As the name implies, LPRs have the privilege of residing and working permanently in the United States. INA § 101(a)(20), 8 U.S.C. § 1101(a)(20). They may travel outside the United States freely and generally are readmitted to the United States automatically. INA § 101(a)(13)(C), 8 U.S.C. § 1101(a)(13)(C). They may petition to immigrate close family members. INA § 201, 8 U.S.C. § 1151; INA § 203, 8 U.S.C. § 1153.

16. LPRs may retain their LPR status (or their “green card”) for the rest of their lives or, after five years of LPR status, they may apply to “naturalize,” that is, to become a

United States citizen. INA § 316(a), 8 U.S.C. § 1427(a). Citizenship conveys many benefits over LPR status. Citizens may vote; they may apply for and receive a United States passport; they cannot be deported from the United States; and they may travel freely into and out of the United States. They may petition to immigrate family members, including elderly parents, as “immediate relatives,” thus eliminating many long waiting periods. INA § 201(b)(2)(A)(i), 8 U.S.C. § 1151(b)(2)(A)(i). They may hold many jobs that are restricted to United States citizens. They may run for public office.

17. LPR status is a prerequisite for naturalization. Thus, any delay in adjusting to LPR status also delays eventual naturalization.

18. There is no limit on the number of people who can be granted asylum. However, a refugee admission number must be “available” for an asylee to adjust his or her status. On October 1, the beginning of each fiscal year, there are 10,000 new refugee admission numbers available for asylee adjustments. INA § 209(b), 8 U.S.C. § 1159(b). Once a number has become “available” for asylee adjustments, there is no statutory or regulatory deadline for use of that number. Every fiscal year since 1992, the President has authorized 10,000 refugee admission numbers to be made available for asylees applying for permanent residence.

19. In recent years, there have been more asylees applying for adjustment than there have been available asylee numbers. Compounding the backlog, the defendants have not been distributing all 10,000 available numbers to waiting asylees each year. In fact, the defendants have failed to adjust approximately 21,281 waiting asylees who could have and should have been adjusted. Therefore, there is currently a backlog of more than 96,000 asylees awaiting adjustment of status. Under defendants’ current practices for distributing

these available numbers, this translates into more than a nine year wait for adjustment, even though Congress anticipated asylees would become LPRs one year after being granted asylum.

20. The applicable regulation says: “If the application for adjustment filed under this part exceeds the refugee numbers available under section 207(a) of the Act for the fiscal year, a waiting list will be established on a priority basis by the date the application was properly filed.” 8 C.F.R. § 209.2(a)(1). That is, no applicant can be put on a waiting list until all of the available numbers for each fiscal year have been used. Further, asylees on the waiting list must be adjusted according to the date that each asylee’s adjustment application was properly filed.

Exempt Asylees

21. Congress periodically has designated specific groups of asylees who may adjust to LPR status without being subject to the numerical cap of INA § 209(b), 8 U.S.C. § 1159(b). These exempt groups do not have to wait in the queue for an available asylee adjustment number.

22. One such exempt group is Kurdish Iraqi nationals who worked for the United States government during 1996 or 1997 and were evacuated as part of “Operation Pacific Safe Haven.” Pub. L. No. 105-277, Title I, § 128. Estimates of the number of people who fit this exemption range from 5,000 to 10,000. Another exempt group is Indochinese parolees from Cambodia, Vietnam or Laos who were paroled into the United States before October 1, 1997. Pub. L. No. 106-429, § 586. A maximum of 5,000 asylees may qualify under this exemption. A third exempt group is certain nationals of Syria. Pub. L. No. 106-378. A maximum of 2,000 asylees can qualify for the Syrian exemption.

Employment Authorization

23. It is unlawful for an employer to hire a noncitizen who is not authorized to work in the United States. INA § 274A, 8 U.S.C. § 1324a. Asylees are authorized to work in the United States, incident to their status as asylees. INA § 208(c)(1)(B), 8 U.S.C. § 1158(c)(1)(B). The same statutory section also requires the Attorney General to “provide the [asylee] with appropriate endorsement of that authorization.”

24. A separate regulation recognizes that asylees are employment-authorized incident to status, but nevertheless goes on to require that the asylee apply for an employment authorization document (EAD) evidencing employment authorization. 8 C.F.R. §§ 274.12(a) and 274a.12(a)(5). The regulations do not provide that EADs expire.

DEFENDANTS’ ACTIONS AND FAILURES TO ACT

THAT HAVE HARMED THE PLAINTIFFS AND CLASS MEMBERS

Failure to Adjust All Possible Asylees

25. In violation of the applicable regulation, the defendants have maintained an ever-growing waiting list of asylees while failing to adjust approximately 21,281 asylees for whom there were available adjustment numbers. Specifically, according to defendants’ Annual Reports, defendants adjusted only the following number of asylees in the specified fiscal years:

Fiscal Year	#	% OF 10,000
FY 2001	10,111	100%
FY 2000	4,567	46%
FY 1999	2,532	25%
FY 1998	7,546	75%

FY 1997	10,106	101%
FY 1996	10,037	100%
FY 1995	7,837	78%
FY 1994	5,983	60%

26. In sum, in the fiscal years since 1994, the defendants allocated only 58,719 rather than 80,000 asylee adjustment numbers. That is, between Fiscal Years 1994 and 2001, the defendants failed to adjust 21,281 asylees who could have and should have become lawful permanent residents.

Misadministration of the Asylee Adjustment Queue

Misadministration of the Cut-Off Date

27. Defendants have failed to allocate the asylee adjustment numbers available and adjust plaintiffs’ and class members’ status under a first-in, first-out system as required by 8 C.F.R. § 209.2(a)(1). Defendants announced a national “cut-off date” for asylee adjustments for the fiscal year that concluded on September 30, 2001, Fiscal Year 2001. That date was January 16, 1998. That is, defendants claimed that there were sufficient available asylee adjustment numbers for all asylees who filed for adjustment before January 16, 1998 to adjust their status. Asylees who filed for adjustment before January 16, 1998 had arrived at the top of the waiting list and should have had their status adjusted. However, defendants still have not adjusted the status of the plaintiffs and class members who filed for adjustment of status before January 16, 1998. Other asylees who filed their adjustment applications later than these plaintiffs and class members already have been adjusted.

28. Defendants announced a national cut off date for asylee adjustment for Fiscal Year 2002, which began on October 1, 2001. That cut-off date was June 9, 1998. However,

defendants still have not adjusted the status of the plaintiffs or class members who filed their adjustment applications before June 9, 1998.

29. Defendants have adjusted the status of some asylees out of chronological order. For example, shortly before plaintiffs filed their complaint in this case, defendants adjusted the status of three asylees who were planning to be named plaintiffs in this lawsuit. Each asylee applied for adjustment after other named plaintiffs. Specifically, Nancy Casajuana applied for adjustment on July 7, 1997. Wafaa Kariakos applied for adjustment in late 1997 or early January 1998. John Mbaku applied for adjustment on April 8, 1998.

INS District Office Inconsistencies

30. Prior to July 6, 1998, asylees filed their adjustment applications in one of the INS's local district offices, sometimes known as adjudicating offices. From July 1998 until the present, asylees in all parts of the United States have been directed to file their adjustment applications at the INS's Nebraska Service Center (NSC).

31. Many of the plaintiffs and class members filed for adjustment in the INS local district offices before July 6, 1998. Their place in the adjustment queue is determined by the local offices' practices, which were not and are not uniform.

32. For example, some local offices reported their "approvable" adjustment cases promptly after the asylee filed for adjustment. Others waited -- and still wait -- until after they have interviewed the asylee to report to NSC that the case is approvable. Because some asylees have been interviewed years after filing their adjustment applications, an asylee applying in one such district office is placed on the queue years later than someone who applied in another district office. An asylee who applied for adjustment in one city may still

be waiting while an asylee who applied in another city at a later date may already have been adjusted.

33. The defendants have acknowledged that processing of asylee adjustment applications was inconsistent and that local offices' practices varied. On June 3, 1998, the INS published an interim rule, effective July 3, 1998, that sought to consolidate asylee adjustment filings in one national location, the NSC.

34. Notwithstanding the new rule, district office practices still vary. Some district offices do not distribute all the asylee adjustment numbers they are allocated on an annual basis, leaving some numbers unused, further lengthening the waiting period for asylees.

35. Even though the filing of all asylee adjustment applications was "consolidated" at the NSC almost four years ago, the NSC still distributes asylee adjustment numbers -- at least for pre-July 1998 cases -- based on individual requests from the local offices. In turn, these requests are based on the local office determining that it has a pending approvable asylee adjustment case. Consequently, many of plaintiffs' and class members' adjustment dates still are dependent upon the varying practices and inefficiencies of local offices.

Failure to Keep Track of and Announce Adjustment Numbers

36. Defendants do not maintain accurate records of the queue. The NSC distributes asylee adjustment numbers based on unreliable reports from the INS district offices regarding which applications are ready to be approved or have been approved. Defendants do not have a system for correcting improper allocations of asylee adjustment numbers (i.e. adjustments granted out of filing date order).

37. Defendants are unable or unwilling to tell asylees where they are in the queue or how long they will have to wait to adjust status, except very generally and inaccurately. Plaintiffs and class members have no way to determine if they even are on a waiting list or if so, when they can expect to be adjusted.

38. Plaintiffs have no way to verify whether defendants are adjusting asylees in the order in which their adjustment applications were filed.

39. In addition, defendants reportedly have improperly mixed refugee adjustments in with asylee adjustments, further lengthening the waiting period for asylees. Refugee admissions are governed by a separate section of the statute and are not subtracted from the numbers which are made available each year for asylee adjustments. INA §§ 207, 209(a); 8 U.S.C. §§ 1157(a), 1159(a).

Failure to Exclude Exempt Asylees From the Waiting List

40. Defendants have failed to implement a system to identify and exclude from the asylee adjustment queue the exempt individuals, such as the designated Iraqi Kurds. These exempt asylees have been waiting years longer than they should have had to wait to adjust their status. Their presence in the queue also has harmed all other asylees because exempt asylees have been and still are occupying space on the waiting list. On information and belief, the INS gave exempt asylees asylee adjustment numbers that should have gone to nonexempt asylees.

41. A comparison of the defendants' recent Annual Reports illustrates that before the 2001 Annual Report, the defendants included exempt asylees as part of the total number of asylees adjusted. Each annual report lists asylee adjustments from that year and some prior years. The FY 2001 Annual Report lists asylee adjustments in two categories: those

“Subject to annual limit” and those “Not subject to limit.” Prior reports collapsed both numbers into one total.

42. That is, the FY 2000 Annual report reported 6,858 asylee adjustments in FY 2000. The FY 2001 Annual Report now shows that 4,567 of those 6,858 asylees were “Subject to the annual limit” and 2,291 were “Not subject to limit.” The FY 2000 and 1999 Annual Reports reported 3,357 asylee adjustments in 1999, but the 2001 Annual Report shows that of those 3,357 asylees, 2,532 were “Subject to limit” and 825 were “Not subject to limit.” The FY 2000, 1999, and 1998 Annual Reports listed 7,548 asylees adjusted in 1998, but the FY 2001 Annual Report shows that of those 7,548 asylees, 7,546 were “Subject to annual limit” and 2 asylees were “Not subject to limit.”

Requiring Application for and Renewal of Employment Authorization Documents

43. The INA says that asylees’ employment authorization is incident to their status, that asylee status continues indefinitely, and that the defendants must provide the asylee with appropriate endorsement of that authorization. INA § 208(c)(1)(B), 8 U.S.C. § 1158(c)(1)(B). Defendants nevertheless require that asylees file a separate application for an EAD, INS Form I-765, and to wait for its approval as evidence of their eligibility to work.

44. Specifically, applicable regulations require that asylees apply for an EAD evidencing their employment authorization. 8 C.F.R. §§ 274.12(a) and 274a.12(a)(5). Further, the letter defendants routinely sent to asylum applicants notifying them that asylum has been granted says, in pertinent part: “[Y]ou must apply for and obtain an Employment Authorization Document (EAD) as evidence of your eligibility to work in the United States.”

45. Defendants also limit the duration of asylees’ EAD to one year. Defendants also require asylees to renew their EADs every year.

46. Before October 1998, the renewal filing fee for the I-765 was \$70 per renewal. From October 1998 until February 18, 2002, the fee had been \$100 per renewal per year. On February 19, 2002, the renewal fee increased to \$120 per year.

47. Because of defendants' delays in processing EAD applications, asylees must apply to renew their EADs months before they expire and, then, must hope that the defendants process the renewal application before their current EAD expires. Some plaintiffs and class members have lost jobs or employment opportunities because of the defendants' delays in approving the EAD renewals.

48. As asylees now wait three, four, or five years to adjust their status, the cost and inconvenience of filing for initial and renewal EADs is considerable. In addition, the durational limit of the EAD prevents some asylees from obtaining jobs or promotions for which long-term or permanent employment authorization is required.

Requiring Repeated Fingerprinting

49. The defendants require asylees to be fingerprinted before their adjustment applications are granted. Asylee adjustment applicants who are 14 years old or older must pay a fingerprint processing fee and must appear at an INS "Application Support Center" (ASC) to be fingerprinted. The fingerprint processing fee was \$25; on February 1, 2002, the INS increased the fee to \$50.

50. After 15 months, the defendants consider the fingerprints to have "expired" and destroy the fingerprint records supplied by asylees. The defendants have obligated the plaintiffs and class members to be re-fingerprinted before their adjustment applications have been approved, at additional expense and inconvenience, even though, of course, their fingerprints have not changed.

51. Defendants do not coordinate the fingerprinting to ensure that all approvable cases have valid fingerprints at the time the asylee adjustment numbers are assigned.

Requiring Repeated Medical Examinations

52. Defendants require asylees to have a medical examination and submit the results with their applications. The fee for such an examination typically is approximately \$200-\$250. The defendants have obligated many of the plaintiffs and class members to have duplicate medical examinations: once at the time they submit their applications and, again, because their applications have been pending for so long, before their adjustment applications are approved, at considerable expense and inconvenience.

PLAINTIFFS

Minnesota Residents

53. Plaintiff Venantius Nkafor Ngwanya is a resident of St. Paul, Minnesota. He was granted asylum on October 8, 1996 from Cameroon. He applied for adjustment of status in October 1997 at the INS's Bloomington, Minnesota District Office. He was interviewed in conjunction with his adjustment application in 1998 at the Bloomington Office.

54. Mr. Ngwanya has applied for an EAD every year since 1996. In 1996 through 1998, he paid \$70 each year for the EAD. Since 1999, he has he paid \$100 each year. It often has taken the INS two months to process the EAD after Mr. Ngwanya has applied for it. Mr. Ngwanya has been refused two jobs and believes it may be because he is not a permanent resident.

55. Mr. Ngwanya was eligible and remains eligible for adjustment of status. He is still waiting to adjust his status even though he filed his adjustment application before

January 16, 1998, the cut-off date for the fiscal year that ended on September 30, 2001.

Mr. Ngwanyia is not accruing time toward naturalization.

56. If the defendants had distributed all 10,000 asylee adjustment numbers every fiscal year and distributed the numbers in the mandated order, they already would have adjusted Mr. Ngwanyia's status. The defendants have not adjusted his status in the mandated order, that is, by date of filing. Mr. Ngwanyia has no remedy to compel the defendants to adjust his status in the proper order, other than through this lawsuit.

57. Plaintiff Wesene Ayele Gizaw is a resident of Minneapolis, Minnesota. She was granted asylum on April 4, 1996 from Ethiopia. She applied for adjustment of status at the Bloomington, Minnesota District Office on May 28, 1997. She received a written receipt notice from the INS acknowledging that her adjustment application had been received on May 28, 1997.

58. Ms. Gizaw was first interviewed regarding her adjustment application in May 1997. In approximately July 1997 she was interviewed again and was told her adjustment application had been approved but was pending because the INS was waiting for an asylee adjustment number.

59. Ms. Gizaw applied for an EAD in 1996 at the INS's Bloomington District Office. She renewed her EAD in 1997 and 1998 paying \$70 each time and again in 1999, 2000 and 2001 paying the increased renewal fee of \$100.

60. Ms. Gizaw was eligible and remains eligible for adjustment of status. She is still waiting to adjust her status even though she filed her adjustment application before January 16, 1998, the cut-off date for the fiscal year that ended on September 30, 2001. She is not accruing time towards naturalization.

61. If the defendants had distributed all 10,000 asylee adjustment numbers every fiscal year and distributed the numbers in the mandated order, they already would have adjusted Ms. Gizaw's status. The defendants have not adjusted her status in the mandated order, that is, by date of filing. Ms. Gizaw has no remedy to compel the defendants to adjust her status in the proper order, other than through this lawsuit.

62. Plaintiff Merdekios Duressa is a resident of Minneapolis, Minnesota. He is Wesene Ayele Gizaw's husband. He was granted asylum on April 4, 1996, from Ethiopia. He applied for adjustment of status at the INS's Bloomington, Minnesota District Office on or around May 28, 1997. He received a written receipt notice from the INS acknowledging that his adjustment application had been received on May 28, 1997.

63. In approximately May 1997, Mr. Duressa's fingerprints were taken. He was interviewed for adjustment by the Bloomington, Minnesota District Office in approximately July 1997.

64. Mr. Duressa applied for an EAD in 1996 at the Bloomington INS office. He renewed his EAD in 1997, 1998, 1999, and 2000. In 1996 through 1998, he paid \$70 each year for the EAD. In 1999 and 2000, he paid \$100 each year.

65. Mr. Duressa was eligible and remains eligible for adjustment of status. He is still waiting to adjust his status even though he filed his adjustment application before January 16, 1998, the cut-off date for the fiscal year that ended on September 30, 2001. He is not accruing time towards naturalization.

66. If the defendants had distributed all 10,000 asylee adjustment numbers every fiscal year and distributed the numbers in the mandated order, they already would have adjusted Mr. Duressa's status. The defendants have not adjusted his status in the mandated

order, that is, by date of filing. Mr. Duressa has no remedy to compel the defendants to adjust his status in the proper order, other than through this lawsuit.

67. Plaintiff Mohamed Farah is a resident of St. Paul, Minnesota. He was granted asylum from Somalia on August 25, 1997. He applied for adjustment of status on or about July 2, 1998 and received an acknowledgment from the INS that his application had been received on that date.

68. Mr. Farah was fingerprinted at the INS District Office in Bloomington, Minnesota on July 7, 1998. He was interviewed for his adjustment application in August 1998 at the same office.

69. Mr. Farah applied for an EAD. He has applied for renewal EADs in 1999, 2000 and 2001, at a cost of \$100 each. He has been denied jobs because his EAD is limited to a one-year period. Mr. Farah also applied for a refugee travel document for a fee of \$70. He was unable to travel out of the country for a family emergency because of the delay in receiving the travel document.

70. Mr. Farah was eligible and remains eligible for adjustment of status. He is not accruing time towards naturalization.

71. If the defendants had distributed all 10,000 asylee adjustment numbers every fiscal year, distributed the numbers in the mandated order, and excluded exempt asylees from the list, on information and belief they already would have adjusted Mr. Farah's status or he would be eligible to adjust his status in the current fiscal year. Mr. Farah has no remedy to compel the defendants to adjust his status in the proper order, other than through this lawsuit.

72. Plaintiff Vladimir Kashirsky is a resident of Maple Grove, Minnesota. He was granted asylum on June 24, 1997 from Uzbekistan. He applied for adjustment of status at the NSC on August 17, 1998.

73. Mr. Kashirsky was interviewed at the San Francisco INS office on December 20, 1999. At that time, he received a letter stating that his application for permanent resident status was being retained for processing and that he would be notified when further action has taken place.

74. Mr. Kashirsky applied for an EAD in August 2001.

75. Mr. Kashirsky was eligible and remains eligible for adjustment of status. He is still waiting to adjust his status and is not accruing time towards naturalization.

76. If the defendants had distributed all 10,000 asylee adjustment numbers every fiscal year and distributed the numbers in the mandated order, on information and belief, they already would have adjusted Mr. Kashirsky's status or he would be eligible to adjust his status in the current fiscal year. The defendants have not adjusted his status in the mandated order, that is, by date of filing. Mr. Kashirsky has no remedy to compel the defendants to adjust his status in the proper order, other than through this lawsuit.

77. Plaintiff Susan Y. Pafe is a resident of Minneapolis, MN. She was granted asylum on July 23, 1997 from Cameroon. She applied for adjustment of status at the Nebraska Service Center August 17, 1998. She received a written receipt notice from the INS acknowledging that her adjustment application had been received on August 17, 1998.

78. Ms. Pafe applied for an EAD on August 20, 1998 at a cost of \$100. She renewed the EAD on February 2, 2001 at a cost of \$100 and on March 12, 2002 at a cost of \$120. Ms. Pafe applied for a refugee travel document on March 28, 1998. Ms. Pafe has been

found ineligible for certain jobs, scholarships, and a loan because she is not a permanent resident.

79. Ms. Pafe was eligible and remains eligible for adjustment of status. She is still waiting to adjust her status and is not accruing time towards naturalization.

80. If the defendants had distributed all 10,000 asylee adjustment numbers every fiscal year and distributed the numbers in the mandated order, on information and belief, they already would have adjusted Ms. Pafe's status or she would be eligible to adjust her status in the current fiscal year. The defendants have not adjusted her status in the mandated order, that is, by date of filing. Ms. Pafe has no remedy to compel the defendants to adjust her status in the proper order, other than through this lawsuit.

81. Plaintiff Kuevi Rafou Ekue-Hettah is a resident of Minneapolis, Minnesota. He was granted asylum on October 8, 1997 from Togo. He applied for adjustment of status at the NSC on January 6, 1999. He received a written receipt notice from the INS acknowledging that his adjustment application had been received on January 6, 1999.

82. Mr. Ekue-Hettah applied for an EAD as an Asylee in April 1997 and renewed it every year since that date. He applied for a refugee travel document in September 1999 and November 2001.

83. Mr. Ekue-Hettah was eligible and remains eligible for adjustment of status. He is still waiting to adjust his status and is not accruing time towards naturalization.

84. If the defendants had distributed all 10,000 asylee adjustment numbers every fiscal year and distributed the numbers in the mandated order, on information and belief, they already would have adjusted Mr. Ekue-Hettah's status or he would be eligible to adjust his status in the current fiscal year. The defendants have not adjusted his status in the mandated

order, that is, by date of filing. Mr. Ekue-Hettah has no remedy to compel the defendants to adjust his status in the proper order, other than through this lawsuit.

85. Plaintiff Oleg Averianov is a resident of Maple Grove, Minnesota. He was granted asylum on October 15, 1997 from Uzbekistan. He applied for adjustment of status at the NSC on March 16, 1999. He received a written receipt notice from the INS acknowledging that his adjustment application had been received on March 16, 1999.

86. Mr. Averianov applied for an EAD in January 2002 at a cost of \$100.

87. Mr. Averianov was eligible and remains eligible for adjustment of status. He is still waiting to adjust his status and is not accruing time towards naturalization.

88. If the defendants had distributed all 10,000 asylee adjustment numbers every fiscal year and distributed the numbers in the mandated order, on information and belief, they already would have adjusted Mr. Averianov's status or he would be eligible to adjust his status in the current fiscal year. The defendants have not adjusted his status in the mandated order, that is, by date of filing. Mr. Averianov has no remedy to compel the defendants to adjust his status in the proper order, other than through this lawsuit.

89. Plaintiff Sokhavuddh Moeun is a resident of St. Paul, MN. She was granted asylum on August 20, 1998 from Cambodia. She applied for adjustment of status at the NSC on or about October 20, 1999. She has not received a written receipt notice from the INS acknowledging that her adjustment application had been received, but has requested it many times with no response.

90. Ms. Moeun applied for an EAD in October 1999 at a cost of \$100. She applied for a renewal EAD once at a cost of \$100 and once at a cost of \$120. Ms. Moeun applied for a refugee travel document on February 13, 2001 at a cost of \$95.

91. Ms. Moeun was eligible and remains eligible for adjustment of status. She is still waiting to adjust her status and is not accruing time towards naturalization.

92. If the defendants had distributed all 10,000 asylee adjustment numbers every fiscal year and distributed the numbers in the mandated order, on information and belief, they already would have adjusted Ms. Moeun's status or she would be eligible to adjust her status in the current fiscal year. The defendants have not adjusted her status in the mandated order, that is, by date of filing. Ms. Moeun has no remedy to compel the defendants to adjust her status in the proper order, other than through this lawsuit.

93. Plaintiff Mary W. Kariuki is a resident of St. Paul, Minnesota. She was granted asylum on December 7, 1998 from Kenya. She applied for adjustment of status at the NSC on January 3, 2000. She received a written receipt notice from the INS acknowledging that her adjustment application had been received on January 3, 2000.

94. Ms. Kariuki applied for an EAD at the NSC in 1998. She renewed her EAD three times, paying a total of \$300 in renewal fees.

95. Ms. Kariuki was eligible and remains eligible for adjustment of status. She is not accruing time towards naturalization.

96. If the defendants had distributed all 10,000 asylee adjustment numbers every fiscal year, distributed the numbers in the mandated order, and excluded exempt asylees from the list, on information and belief they already would have adjusted Ms. Kariuki's status or she would be eligible to adjust her status in the current fiscal year. Ms. Kariuki has no remedy to compel the defendants to adjust her status in the proper order, other than through this lawsuit.

**Plaintiffs Who Applied For Adjustment Before January 16, 1998
(The Cut-Off Date for FY 2001)**

97. Plaintiff Miguel Candido Silvestre Montejo was granted asylum on May 10, 1993 from Guatemala. He applied for adjustment of status at the INS's Los Angeles District Office on or about May 11, 1994. He received a written receipt notice from the INS acknowledging that his adjustment application had been received on May 11, 1994.

98. Mr. Silvestre was fingerprinted at the INS District Office in Los Angeles, California on October 13, 1994. He was interviewed for his adjustment application on the same date at the same office.

99. Mr. Silvestre applied for an EAD on May 10, 1994 at a cost of \$60. At that time he was told that he would not have to renew his EAD and that he would be receiving a resident card. Between May 1995 and February 2002, Mr. Silvestre did not renew his EAD. He was waiting to receive his resident card in the mail. His employers underpaid him because he was considered an "undocumented alien." He was afraid of quitting a job he disliked because he knew that he would be asked for his EAD when dealing with any potential employer. He applied for a renewal EAD in January 2002 at a cost of \$100. Mr. Silvestre has not applied for a refugee travel document because he is afraid to leave the country until he receives his residency card.

100. Mr. Silvestre was eligible and remains eligible for adjustment of status. He is still waiting to adjust his status even though he filed his adjustment application long before January 16, 1998, the cut-off date for the fiscal year that ended on September 30, 2001. He is not accruing time towards naturalization. If the defendants had distributed the asylee adjustment numbers in the mandated order, they already would have adjusted Mr. Silvestre's status. The defendants have not adjusted his status in the mandated order, that is, by date of filing.

101 Further, on information and belief, in May 1994, there was no asylee adjustment backlog and Mr. Silvestre's status should have been adjusted immediately when he applied. Instead, he has waited eight years to adjust his status.

102. If the defendants had adjusted Mr. Silvestre's status when they should have, in 1994, he would have been eligible to apply for U.S. citizenship in 1999, and likely already would be a U.S. citizen. Mr. Silvestre has no remedy to compel the defendants to adjust his status in the proper order, other than through this lawsuit.

103. Plaintiff Aloysius Tabue was granted asylum on December 13, 1994 from Liberia. He applied for adjustment of status at the INS's Chicago District Office on July 29, 1996. He received a written receipt notice from the Chicago office, dated July 29, 1996, acknowledging that his adjustment application had been received.

104. On September 23, 1996, Mr. Tabue was interviewed at the INS's Chicago District Office. Mr. Tabue's fingerprints were taken most recently at the Chicago District Office in May 2001.

105. Mr. Tabue applied for an EAD in 1997. He has renewed his EAD each year since 1998, paying the \$100 renewal fee each time. Because he is not yet a permanent resident, Mr. Tabue has been unable to file petitions to immigrate his adult children and has had to apply and pay for refugee travel documents to leave the United States.

106. Mr. Tabue was eligible and remains eligible for adjustment of status. He is still waiting to adjust his status even though he filed his adjustment application before January 16, 1998, the cut-off date for the fiscal year that ended on September 30, 2001. He is not accruing time towards naturalization.

107. If the defendants had distributed all 10,000 asylee adjustment numbers every fiscal year and distributed the numbers in the mandated order, they already would have adjusted Mr. Tabue's status. The defendants have not adjusted his status in the mandated order, that is, by date of filing. Mr. Tabue has no remedy to compel the defendants to adjust his status in the proper order, other than through this lawsuit.

108. Plaintiff Mat Dupuy was granted asylum on March 21, 1996 from Haiti. She applied for adjustment of status at the INS's West Palm Beach, Florida District Office on March 26, 1997. She received a written receipt notice from the INS acknowledging that her adjustment application had been received.

109. Ms. Dupuy's fingerprints were taken at the Florida Immigrant Advocacy Center on March 26, 1997. In 1998, she was interviewed at the INS's West Palm Beach Office. Ms. Dupuy applied for an EAD at the INS's West Palm Beach District Office and has renewed it twice, paying the \$100 fee each time.

110. Ms. Dupuy was eligible and remains eligible for adjustment of status. She is still waiting to adjust her status even though she filed her application before January 16, 1998, the cut-off date for the fiscal year that ended on September 30, 2001. She is not accruing time toward naturalization.

111. If the defendants had distributed all 10,000 asylee adjustment numbers every fiscal year and distributed the numbers in the mandated order, they already would have adjusted Ms. Dupuy's status. The defendants have not adjusted her status in the mandated order, that is, by date of filing. Ms. Dupuy has no remedy to compel the defendants to adjust her status in the proper order, other than through this lawsuit.

112. Plaintiff Solange Pierre was granted asylum on January 16, 1996 from Haiti. She applied for adjustment of status at the INS's West Palm Beach District Office on or about May 1, 1997. Ms. Pierre's fingerprints were taken on May 1, 1997. In 1998, she was interviewed at the INS's West Palm Beach Office.

113. Ms. Pierre applied for an EAD in 1997. She renewed her EAD in 1998 and 1999, paying the \$100 renewal fee each time. Ms. Pierre was unable to work for an extended period of time because the INS would not renew her EAD in 2000 due to an INS error that said Ms. Pierre's adjustment application had been denied. Her EAD was finally renewed in 2001; however, she lost significant income because of the INS error and the requirement that she obtain an EAD.

114. Ms. Pierre was eligible and remains eligible for adjustment of status. She is still waiting to adjust her status even though she filed her adjustment application before January 16, 1998, the cut-off date for the fiscal year that ended on September 30, 2001. She is not accruing time towards naturalization.

115. If the defendants had distributed all 10,000 asylee adjustment numbers every fiscal year and distributed the numbers in the mandated order, they already would have adjusted Ms. Pierre's status. The defendants have not adjusted her status in the mandated order, that is, by date of filing. Ms. Pierre has no remedy to compel the defendants to adjust her status in the proper order, other than through this lawsuit.

116. Plaintiff Didace Nzeyimana was granted asylum on June 13, 1994 from Burundi. He applied for adjustment of status at the INS's Dallas Office on May 28, 1997. He received a written receipt notice from the INS acknowledging that his adjustment application had been received on May 28, 1997.

117. Mr. Nzeyimana was fingerprinted in New York in 1994 and Dallas in 1996 and 1997. Mr. Nzeyimana was interviewed for adjustment in Dallas in 1998.

118. Mr. Nzeyimana has applied for an EAD every year from 1995 - 2000. The INS's delays in processing his application for an EAD have caused him work interruptions and inability to obtain promotions. Mr. Nzeyimana has applied for a refugee travel document four times.

119. Mr. Nzeyimana was eligible and remains eligible for adjustment of status. He is still waiting to adjust his status even though he filed his application before January 16, 1998, the cut-off date for the fiscal year that ended on September 30, 2001. He is not accruing time towards naturalization.

120. If the defendants had distributed all 10,000 asylee adjustment numbers every fiscal year and distributed the numbers in the mandated order, they already would have adjusted Mr. Nzeyimana's status. The defendants have not adjusted his status in the mandated order, that is, by date of filing. Mr. Nzeyimana has no remedy to compel the defendants to adjust his status in the proper order, other than through this lawsuit.

121. Plaintiff Zoila Margarita Castillo Ramirez was granted asylum on April 22, 1996 from Guatemala. She applied for adjustment of status at the INS's Los Angeles District Office on July 28, 1997. She received a written receipt notice from the INS, showing a date of October 6, 1997.

122. Ms. Castillo's fingerprints were taken on three separate occasions. The first time was at an ASC in Santa Monica, California and the second and third times were in Los Angeles. On February 16, 2000, Ms. Castillo was interviewed at the Los Angeles District Office.

123. Ms. Castillo received a letter from the INS office in May of 2001 requesting that she reapply for asylum because she turned 21 while the adjustment was pending.

Ms. Castillo submitted the asylum application, INS Form I-589, on June 19, 2001.

124. Although Ms. Castillo has lived in California for many years, because she is not yet a lawful permanent resident, she is not considered a California resident and, therefore, has to pay expensive out-of-state tuition for her education.

125. Ms. Castillo applied for an EAD in 1996 at the LA District Office and renewed her EAD in 1997, 1998, 1999, 2000, and 2001, paying the applicable fee for each renewal. She missed some days of school and work to travel to the INS office to renew her EAD.

126. Ms. Castillo was eligible and remains eligible for adjustment of status. She is still waiting to adjust her status even though she filed her adjustment application before January 16, 1998, the cut-off date for the fiscal year that ended on September 30, 2001. She is not accruing time towards naturalization.

127. If the defendants had distributed all 10,000 asylee adjustment numbers every fiscal year and distributed the numbers in the mandated order, they already would have adjusted Ms. Castillo's status. The defendants have not adjusted her status in the mandated order, that is, by date of filing. Ms. Castillo has no remedy to compel the defendants to adjust her status in the proper order, other than through this lawsuit.

128. Luis Carballo-Manzanares was granted asylum in August 1996 from El Salvador. He applied for adjustment of status on or around September 8, 1997, at the INS District Office in New York (Federal Plaza). He was interviewed in conjunction with his adjustment application on or around July 21, 1998, also at Federal Plaza.

129. Mr. Carballo-Manzanares applied for an EAD and applied for renewal EADs in 1999 and 2000. He paid \$100 to the INS each time he applied for a renewal application, and the INS took about two months to process the renewal application.

130. Mr. Carballo-Manzanares was eligible and remains eligible for adjustment of status. He is still waiting to adjust his status even though he filed his adjustment application before January 16, 1998, the cut-off date for the fiscal year that ended on September 30, 2001. He is not accruing time towards naturalization.

131. If the defendants had distributed all 10,000 asylee adjustment numbers every fiscal year and distributed the numbers in the mandated order, they already would have adjusted Mr. Carballo-Manzanares' status. The defendants have not adjusted his status in the mandated order, that is, by date of filing. Mr. Carballo-Manzanares has no remedy to compel the defendants to adjust his status in the proper order, other than through this lawsuit.

132. Plaintiff Maria Herrera was granted asylum on July 3, 1996 from Nicaragua. She applied for adjustment of status on or about October 8, 1997 in Texas. Ms. Herrera was interviewed on September 22, 1998 at the Miami District Office. Her fingerprints were taken in 1998.

133. Ms. Herrera applied for an EAD and has been renewing her EAD every year, paying \$70 in 1997 and 1998 and \$100 every year after 1998.

134. Ms. Herrera has not pursued many employment opportunities to advance her career because they involved travel abroad. She hesitates to travel outside the United States even with a refugee travel document for fear that her EAD will expire when she is outside the United States or she will have difficulty reentering the United States.

135. Maria Herrera was eligible and remains eligible for adjustment of status. She is still waiting to adjust her status even though she filed her adjustment application before January 16, 1998, the cut-off date for the fiscal year that ended on September 30, 2001. She is not accruing time towards naturalization.

136. If the defendants had distributed all 10,000 asylee adjustment numbers every fiscal year and distributed the numbers in the mandated order, they already would have adjusted Ms. Herrera's status. The defendants have not adjusted her status in the mandated order, that is, by date of filing. Ms. Herrera has no remedy to compel the defendants to adjust her status in the proper order, other than through this lawsuit.

137. Marie Diogene was granted asylum in October 1996 from Haiti. She applied for adjustment of status on or around October 20, 1997 in the INS's District Office in West Palm Beach, Florida. Ms. Diogene has never been interviewed in conjunction with her adjustment application.

138. Ms. Diogene applied for an EAD in October 1998 and for a renewal in October 1999, paying \$100 with the renewal application. She did not apply to renew her EAD after 1999 because of the filing fee.

139. Because defendants have not adjusted Ms. Diogene's status, she has had difficulty finding employment. She has had difficulty registering for school and cannot qualify for student loans. She is afraid to leave the United States until defendants adjust her status.

140. Ms. Diogene was eligible and remains eligible for adjustment of status. She is still waiting to adjust her status even though she filed her adjustment application before

January 16, 1998, the cut-off date for the fiscal year that ended on September 30, 2001. She is not accruing time towards naturalization.

141. If the defendants had distributed all 10,000 asylee adjustment numbers every fiscal year and distributed the numbers in the mandated order, they already would have adjusted Ms. Diogene's status. The defendants have not adjusted her status in the mandated order, that is, by date of filing. Ms. Diogene has no remedy to compel the defendants to adjust her status in the proper order, other than through this lawsuit.

142. Plaintiff Graciela Martinez was granted asylum on September 24, 1996 from El Salvador. She applied for adjustment of status on or about October 23, 1997 at the INS's Boston District Office. Ms. Martinez received a written receipt notice from the INS acknowledging that her adjustment application had been received.

143. Ms. Martinez applied for an EAD on September 25, 2000. She applied to renew her EAD on September 24, 2001 and paid a \$100 renewal fee.

144. Ms. Martinez was eligible and remains eligible for adjustment of status. She is still waiting to adjust her status even though she filed her application before January 16, 1998, the cut-off date for the fiscal year that ended on September 30, 2001. She is not accruing time towards naturalization.

145. If the defendants had distributed all 10,000 asylee adjustment numbers every fiscal year and distributed them in the mandated order, they already would have adjusted Ms. Martinez's status. The defendants have not adjusted her status in the mandated order, that is, by date of filing. Ms. Martinez has no remedy to compel the defendants to adjust her status in the proper order, other than through this lawsuit.

146. Plaintiff Fawzy A. Abdelsamad was granted asylum in 1996 from Egypt. He applied for adjustment of status in the INS's Kansas City, Missouri District Office on January 14, 1998. He received a written receipt notice from the INS acknowledging that his adjustment application had been received on January 14, 1998.

147. Mr. Abdelsamad was interviewed on February 24, 1999 at the Kansas City District Office. He has also been fingerprinted.

148. Mr. Abdelsamad applied for an EAD in 1998 at the Kansas City District Office. He renewed his EAD in 1999, 2000, and 2001, paying the \$100 renewal fee each time.

149. Mr. Abdelsamad was eligible and remains eligible for adjustment of status. He is still waiting to adjust his status even though he filed his adjustment application before January 16, 1998, the cut-off date for the fiscal year that ended on September 30, 2001. He is not accruing time towards naturalization.

150. If the defendants had distributed all 10,000 asylee adjustment numbers every fiscal year and distributed the numbers in the mandated order, they already would have adjusted Mr. Abdelsamad's status. Mr. Abdelsamad has no remedy to compel the defendants to adjust his status in the proper order, other than through this lawsuit.

**Plaintiffs Who Filed for Adjustment After January 16, 1998
(The FY 2001 Cut-Off Date)
But Before June 9, 1998 (The FY 2002 Cut-Off Date)**

151. Plaintiff Dieulila Vil was granted asylum on September 23, 1996 from Haiti. She applied for adjustment of status at the INS's West Palm Beach, Florida District Office on or about January 22, 1998. She did not receive a written notice from the INS indicating that they received her application for permanent residency.

152. Ms. Vil was fingerprinted at the Stuart County Sheriff's Department. She was interviewed for her adjustment application on October 14, 1998 at the West Palm Beach office. Ms. Vil applied to renew her EAD in May 2001 at a cost of \$100.

153. Ms. Vil was eligible and remains eligible for adjustment of status. She is still waiting to adjust her status even though she filed her adjustment application before June 9, 1998, the cut-off date for FY 2002. She is not accruing time towards naturalization.

154. If the defendants had distributed all 10,000 asylee adjustment numbers every fiscal year, distributed the numbers in the mandated order, and excluded exempt asylees from the list, on information and belief they already would have adjusted Ms. Vil's status. Ms. Vil has no remedy to compel the defendants to adjust her status in the proper order, other than through this lawsuit.

155. Plaintiff Murad Fakhouri was granted asylum on January 6, 1997 from Kuwait. He applied for adjustment of status at the INS's Richmond, Virginia District Office on March 5, 1998. He received a written receipt notice from the INS in May or June 1998 acknowledging that his adjustment application had been received.

156. In May or June of 1998, Mr. Fakhouri was interviewed and fingerprinted at the INS's Charlotte, North Carolina District Office.

157. Mr. Fakhouri applied for and received an EAD in 1997. He renewed his EAD in 1999 and 2000, paying the \$100 renewal fee each time. Each time there was several months of delay before the INS renewed the EAD. Mr. Fakhouri was denied employment at one point, while his EAD was pending.

158. Mr. Fakhouri has applied for a refugee travel document three times, paying \$95 each time. On one occasion, his application was denied and he lost the filing fee. When

he reapplied, the application was approved, but his trip had to be cancelled because of the delay.

159. Mr. Fakhouri was eligible and remains eligible for adjustment of status. He is still waiting to adjust his status even though he filed his adjustment application before June 9, 1998, the cut-off date for FY 2002. He is not accruing time towards naturalization.

160. If the defendants had distributed all 10,000 asylee adjustment numbers every fiscal year, distributed the numbers in the mandated order, and excluded exempt asylees from the list, on information and belief they already would have adjusted Mr. Fakhouri's status. Mr. Fakhouri has no remedy to compel the defendants to adjust his status in the proper order, other than through this lawsuit.

161. Plaintiff Bassam Hantouli was granted asylum on September 4, 1996 from Israel. He applied for adjustment of status at the Dallas District Office on March 23, 1998. He received a written receipt notice from the INS acknowledging that his adjustment application had been received on March 23, 1998.

162. Mr. Hantouli was fingerprinted at the INS ASC in Ft. Worth, Texas on March 26, 2002. On May 14, 2000, Mr. Hantouli was interviewed for his adjustment at the Dallas District Office on October 17, 2000.

163. Mr. Hantouli applied for a refugee travel document in 2001 at a cost of \$95. He currently is attempting to renew the document.

164. Mr. Hantouli was eligible and remains eligible for adjustment of status. He is still waiting to adjust his status even though he filed his adjustment of status application before June 9, 1998. He is not accruing time towards naturalization.

165. If the defendants had distributed all 10,000 asylee adjustment numbers every fiscal year, distributed the numbers in the mandated order, and excluded exempt asylees from the list, on information and belief, they already would have adjusted Mr. Hantouli's status. Mr. Hantouli has no remedy to compel the defendants to adjust his status in the proper order, other than through this lawsuit.

166. Plaintiff Faisal Usman was granted asylum on January 28, 1997 from India. He applied for adjustment of status in Seattle, Washington, on or about April 16, 1998.

167. Mr. Usman applied for an EAD in or around 1998. He has renewed the EAD and paid the \$100 renewal fee each year since 1998.

168. Mr. Usman was eligible and remains eligible for adjustment of status. He is still waiting to adjust his status even though he filed his adjustment application before June 9, 1998, the cut-off date for FY 2002. He is not accruing time towards naturalization.

169. If the defendants had distributed all 10,000 asylee adjustment numbers every fiscal year, distributed the numbers in the mandated order, and excluded exempt asylees from the list, on information and belief they already would have adjusted Mr. Usman's status. Mr. Usman has no remedy to compel the defendants to adjust his status in the proper order, other than through this lawsuit.

170. Plaintiff Sherman Brown was granted asylum on January 29, 1997 from Liberia. He applied for adjustment of status at the INS's Arlington, Virginia District Office in or around April 1998. He received a written receipt notice from the INS acknowledging that his adjustment application had been received. He was interviewed in the Arlington District Office on August 27, 1998.

171. Mr. Brown was eligible and remains eligible for adjustment of status. He is still waiting to adjust his status even though he filed his adjustment application before June 9, 1998, the cut-off date for FY 2002. He is not accruing time towards naturalization.

172. If the defendants had distributed all 10,000 asylee adjustment numbers every fiscal year, distributed the numbers in the mandated order, and excluded exempt asylees from the list, on information and belief they already would have adjusted Mr. Brown's status. Mr. Brown has no remedy to compel the defendants to adjust his status in the proper order, other than through this lawsuit.

173. Plaintiff Laura Tabue was granted asylum on March 23, 1997 from Liberia. She applied for adjustment of status at the Chicago District office on May 1, 1998. She received a written receipt notice from the INS acknowledging that her adjustment application had been received on May 1, 1998.

174. Ms. Tabue's fingerprints were taken at the Chicago District office. On January 31, 2000, Ms. Tabue was interviewed at the Chicago Office.

175. Ms. Tabue applied for an EAD on May 6, 1997 and renewed her EAD in 1998, 1999, and 2000, paying \$100 each time. The INS took eight months to approve her 2000 EAD renewal application, from August 2000 to April 2001. Before it was approved, Ms. Tabue was laid off her job because she did not have a current EAD.

176. Ms. Tabue was eligible and remains eligible for adjustment of status. She is still waiting to adjust her status even though she filed her adjustment application before June 9, 1998, the cut-off date for FY 2002. She is not accruing time towards naturalization.

177. If the defendants had distributed all 10,000 asylee adjustment numbers every fiscal year, distributed the numbers in the mandated order, and excluded exempt asylees from

the list, on information and belief, they already would have adjusted Ms. Tabue's status. Ms. Tabue has no remedy to compel the defendants to adjust her status in the proper order, other than through this lawsuit.

Plaintiffs Who Filed For Adjustment After June 9, 1998

178. Plaintiff Oleksander Zinkovsky was granted asylum on October 10, 1996 from the Ukraine. His wife Galina and son Igor were granted asylum as derivative asylees. The Zinkovskys filed for adjustment of status at the INS's Philadelphia, Pennsylvania District Office on June 12, 1998. Mr. Zinkovsky received a filing receipt issued by the Philadelphia District Office on June 12, 1998, acknowledging that his adjustment application had been received.

179. Mr. Zinkovsky's fingerprints were taken on or about June 16, 1998 at the Philadelphia District Office. He was interviewed on October 23, 1998 also at the Philadelphia District Office.

180. Mr. Zinkovsky, his wife, and son all applied for EADs. Each renewed their EAD four times. The Zinkovskys paid the \$70 renewal fee for each EAD the first year, and \$100 for the other three years. The total of their EAD renewal fees, through 2001, comes to \$1,110.

181. Mr. Zinkovsky has had difficulty securing a job because most companies prefer employees who are LPRs or citizens. Their son was chosen for a study abroad opportunity in Europe last summer but had to relinquish his seat because the INS did not process his refugee travel document in time.

182. The Zinkovskys were eligible and remain eligible for adjustment of status. They are still waiting to adjust status and are not accruing time towards naturalization.

183. If the defendants had distributed all 10,000 asylee adjustment numbers every fiscal year, distributed the numbers in the mandated order, and excluded exempt asylees from the list, on information and belief, they already would have adjusted the Zinkovskys' status or they would be eligible to adjust status in the current fiscal year. The Zinkovskys have no remedy to compel the defendants to adjust their status in the proper order, other than through this lawsuit.

184. Plaintiff Unsheju Mbu Izampuye was granted asylum in April 1997 from the Congo. He applied for adjustment of status at the NSC in July 1998. He received a written receipt notice from the INS, dated July 13, 1998, acknowledging that his adjustment application had been received.

185. Mr. Mbu Izampuye's fingerprints were taken and sent to the INS with his application for residency. Mr. Mbu Izampuye applied twice for a refugee travel document, paying \$95 each time. He applied for a renewal EAD at the NSC and paid the \$100 renewal fee.

186. Mr. Mbu Izampuye was eligible and remains eligible for adjustment of status. He is still waiting to adjust his status and is not accruing time toward naturalization.

187. If the defendants had distributed all 10,000 asylee adjustment numbers every fiscal year, distributed the numbers in the mandated order, and excluded exempt asylees from the list, on information and belief, they already would have adjusted Mr. Izampuye's status or he would be eligible to adjust his status in the current fiscal year. Mr. Mbu Izampuye has no remedy to compel the defendants to adjust his status in the proper order, other than through this lawsuit.

188. Plaintiff Pavel E. Gubanikhin was granted asylum on August 4, 1997 from Russia. He applied for adjustment of status at the NSC on August 11, 1998. He received a written receipt notice from the INS acknowledging that his adjustment application had been received on August 11, 1998.

189. Mr. Gubanikhin was fingerprinted at the INS ASC in Ft. Lauderdale, FL on October 6, 1998.

190. Mr. Gubanikhin has renewed his EAD five times. In the spring of 1999, he had to take time off work because the INS failed to issue a renewal EAD prior to expiration of the previously issued EAD. Mr. Gubanikhin applied for a refugee travel document on November 24, 1997 at a cost of \$70. He renewed the document in 1999, 2000, and 2001 at a cost of \$95.00 and in 2002 at a cost of \$110. In the summer of 1999, he had to cancel a trip to France because of INS delays in processing the renewal application.

191. Mr. Gubanikhin was eligible and remains eligible for adjustment of status. He is still waiting to adjust his status and is not accruing time towards naturalization.

192. If the defendants had distributed all 10,000 asylee adjustment numbers every fiscal year, distributed the numbers in the mandated order, and excluded exempt asylees from the list, on information and belief, they already would have adjusted Mr. Gubanikhin's status or he would be eligible to adjust his status in the current fiscal year. The defendants have not adjusted his status in the mandated order, that is, by date of filing. Mr. Gubanikhin has no remedy to compel the defendants to adjust his status in the proper order, other than through this lawsuit.

193. Plaintiff Joseph Coleman was granted asylum on November 21, 1996 from Liberia. He applied for adjustment of status at the NSC on August 24, 1998. He received a

written receipt notice from the INS, dated September 29, 1998, acknowledging that his adjustment application had been received.

194. Mr. Coleman applied for an EAD in 1996 at the NSC. He renewed his EAD three time, incurring \$270 in filing fees.

195. Mr. Coleman has had difficulty establishing residency for state college tuition and in obtaining student loans.

196. Mr. Coleman was eligible and remains eligible for adjustment of status. He is still waiting to adjust his status and is not accruing time toward naturalization.

197. If the defendants had distributed all 10,000 asylee adjustment numbers every fiscal year, distributed the numbers in the mandated order, and excluded exempt asylees from the list, on information and belief, they already would have adjusted Mr. Coleman's status or he would be eligible to have his status adjusted in the current fiscal year. Mr. Coleman has no remedy to compel the defendants to adjust his status in the proper order, other than through this lawsuit.

198. Plaintiff Adrienne Kazarwa was granted asylum on November 15, 1996 from Rwanda. She applied for adjustment of status at the NSC in August 1998. She received a written receipt notice from the INS in September 1998 acknowledging that her adjustment application had been received.

199. Ms. Kazarwa applied for an EAD at the NSC. She renewed her EAD in 1997 1998, and 1999, paying \$70 in both 1997 and 1998 and \$100 in 1999.

200. Ms. Kazarwa applied for a refugee travel document in April 2001, paying the \$95 fee. She was unable to take a planned trip because of INS's delay in processing the travel document.

201. Adrienne Kazarwa was eligible and remains eligible for adjustment of status. She is still waiting to adjust her status and is not accruing time toward naturalization.

202. If the defendants had distributed all 10,000 asylee adjustment numbers every fiscal year, distributed the numbers in the mandated order, and excluded exempt asylees from the list, on information and belief, they already would have adjusted Ms. Kazarwa's status or she would be eligible to adjust her status in the current fiscal year. Ms. Kazarwa has no remedy to compel the defendants to adjust her status in the proper order, other than through this lawsuit.

203. Plaintiff Amondieu Milfort was granted asylum from Haiti on August 28, 1997. He applied for adjustment of status on or about September 9, 1998, and received an acknowledgement from the INS that it had received his application.

204. Mr. Milfort applied for an EAD and has renewed his application each year for a total of three times at a cost of \$300. He also paid a \$50 fee each year for his attorney's office to prepare the renewal applications.

205. Mr. Milfort was eligible and remains eligible for adjustment of status. He is not accruing time towards naturalization.

206. If the defendants had distributed all 10,000 asylee adjustment numbers every fiscal year, distributed the numbers in the mandated order, and excluded exempt asylees from the list, on information and belief, they already would have adjusted Mr. Milfort's status or he would be eligible to adjust his status in the current fiscal year. Mr. Milfort has no remedy to compel the defendants to adjust his status in the proper order, other than through this lawsuit.

207. Plaintiff Bineyam Kassahun was granted asylum on July 17, 1992 from Ethiopia. He applied for adjustment of status at the NSC on September 24, 1998. He received a written receipt notice from the INS acknowledging that his adjustment application had been received on September 24, 1998.

208 Mr. Kassahun applied for and received an EAD in 1998 at a cost of \$100. He renewed his EAD in 2000 and 2001 at a cost of \$100 each time and in 2002 at a cost of \$120.

209. Mr. Kassahun was eligible and remains eligible for adjustment of status. He is still waiting to adjust his status even though he filed his adjustment application before June 9, 1998, the cut-off date for FY 2002. He is not accruing time towards naturalization.

210. If the defendants had distributed all 10,000 asylee adjustment numbers every fiscal year, distributed the numbers in the mandated order, and excluded exempt asylees from the list, on information and belief, they already would have adjusted Mr. Kassahun's status. Mr. Kassahun has no remedy to compel the defendants to adjust his status in the proper order, other than through this lawsuit.

211. Plaintiff Issette Kassahun was granted asylum on March 30, 1990 from Ethiopia. She applied for adjustment of status at the NSC on September 24, 1998. She received a written receipt notice from the INS acknowledging that her adjustment application had been received on September 24, 1998.

212. Ms. Kassahun applied for and received an EAD in 1998 at a cost of \$100. She renewed her EAD in 2000 and 2001 at a cost of \$100 each time and in 2002 at a cost of \$120. In 2001, there was a several month delay before the INS renewed the EAD. Ms. Kassahun was unable to work during that period.

213. Ms. Kassahun was eligible and remains eligible for adjustment of status. She is still waiting to adjust her status even though she filed her adjustment application before June 9, 1998, the cut-off date for FY 2002. She is not accruing time towards naturalization.

214 If the defendants had distributed all 10,000 asylee adjustment numbers every fiscal year, distributed the numbers in the mandated order, and excluded exempt asylees from the list, on information and belief, they already would have adjusted Ms. Kassahun's status. Ms. Kassahun has no remedy to compel the defendants to adjust her status in the proper order, other than through this lawsuit.

215. Plaintiff Dragon Cvetkovic was granted asylum from Yugoslavia on August 29, 1997. Mr. Cvetkovic's wife, Lilana Cvetkovic, and his two children, Danijel Cvetkovic and Marijan Cvetkovic, also received asylum as derivatives of Mr. Cvetkovic. Mr. Cvetkovic applied for adjustment of status on October 8, 1998 and received a notice from the INS indicating that it had received their applications on that date. His wife and two children applied for adjustment on October 9, 1998. Mr. Cvetkovic was fingerprinted in October 1998.

216. Mr. Cvetkovic was eligible and remains eligible for adjustment of status. He is not accruing time towards naturalization.

217. If the defendants had distributed all 10,000 asylee adjustment numbers every fiscal year, distributed the numbers in the mandated order, and excluded exempt asylees from the list, on information and belief, they already would have adjusted the Cvetkovics' status or they would be eligible to adjust their status in the current fiscal year. The Cvetkovics have no remedy to compel the defendants to adjust their status in the proper order, other than through this lawsuit.

218. Plaintiff Aman Yakob was granted asylum on September 16, 1997 from Afghanistan. His wife, Yasamin Yakob, and his daughter, Farangeees Yakob, were granted asylum as derivative asylees. They applied for adjustment of status in October 1998 at the NSC. Mr. Yakob received an acknowledgement that the NSC had received his adjustment application.

219. The Yakobs have applied for EADs and have renewed the EADs every year, paying \$70 for each of them for a total of \$210 each year until 1998, and then \$100 for each, for a total of \$300 per year every year since then. Each time, the EAD renewal takes approximately 60 to 90 days to process.

220. The Yakobs have not left the United States since they came here. They are afraid to leave until their status is adjusted because they fear they would not be permitted to reenter.

221. Mr. Yakob tried to go to school to get a better job and better support his family, but he was not eligible for financial aid as he is not yet a permanent resident. The Yakob family worries a lot about not having their green cards and do not believe they will be truly free until they are adjusted to permanent residents.

222. The Yakobs were eligible and remain eligible for adjustment of status. They are still waiting to adjust their status and are not accruing time towards naturalization.

223. If the defendants had distributed all 10,000 asylee adjustment numbers every fiscal year, distributed the numbers in the mandated order, and excluded exempt asylees from the list, on information and belief, they already would have adjusted all three of the Yakobs' status or they would be eligible to adjust their status in the current fiscal year. The Yakobs

have no remedy to compel the defendants to adjust their status in the proper order, other than through this lawsuit.

224. Plaintiff Alexander Marfo was granted asylum on February 29, 1996 from Rwanda. He applied for adjustment of status at the NSC on November 2, 1998. He received a written receipt notice from the INS acknowledging that his adjustment application had been received on November 2, 1998.

225. Mr. Marfo was fingerprinted at the Greensboro Police Department on November 2, 1998.

226. Mr. Marfo applied for an EAD in 1997. He applied for a renewal EAD three times at a cost of \$100 each. Mr. Marfo applied for a refugee travel document at a cost of \$70.

227. Mr. Marfo was eligible and remains eligible for adjustment of status. He is still waiting to adjust his status and is not accruing time towards naturalization.

228. If the defendants had distributed all 10,000 asylee adjustment numbers every fiscal year, distributed the numbers in the mandated order, and excluded exempt asylees from the list, on information and belief, they already would have adjusted Mr. Marfo's status. The defendants have not adjusted his status in the mandated order, that is, by date of filing. Mr. Marfo has no remedy to compel the defendants to adjust his status in the proper order, other than through this lawsuit.

229. Plaintiff Nina Ionescu was granted asylum on July 10, 1997 from Romania. She applied for adjustment of status at the NSC on November 16, 1998. She received a written receipt notice from the INS, dated November 19, 1998, acknowledging that her adjustment application had been received.

230. Ms. Ionescu applied for an EAD at the INS's New York District Office in 1998. She never received her EAD and the INS never made a determination on her EAD application. She paid a filing fee, even though filing fees on asylee's initial EAD is not required, and attorney fees.

231. Ms. Ionescu was eligible and remains eligible for adjustment of status. She is still waiting to adjust her status and is not accruing time toward naturalization.

232. If the defendants had distributed all 10,000 asylee adjustment numbers every fiscal year, distributed the numbers in the mandated order, and excluded exempt asylees from the list, on information and belief, they already would have adjusted Ms. Ionescu's status or she would be eligible to have her status adjusted in the current fiscal year. Ms. Ionescu has no remedy to compel the defendants to adjust her status in the proper order, other than through this lawsuit.

233. Plaintiff Santiago Ruano Oliva was granted asylum in December 1996 from Guatemala. He applied for adjustment of status at the NSC on December 14, 1998. He received a written receipt notice from the INS, acknowledging that his adjustment application had been received on December 14, 1998.

234. Mr. Ruano Oliva applied for an EAD at the NSC. He has renewed his EAD three times, paying \$100 each time.

235. Mr. Ruano Oliva was eligible and remains eligible for adjustment of status. He is still waiting to adjust his status and is not accruing time towards naturalization

236. If the defendants had distributed all 10,000 asylee adjustment numbers every fiscal year, distributed the numbers in the mandated order, and excluded exempt asylees from the list, on information and belief, they already would have adjusted Mr. Ruano Oliva's

status or he would be eligible to adjust his status in the current fiscal year. Mr. Ruano Oliva has no remedy to compel the defendants to adjust his status in the proper order, other than through this lawsuit.

237. Plaintiff Abdiaziz Hassan was granted asylum on January 22, 1997 from Somalia. He applied for adjustment of status at the NSC on December 18, 1998. Mr. Hassan received a written receipt notice from the INS acknowledging that his adjustment application had been received on December 18, 1998.

238. Mr. Hassan applied for an EAD at the NSC. He paid the \$100 renewal fee at least twice, in 1999 and 2000.

239. Mr. Hassan applied for a refugee travel document at a cost of \$70. The INS spelled his name incorrectly on the document and did not issue a corrected document despite two requests that it do so. Consequently, he was unable to travel outside the United States.

240. Mr. Hassan was eligible and remains eligible for adjustment of status. He is still waiting to adjust his status and is not accruing time towards naturalization.

241. If the defendants had distributed all 10,000 asylee adjustment numbers every fiscal year, distributed the numbers in the mandated order, and excluded exempt asylees from the list, on information and belief, they already would have adjusted Mr. Hassan's status or he would be eligible to adjust his status in the current fiscal year. Mr. Hassan has no remedy to compel the defendants to adjust his status in the proper order, other than through this lawsuit.

242. Plaintiff Tareq M. Dreiza was granted asylum on January 5, 1998 from Libya. He applied for adjustment of status at the NSC on January 19, 1999. He received a written

receipt notice from the INS acknowledging that his adjustment application had been received on January 19, 1999.

243. Mr. Dreiza had his fingerprints taken as part of the asylum application in approximately November 1994. When he applied for adjustment of status, he was told that it would take between 215 and 245 days. Instead, it has now been over three and a half years, and he still is not a permanent resident.

244. Mr. Dreiza applied for an EAD as an asylee on May 7, 1998. He applied for renewal EADs in 1999, 2000, and 2001 at a cost of \$100 each and in 2002 at a cost of \$120.

245. Mr. Dreiza applied for a refugee travel document in 1999, 2000, and 2001 at a cost of \$95 each. His job requires overseas travel, and in order to apply for travel documents, he has had to travel to Los Angeles in order to personally apply. This travel was an added cost. He has had difficulties and delays entering other countries because he was unable to show proof of U.S. residency. He was not permitted to board a flight because the airline was uncertain as to whether a travel document would be sufficient for him to reenter the United States. Secondary inspection has caused him significant delays and missed connecting flights. He was unable to travel on numerous occasions because he did not have a travel document or because it was valid for less than 6 months. This inability to travel has affected his work.

246. Mr. Dreiza is afraid that, after a business trip, he will not be permitted to reenter the United States. After September 11, he also fears being targeted by INS officials at the airport because of his Middle Eastern origin.

247. Mr. Dreiza was eligible and remains eligible for adjustment of status. He is still waiting to adjust his status and is not accruing time towards naturalization.

248. If the defendants had distributed all 10,000 asylee adjustment numbers every fiscal year, distributed the numbers in the mandated order, and excluded exempt asylees from the list, on information and belief, they already would have adjusted Mr. Dreiza's status or he would be eligible to adjust his status in the current fiscal year. The defendants have not adjusted his status in the mandated order, that is, by date of filing. Mr. Dreiza has no remedy to compel the defendants to adjust his status in the proper order, other than through this lawsuit.

249. Plaintiff Patricia Muendo was granted asylum on December 11, 1997 from the Democratic Republic of Congo. She applied for adjustment of status at the NSC on February 8, 1999. She received a written receipt notice from the INS acknowledging that her adjustment application had been received.

250. Ms. Muendo applied for an EAD in 1997 at the INS's Dallas District Office. She renewed her EAD in 1998, 1999 and 2000, paying a \$100 renewal fee each time. Ms. Muendo also has applied for and paid \$95 in fees for a refugee travel document, but she never received the document.

251. Ms. Muendo was eligible and remains eligible for adjustment of status. She is not accruing time towards naturalization.

252. If the defendants had distributed all 10,000 asylee adjustment numbers every fiscal year, distributed the numbers in the mandated order, and excluded exempt asylees from the list, on information and belief, they already would have adjusted Ms. Muendo's status or she would be eligible to adjust her status in the current fiscal year. Ms. Muendo has no remedy to compel the defendants to adjust his status in the proper order, other than through this lawsuit.

253. Plaintiff Ali Murtaza was granted asylum on February 28, 1998 from Pakistan. He applied for adjustment of status at the NSC on March 8, 1999. He received a written receipt notice from the INS, dated September 15, 2000, acknowledging that his adjustment application had been received and was filed on March 8, 1999.

254. Mr. Murtaza's fingerprints were taken in Oklahoma when he first applied for his EAD on August 16, 1997. Mr. Murtaza renewed his EAD at the NSC in 1998, 1999, and 2000 and is currently waiting for his 2001 EAD. He has spent more than \$300 on renewal fees in addition to attorney's fees for his EAD renewal. Mr. Murtaza has had to wait many months for the EAD renewal to be processed. He has had to obtain legal assistance and pay legal fees when his employer threatened to fire him due to the delay in the arrival of his EAD.

255. Mr. Murtaza was eligible and remains eligible for adjustment of status. He is still waiting to adjust his status and is not accruing time towards naturalization.

256. If the defendants had distributed all 10,000 asylee adjustment numbers every fiscal year, distributed the numbers in the mandated order, and excluded exempt asylees from the list, on information and belief, they already would have adjusted Mr. Murtaza's status or he would be eligible to adjust his status in the current fiscal year. Mr. Murtaza has no remedy to compel the defendants to adjust his status in the proper order, other than through this lawsuit.

257. Plaintiff Pierre Boumtje was granted asylum on December 19, 1996 from Cameroon. He applied for adjustment of status at the NSC in April 1999. He received a written receipt notice from the INS, in June 1999, acknowledging that his adjustment application had been received.

258. Mr. Boumtje applied for an EAD at the NSC. He has renewed his EAD four times, paying \$100 each time. Mr. Boumtje was eligible and remains eligible for adjustment of status. He is still waiting to adjust his status and is not accruing time towards naturalization.

259. If the defendants had distributed all 10,000 asylee adjustment numbers every fiscal year, distributed the numbers in the mandated order, and excluded exempt asylees from the list, on information and belief, they already would have adjusted Mr. Boumtje's status or he would be eligible to adjust his status in the current fiscal year. Mr. Boumtje has no remedy to compel the defendants to adjust his status in the proper order, other than through this lawsuit.

260. Plaintiff Martine Ernestine Boumtje was granted asylum on December 19, 1996 from Cameroon. She applied for adjustment of status at the NSC in April 1999. She received a written receipt notice from the INS, in June 1999, acknowledging that her adjustment application had been received.

261. Ms. Boumtje applied for an EAD at the NSC. She has renewed her EAD four times, paying \$100 each time. Ms. Boumtje was eligible and remains eligible for adjustment of status. She is still waiting to adjust her status and is not accruing time towards naturalization.

262. If the defendants had distributed all 10,000 asylee adjustment numbers every fiscal year, distributed the numbers in the mandated order, and excluded exempt asylees from the list, on information and belief, they already would have adjusted Ms. Boumtje's status or she would be eligible to adjust her status in the current fiscal year. Ms. Boumtje has no

remedy to compel the defendants to adjust her status in the proper order, other than through this lawsuit.

263. Plaintiff Rosemary Ekeada was granted asylum in February 1998 from Nigeria. She applied for adjustment of status at the Vermont Service Center in April 1999. She received a written receipt notice from the INS, dated May 19, 1999, acknowledging that her adjustment application had been received.

264. Ms. Ekeada applied for an EAD in 1998 at the Vermont Service Center. She has renewed her EAD four times, paying \$100 each time. Ms. Ekeada was eligible and remains eligible for adjustment of status. She is still waiting to adjust her status and is not accruing time towards naturalization.

265. If the defendants had distributed all 10,000 asylee adjustment numbers every fiscal year, distributed the numbers in the mandated order, and excluded exempt asylees from the list, on information and belief, they already would have adjusted Ms. Ekeada's status or she would be eligible to adjust her status in the current fiscal year. Ms. Ekeada has no remedy to compel the defendants to adjust her status in the proper order, other than through this lawsuit.

266. Plaintiff Toko Maurice Mbungu was granted asylum on January 13, 1998 from the Democratic Republic of Congo. He applied for adjustment of status at the NSC on July 12, 1999. He received a written receipt notice from the INS acknowledging that his adjustment application had been received on July 12, 1999.

267. Mr. Mbungu renewed his EAD once at a cost of \$100. Mr. Mbungu applied for a refugee travel document in September 1998 at a cost of \$95.00.

268. Mr. Mbungu was eligible and remains eligible for adjustment of status. He is still waiting to adjust his status and is not accruing time towards naturalization.

269. If the defendants had distributed all 10,000 asylee adjustment numbers every fiscal year, distributed the numbers in the mandated order, and excluded exempt asylees from the list, on information and belief, they already would have adjusted Mr. Mbungu's status or he would be eligible to adjust his status in the current fiscal year. The defendants have not adjusted his status in the mandated order, that is, by date of filing. Mr. Mbungu has no remedy to compel the defendants to adjust his status in the proper order, other than through this lawsuit.

270. Plaintiff Iltam S. Jean-Caidor was granted asylum on July 10, 1998 from Haiti. He applied for adjustment of status at the NSC on July 23, 1999. He received a written receipt notice from the INS acknowledging that his adjustment application had been received on July 23, 1999.

271. Between 1997 and 1998, Mr. Jean-Caidor's fingerprints were taken four times. Mr. Jean-Caidor applied for an EAD in 1998 and renewed his EAD three times, paying the \$100 renewal fee each time. He suffered many lapses in his EAD because of defendants' delays in processing them.

272. Mr. Jean-Caidor was separated from his wife and two young children, who were outside the United States, from April 1992 to December 2000 due to defendants' mishandling of his file.

273. Mr. Jean-Caidor was eligible and remains eligible for adjustment of status. He is not accruing time towards naturalization.

274. If the defendants had distributed all 10,000 asylee adjustment numbers every fiscal year, distributed the numbers in the mandated order, and excluded exempt asylees from the list, on information and belief, they already would have adjusted Mr. Jean-Caidor's status or he would be eligible to adjust his status in the current fiscal year. Mr. Jean-Caidor has no remedy to compel the defendants to adjust his status in the proper order, other than through this lawsuit.

275. Plaintiff Arturo Javier Reynoso Madrigal was granted asylum on June 22, 1998 from Mexico. He applied for adjustment of status at the NSC on July 29, 1999. He has received a notice from the INS indicating that they have received his application for permanent residency.

276. Mr. Reynoso has had difficulty obtaining a mortgage at least partially due to not being a permanent resident.

277. Mr. Reynoso applied for an EAD on July 27, 1998. He applied for renewal EADs three times at a cost of \$100 each.

278. Mr. Reynoso was eligible and remains eligible for adjustment of status. He is not accruing time towards naturalization.

279. If the defendants had distributed all 10,000 asylee adjustment numbers every fiscal year, distributed the numbers in the mandated order, and excluded exempt asylees from the list, on information and belief, they already would have adjusted Mr. Reynoso's status or he would be eligible to adjust his status in the current fiscal year. The defendants have not adjusted his status in the mandated order, that is, by date of filing. Mr. Reynoso has no remedy to compel the defendants to adjust his status in the proper order, other than through this lawsuit.

280. Plaintiff Bassem El-Khatib was granted asylum from Kuwait. He applied for adjustment of status at the NSC on January 10, 2000. Mr. El-Khatib received a written receipt notice from the INS acknowledging that his adjustment application had been received on January 10, 2000. Mr. El-Khatib applied for an EAD at the NSC, paying a \$100 renewal fee in 2001.

281. Mr. El-Khatib was eligible and remains eligible for adjustment of status. He is not accruing time towards naturalization.

282. If the defendants had distributed all 10,000 asylee adjustment numbers every fiscal year, distributed the numbers in the mandated order, and excluded exempt asylees from the list, on information and belief, they already would have adjusted Mr. El-Khatib's status or he would be eligible to adjust his status in the current fiscal year. Mr. El-Khatib has no remedy to compel the defendants to adjust his status in the proper order, other than through this lawsuit.

283. Plaintiff Djavanshir Gadjiev was granted asylum on January 12, 1999 from Azerbaijan. He applied for adjustment of status at the NSC on February 8, 2000. He received a written receipt notice from the INS acknowledging that his adjustment application had been received on February 8, 2000.

284. Mr. Gadjiev's fingerprints were taken when he was granted asylum at the Charlotte, North Carolina INS office.

285. Mr. Gadjiev applied for and received an EAD in 1999 at a cost of \$100. He renewed his EAD in 2000 and 2001 at a cost of \$100 each time and in 2002 at a cost of \$120. Mr. Gadjiev almost lost his job due to an INS delay in processing his EAD application between September 22, 2000 and February 8, 2001.

286. Mr. Gadjiev was eligible and remains eligible for adjustment of status. He is still waiting to adjust his status and is not accruing time towards naturalization.

287. If the defendants had distributed all 10,000 asylee adjustment numbers every fiscal year, distributed the numbers in the mandated order, and excluded exempt asylees from the list, on information and belief, they already would have adjusted Mr. Gadjiev's status or he would be eligible to adjust his status in the current fiscal year. Mr. Gadjiev has no remedy to compel the defendants to adjust his status in the proper order, other than through this lawsuit.

288. Plaintiff Sonia S. Santisteban Grijalva was granted asylum on September 28, 1998 from Guatemala. She applied for adjustment of status at the NSC on March 23, 2000. She received a written receipt notice from the INS acknowledging that her adjustment application had been received on March 23, 2000.

289. Ms. Santisteban applied for an EAD on March 23, 2000. She renewed the EAD in 2001 at a cost of \$100 and in 2002 at a cost of \$120. INS delays in processing her application for an EAD caused her to lose a job because she did not receive her EAD on time.

290. Ms. Santisteban was eligible and remains eligible for adjustment of status. She is still waiting to adjust her status and is not accruing time towards naturalization.

291. If the defendants had distributed all 10,000 asylee adjustment numbers every fiscal year, distributed the numbers in the mandated order, and excluded exempt asylees from the waiting list, on information and belief, they already would have adjusted Ms. Santisteban's status or she would be eligible to adjust her status in the current fiscal year. The defendants have not adjusted her status in the mandated order, that is, by date of filing.

Ms. Santisteban has no remedy to compel the defendants to adjust her status in the proper order, other than through this lawsuit.

292. Plaintiff Gerardo R. Vidal Sic was granted asylum on September 28, 1998 from Guatemala. He applied for adjustment of status at the NSC on March 23, 2000. He received a written receipt notice from the INS acknowledging that his adjustment application had been received on March 23, 2000.

293. Mr. Vidal was fingerprinted in Las Vegas in December 1999.

294. Mr. Vidal has applied for an EAD every year since 1998. INS delays in processing his application for an EAD have caused him to lose a job because he did not receive his EAD on time. Mr. Vidal applied for a refugee travel document on March 20, 2000 at a cost of 95.00.

295. Mr. Vidal was eligible and remains eligible for adjustment of status. He is still waiting to adjust his status and is not accruing time towards naturalization.

296. If the defendants had distributed all 10,000 asylee adjustment numbers every fiscal year, distributed the numbers in the mandated order, and excluded exempt asylees from the list, on information and belief, they already would have adjusted Mr. Vidal's status or he would be eligible to adjust his status in the current fiscal year. The defendants have not adjusted his status in the mandated order, that is, by date of filing. Mr. Vidal has no remedy to compel the defendants to adjust his status in the proper order, other than through this lawsuit.

297. Plaintiff Samon Som was granted asylum on November 2, 1998 from Cambodia. She applied for adjustment of status at the NSC on April 12, 2000. She received

a written receipt notice from the INS acknowledging that her adjustment application had been received on April 12, 2000.

298. Ms. Som was eligible and remains eligible for adjustment of status. She is not accruing time towards naturalization.

299. If the defendants had distributed all 10,000 asylee adjustment numbers every fiscal year, distributed the numbers in the mandated order, excluded exempt asylees from the list, on information and belief, they already would have adjusted Ms. Som's status or she would be eligible to adjust her status in the current fiscal year. The defendants have not adjusted her status in the mandated order, that is, by date of filing. Ms. Som has no remedy to compel the defendants to adjust her status in the proper order, other than through this lawsuit.

300. Plaintiff Bekana Huluka was granted asylum on January 11, 1999 from Ethiopia. He applied for adjustment of status at the NSC on May 16, 2000. He received a written receipt notice from the INS acknowledging that his adjustment application had been received on May 16, 2000.

301. Mr. Huluka applied for an EAD in 1998 at the Vermont Service Center. He renewed his EAD in 1999 and 2000, paying a \$100 renewal fee each time.

302. Mr. Huluka was eligible and remains eligible for adjustment of status. He is still waiting to adjust his status and is not accruing time towards naturalization.

303. If the defendants had distributed all 10,000 asylee adjustment numbers every fiscal year, distributed the numbers in the mandated order, and excluded exempt asylees from the list, on information and belief they already would have adjusted Mr. Huluka's status or he

would be eligible to adjust his status in the current fiscal year. Mr. Huluka has no remedy to compel the defendants to adjust his status in the proper order, other than through this lawsuit.

HARMS THE PLAINTIFFS AND CLASS MEMBERS ARE SUFFERING

304. Plaintiffs and class members have suffered, are suffering, and will continue to suffer significant and irreparable harm because of defendants' policies, procedures, acts and failures to act as described herein. This harm includes the harms alleged throughout this complaint, and the following:

305. Because defendants have, in many fiscal years, distributed far fewer than the 10,000 available asylee adjustment numbers, and because defendants have not complied with the requirement to allocate these numbers in the order in which plaintiffs filed for adjustment, all plaintiffs and class members are farther back on the waiting list than they otherwise would be. As a direct result of their placement on the waiting list, all plaintiffs and class members have had to and/or will have to wait a significantly longer period to adjust their status. As long as defendants continue to improperly fail to allocate available asylee adjustment numbers, to distribute these numbers out of order, and to include exempt asylees in the queue, all plaintiffs and class members will continue to suffer delays.

306. Because plaintiffs and class members have waited and will continue to wait significantly longer to become LPRs, they have been and are unable to stabilize their lives. Their status here has been and will continue to be indefinite. Some plaintiffs and class members have been and will continue to be afraid to accumulate assets in the United States because they fear they may ultimately be denied permanent residence status and may be deported. They have not been able to and cannot plan because they have not known and do not know when they will become permanent residents.

307. Some plaintiffs and class members have been and will continue to be unable to petition for family members to join them in the United States. For example, if an asylee marries a noncitizen who is a resident of some other country, the asylee cannot petition for his or her spouse nor bring them to this country. Single asylees cannot marry and sponsor his or her spouse until the asylee's status is adjusted.

308. Some plaintiffs and class members have been and will be refused jobs or passed over for promotions because they are not LPRs or not United States citizens. Many plaintiffs have lost significant work time and will lose significant work time while pursuing their adjustment applications, making inquiries at INS offices, meeting with lawyers, applying for renewals and refugee travel documents, and otherwise pursuing their delayed permanent residency.

309. Some colleges and universities have considered and will continue to consider plaintiffs and class members to be out-of-state residents and hence charged them out-of-state tuition. The plaintiffs and class members have had and will continue to have other hardships when applying for financial aid for higher education.

310. Because they have not become LPRs, plaintiffs and class members have been and are unable to travel freely outside the United States. Many plaintiffs and class members have been and will be afraid to travel outside the United States for fear there will be a bar to their reentry or they will not be permitted to reenter, even if they obtain a refugee travel document before they depart. Some plaintiffs and class members have declined and will decline employment opportunities that involved travel abroad. Those plaintiffs and class members who have been willing to travel outside the United States have had to apply for, wait for, and pay for refugee travel documents to assure their reentry. Many have paid

attorneys' fees for their attorneys' assistance in obtaining refugee travel documents and advice.

311. Because they have had to wait and will continue to have to wait many years to adjust their status, and because of defendants' policies and practices as described herein, plaintiffs and class members have had to and will continue to have to submit to repeated fingerprinting and medical exams, at considerable cost and inconvenience.

312. Plaintiffs and class members who are exempt from the 10,000 cap on asylee adjustment numbers have had to and will continue to have to wait years longer than required by law to adjust their status. They also have had to and will continue to have to obtain EADs and refugee travel documents and renew those documents repeatedly, at considerable expense and inconvenience, when they should not have had to obtain or renew EADs or refugee travel documents at all.

313. Nonexempt plaintiffs and class members have not adjusted as quickly as they should have, and have had to wait longer than they should have, because defendants did not exclude exempt asylees from the queue. Nonexempt plaintiffs and class members will continue to have to wait years longer than they should have if defendants do not exclude exempt asylees from the queue.

314. Because plaintiffs and class members have not and will continue to not become LPRs when or as quickly as they should have, their naturalization has been delayed. They have been and will continue to be unable to vote and participate fully in our democracy. They have lost job opportunities that are open only to United States citizens and will continue to lose such opportunities. They have been and will continue to be unable to petition for their family members to immigrate to the United States as immediate relatives.

315. Because defendants have misinterpreted the INA and applicable regulations, many plaintiffs and class members have had to and will continue to have to obtain EADs and pay for repeated renewals of those EADs, resulting in significant out-of-pocket expense, including attorneys' fees, inconvenience, loss of wages, and loss of employment opportunities. Some plaintiffs and class members have suffered and will continue to suffer lapses between receiving EADs because of INS delays in processing their renewals. These lapses have resulted in and will continue to result in loss of income and risk of lost of jobs.

316. Plaintiffs and class members do not know when they will be adjusted and believe that defendants will not adjust them in the proper, chronological order. Plaintiffs and class members have no way, other than through this lawsuit, to compel the defendants to adjust them in the proper order.

317. Plaintiffs' and class members' rights to due process of law and equal protection under the Fifth Amendment to the United States Constitution have been and are being violated and will continue to be violated by defendants' failures and policies and practices as described herein.

CLASS ACTION ALLEGATIONS

318. The named plaintiffs bring this action pursuant to Rule 23 of the Federal Rules of Civil Procedure on behalf of themselves and all other persons similarly situated in the following classes. The named plaintiffs seek to represent the following class and subclasses:

Class: All asylees in the United States who have applied for adjustment of status to lawful permanent residence and whose applications for adjustment remain pending.

- Subclass I: All asylees who filed their adjustment of status applications with the INS on or before January 16, 1998;
- Subclass II: All asylees who filed their adjustment of status applications after January 16, 1998 and on or before June 9, 1998;
- Subclass III: All asylees who filed their adjustment of status applications after June 9, 1998;
- Subclass IV: All asylees who applied for or applied to renew an Employment Authorization Document (EAD); and
- Subclass V: All asylees who are exempt from the annual statutory cap of 10,000 asylee adjustment numbers set by INA §209(b), 8 U.S.C. §1159(b).

319. Class members may, and often will, belong to more than one class.
320. The members of the plaintiff classes warrant class action treatment because they fulfill the certifying requirements under Rule 23(a) of the Federal Rules of Civil Procedure.
321. The proposed classes meet the commonality requirement of Fed. R. Civ. P. 23(a)(2) because there are questions of law and fact common to the class. Common questions of law include whether the INS and defendants' regulations require defendants to maintain a single, national asylee adjustment queue and whether the statute and regulations permit asylees to work indefinitely incident to status. Common questions of fact include whether defendants have failed to allocate all 10,000 available asylee adjustment numbers per fiscal year and whether exempt asylees have been excluded from the waiting list.

322. The individual differences in the class members' and plaintiffs' life stories and asylum applications are irrelevant to their complaints against defendants for their misadministration of the adjustment process.

323. The proposed classes meet the numerosity requirement of Fed. R. Civ. P. 23(a)(1) because the members of each of the five classes are so numerous that joinder of all members is impracticable. According to defendants, there currently are approximately 96,000 asylees whose adjustment applications are pending either at district offices or at the NSC. Most of these asylees have had to apply for an EAD and most of those have applied to renew the EAD at least once.

324. The proposed classes meet the typicality requirement of Fed. R. Civ. P. 23(a)(3) because the claims of the named plaintiffs are typical of the claims of each of the class members. The named plaintiffs complain of the defendants' systemic failures to properly administer the asylee waiting list and of agency-wide misinterpretation of law. The claims of each class representative are typical of the claims of each member of that class.

325. The named plaintiffs will fairly and adequately protect the interests of the classes as required by Fed. R. Civ. P. 23(a)(4) because their interests are identical to those of the other members of the classes. Both the named plaintiffs and the class members will benefit from the relief requested in this complaint. The named plaintiffs will therefore zealously protect the interests of the classes. Plaintiffs know of no conflicts between their interests and those of the class they seek to represent.

326. In addition, the fair and adequate protection of the interests of the classes will be further ensured because the named plaintiffs are represented by competent legal counsel.

Plaintiffs' counsel are experienced in class action litigation and federal litigation and have adequate resources and commitment to represent the class as a whole.

327. The instant action should be maintained as a class action under Fed. R. Civ. P. 23(b)(2) because the defendants have acted on grounds generally applicable to each member of the classes by failing to carry out the duties owed to each member of the classes.

328. Furthermore, as contemplated by Fed. R. Civ. P. 23(b)(1), if the individual members of the classes were to bring separate suits to address the defendants' policies, practices, actions and inactions, the defendants may address the cases of the named plaintiffs but ignore the applications and concerns of the remaining class members, thereby exacerbating the defendants' violations of the law. Resolving this matter as a class action would also serve judicial economy since the courts would not be burdened with lawsuits by many individual adjustment applicants.

CAUSES OF ACTION

I.

Violation of INA §209(b), 8 U.S.C. §1159(b) (Adjustment of Status, Number of Asylee Adjustment Slots Available)

329. Plaintiffs incorporate paragraphs 1 through 328 as if fully set forth herein.

330. Defendants' practices, policies, conduct, and failures to act as alleged herein deprive plaintiffs and class members of their rights to adjust status pursuant to INA §209(b), 8 U.S.C. §1159(b) and unlawfully delay their adjustment of status pursuant to that statute.

331. As a result, plaintiffs and class members have suffered irreparable harm and damages entitling them to injunctive and other relief.

II.

Violation of 8 C.F.R. §209.2(a)(1) (Waiting List)

332. Plaintiffs incorporate paragraphs 1 through 331 as if set forth in full herein.

333. Defendants' practices, policies, conduct, and failures to act as alleged herein violate 8 C.F.R. §209.2(a)(1) because defendants have not maintained a priority waiting list based on the date each plaintiff's and class member's adjustment application was filed, and do not adjust plaintiffs or class members in the order in which they filed their applications.

334. As a result, plaintiffs and class members have suffered irreparable harm and damages entitling them to injunctive and other relief.

III.

Violation of Pub. L. No. 105-277, Title I, §128 (Iraqi Kurds); Pub. L. No. 106-429, §586 (Indochinese parolees); Pub. L. No. 106-378 (Syrian Jews) (Exempt Plaintiffs)

335. Plaintiffs incorporate paragraphs 1 through 334 as if set forth in full herein.

336. Defendants' practices, policies, conduct, and failures to act as alleged herein violate Pub. L. No. 105-277, Title I, §128; Pub.L. No. 106-429, §586; Pub.L.No. 106-378 in that defendants are not exempting those asylees, including Class V members, who are exempt from the 10,000 cap and should be adjusted notwithstanding the asylee adjustment backlog.

337. As a result, plaintiffs and class members have suffered irreparable harm and damages entitling them to injunctive and other relief.

IV.

Violation of INA §208(c)(1)(B), 8 U.S.C. 1158(c)(1)(B) (Employment Authorization Documents)

338. Plaintiffs incorporate paragraphs 1 through 337 as if set forth in full herein.

339. Defendants' practices, policies, conduct, and failures to act as alleged herein violate INA §208(c)(1)(B), 8 U.S.C. §1158(c)(1)(B) in that defendants require many

plaintiffs and Class IV members to apply for and renew EADs in order to be employed when their right to employment is incident to their status as asylees.

340. As a result, plaintiffs and class members have suffered irreparable harm and money damages entitling them to injunctive and other relief.

V.

Violation of Administrative Procedures Act, 5 U.S.C. §§702 and 706

341. Plaintiffs incorporate paragraphs 1 through 340 as if set forth in full herein.

342. Defendants' practices, policies, conduct, and failures to act as alleged herein violate, inter alia, the Administrative Procedures Act, 5 U.S.C. §§ 702 and 706, because agency action is unlawfully withheld or unreasonably delayed under §706(1).

343. As a result, plaintiffs and class members have suffered irreparable harm and money damages entitling them to injunctive and other relief.

VI.

Violation of the Fifth Amendment, Due Process and Equal Protection Clauses

344. Plaintiffs incorporate paragraphs 1 through 343 as if set forth in full herein.

345. Defendants' practices, policies, conduct, and failures to act as alleged herein violate plaintiffs' and class members' rights to due process and equal protection of law protected by the Fifth Amendment to the United States Constitution.

346. As a result, plaintiffs and class members have suffered irreparable harm and damages entitling them to injunctive and other relief.

RELIEF REQUESTED

Wherefore, plaintiffs respectfully ask that the Court:

- a) Permit this case to proceed as a class action and certify the classes as and when requested by plaintiffs;
- b) Declare that defendants' acts and omissions complained of herein violate the INA, defendants' regulations, the Administrative Procedures Act, and the Due Process and Equal Protection Clauses of the Fifth Amendment;
- c) Preliminarily and permanently enjoin defendants as and when requested by plaintiffs;
- d) Order defendants to make an accounting of the precise number of asylee adjustment numbers not allocated or used in each of the preceding 10 fiscal years and to publish the accounting in the Federal Register, and elsewhere;
- e) Order defendants to arrange all pending adjustment applications filed by plaintiffs and class members in the chronological order in which the applications were properly filed;
- f) Order defendants to determine the number of asylee adjustment numbers currently available for plaintiffs and class members, including all those the defendants did not allocate or that were unused in prior fiscal years, and then to immediately distribute all of those asylee adjustment numbers and adjust the status of waiting plaintiffs and class members, in the proper first in-first out order;
- g) Order defendants to put and keep in place measures to assure that all available asylee adjustment numbers are allocated in the current and each future fiscal year and that those numbers are allocated in chronological order based on date of filing;

h) Order defendants to segregate out from the asylee adjustment waiting list any and all exempt plaintiffs and class members, adjust their status immediately, and deduct those numbers from the waiting list;

i) Order defendants to put and keep measures in place to identify and exclude from the asylee adjustment waiting list any and all exempt asylees;

j) Order defendants to publish quarterly, in the Federal Register and elsewhere, particulars regarding the asylee adjustment waiting list, including, but not limited to, the number of asylee adjustment numbers remaining to be distributed in this fiscal year, an accurate cut-off date, and the expected wait for adjustment for asylees who filed by particular dates;

k) Order defendants to refrain from requiring plaintiffs and class members to apply for and/or renew an EAD;

l) Order defendants to refrain from requiring multiple sets of fingerprints and multiple medical examinations of plaintiffs and class members who are waiting to adjust, by, for example, requiring the submission of a set of fingerprints and a medical examination report only when there is an asylee adjustment number available and the asylee is almost ready to adjust status;

m) Order the defendants to properly record plaintiffs' and class members' adjustment dates to credit plaintiffs and class members for time they improperly spent waiting to adjust status, toward the five-year waiting period for naturalization.

n) Award the plaintiffs their attorneys' fees and costs under the Equal Access to Justice Act, and;

o) Grant such other relief as the Court deems just, equitable and proper.

Respectfull submitted this _____ day of October, 2002.

By _____

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