

1  
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

NORTHWEST IMMIGRANT RIGHTS ) Case No. 88-379R  
PROJECT, ET AL. )  
PLAINTIFFS, ) STIPULATION OF SETTLEMENT  
vs. )  
U.S. CITIZENSHIP AND IMMIGRATION )  
SERVICES, ET AL. )  
DEFENDANTS. )  
\_\_\_\_\_ )  
)

///

1 Plaintiffs in the above captioned matter, on behalf of themselves, the Class and all  
2 Class Members (as defined below), and Defendants Alberto R. Gonzales, the Attorney  
3 General of the United States, the United States Department of State, the Department of  
4 Homeland Security, by and through their undersigned counsel, hereby enter into this  
5 Stipulation and Agreement of Settlement, subject to the approval of the Court pursuant to  
6 Rule 23 of the Federal Rules of Civil Procedure.

7 WHEREAS:

8 1. Wherever used in this Stipulation, the following terms have the meanings set forth  
9 below:

10 a. "Action" means the above-captioned action pending in the United States  
11 District Court for the Western District of Washington (docket No.88-379R).

12 b. "Class member" means any Person included in the Class.

13 c. "Effective Date of Settlement" or "Effective Date" means the date upon  
14 which the Settlement contemplated by this Stipulation shall become effective, as set forth  
15 in paragraph 20 below.

16 d. "Plaintiff" or "Named Plaintiff" means the plaintiffs identified in the  
17 amended complaint filed February 6, 2004, in this Action and "Defendant" or  
18 "Defendants" means the defendants identified in the same complaint.

19 e. "Plaintiffs' Counsel" or "Class Counsel" means Peter Schey and Carlos  
20 Holguin, Center for Human Rights and Constitutional Law, 256 S. Occidental Blvd., Los  
21 Angeles, CA 90057, and Robert Gibbs and Robert Pauw, Gibbs, Houston Pauw, 1000  
22 Second Ave, Suite 1600. Seattle, WA 98104.

23 f. "Released Parties" means any and all of the Defendants, their predecessors  
24 and successors, their departments or agencies, and their past or present agents,  
25 employees, and contractors.

26 g. "Settled Claims" means any and all actions, suits, claims, demands, rights,  
27 liabilities, and causes of action, of every nature and description, whether known or  
28 unknown, accrued or unaccrued, whether based on federal, state, local, statutory or

Settlement

1 common law or any other law, rule or regulation, that were asserted or that could have  
2 been asserted or could be asserted in any forum, that the Plaintiffs, the Class, the Class  
3 Members or any of them, or any of their heirs, representatives, attorneys, successors,  
4 assigns, and any person they represent, in the past had, now have, or might in the future  
5 have against the Defendants or any of them, which regard, concern, relate to, refer to,  
6 arise out of, or are based upon, in any way: (a) the allegations, transactions, facts, matters,  
7 occurrences, representations, omissions, disclosures, statements, failure to disclose or  
8 action involved, set forth, referred to or that were, could be, or could have been asserted  
9 in the Action, whether known or unknown, including without limitation Unknown  
10 Claims as herein defined, and whether or not concealed or hidden; or (b) the Defendants'  
11 defense of or settlement of the Action. Provided, however, that the definition of Settled  
12 Claims shall not in any way impair or restrict the rights of the settling parties to enforce  
13 the settlement via the dispute resolution provisions of this Stipulation at paragraphs 7 and  
14 16. As used herein, "Unknown Claims" shall mean any and all actions, suits, claims,  
15 demands, rights, liabilities, and causes of action that the Plaintiffs, the Class, or any of the  
16 Class Members do not know of or suspect to exist in their favor at the time of the release  
17 of the Released Parties, including but not limited to those that, if known by them, might  
18 have affected their agreement to the Settlement. Any plaintiff or class member whose  
19 application for legalization pursuant to Immigration and Nationality Act ("INA") section  
20 245A is timely made under this settlement stipulation and is denied, may seek judicial  
21 review of such denial only under INA section 245A(f)(4)(A) in the appropriate court of  
22 appeals, upon review of a final order of removal (including a final order of deportation or  
23 exclusion).

24 h. "Settlement" means the settlement contemplated by this Stipulation.

25 2. Defendants deny all liability with respect to the Action, deny that they have  
26 engaged in any wrongdoing, deny the allegations in the Complaint filed in the Action,  
27 deny that they committed any violation of law, deny that they acted improperly in any  
28 way, and deny liability of any kind to the plaintiffs, the Class, or the Class Members, but

1 have agreed to the settlement and dismissal of the Action with prejudice in order to: (i)  
2 avoid the substantial expense, inconvenience, and distraction of continued protracted  
3 litigation; and (ii) finally put to rest and terminate the Action and any and all Settled  
4 Claims.

5 3. Class Counsel has conducted discussions and arms' length negotiations with  
6 Defendants' Counsel with respect to a compromise and settlement of the Action with a  
7 view to settling the issues in dispute and achieving the best relief possible consistent with  
8 the interests of the Plaintiffs, the Class, and all Class Members.

9 4. Class Counsel have concluded that the terms and conditions of this Stipulation are  
10 fair, reasonable, and in the best interests of the Plaintiffs, the Class, and all Class  
11 Members; have agreed that the Released Parties should be released from the Settled  
12 Claims pursuant to the terms and provisions of this Stipulation; and have agreed to the  
13 dismissal of the Action with prejudice, after considering the substantial benefits that the  
14 Plaintiffs, the Class, and all Class Members will receive from settlement of the Action, the  
15 risks of litigation, and the desirability of permitting the Settlement to be consummated as  
16 provided by the terms of this Stipulation.

17 NOW, THEREFORE, it is hereby STIPULATED AND AGREED, by and among the  
18 parties to this Stipulation, through their respective attorneys, subject to the approval of  
19 the Court pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, in consideration  
20 of the benefits flowing to the parties hereto from the Settlement, that the Settled Claims as  
21 against the Released Parties shall be compromised, settled, forever released, barred, and  
22 dismissed with prejudice, upon and subject to the following terms and conditions:

23 **Release; Scope and Effect of Release**

24 The obligations incurred pursuant to this Stipulation shall be in full and final  
25 disposition of the Action with prejudice and of any and all Settled Claims as against all  
26 Released Parties.

27 On the Effective Date, the Plaintiffs, the Class, and the Class Members, on behalf of  
28 themselves, their heirs, executors, administrators, representatives, attorneys, successors,

1 assigns, agents, affiliates and partners, and any Persons they represent (“Releasing  
2 Parties”), shall be deemed to have, and by operation of the Final Judgment shall have  
3 fully, finally, and forever released, relinquished, and discharged the Released Parties of  
4 and from any and all of the Settled Claims, and the Releasing Parties shall be forever  
5 barred and enjoined from bringing or prosecuting any Settled Claims against any of the  
6 Released Parties. The terms of this paragraph do not limit the operation of paragraphs 7  
7 and 16.

8 1. Class Definition

9 Members of the following class pursuant to Rule 23 of the Federal Rules of Civil  
10 Procedure are entitled to relief pursuant to this Settlement Agreement:

11 All persons who entered the United States in a non-immigrant status prior to  
12 January 1, 1982, who are otherwise *prima facie* eligible for legalization under § 245A  
13 of the INA, 8 U.S.C. § 1255a, who are within one or more of the Enumerated  
14 Categories described below in paragraph 2, and who –

- 15 A) between May 5, 1987 and May 4, 1988, attempted to file a complete  
16 application for legalization under § 245A of the INA and fees to an INS  
17 officer or agent acting on behalf of the INS, including a Qualified  
18 Designated Agency (“QDE”), and whose applications were rejected for  
19 filing (hereinafter referred to as “Sub-class A members”); or  
20 B) between May 5, 1987 and May 4, 1988, attempted to apply for legalization  
21 with an INS officer, or agent acting on behalf of the INS, including a QDE,  
22 under § 245A of the INA, but were advised that they were ineligible for  
23 legalization, or were refused legalization application forms, and for whom  
24 such information, or inability to obtain the required application forms, was a  
25 substantial cause of their failure to file or complete a timely written  
26 application (hereinafter referred to as “Sub-class B” members); or  
27  
28

- 1 C) filed a legalization application under INA § 245A and fees with an INS  
2 officer or agent acting on behalf of the INS, including a QDE, and whose  
3 application  
4 i. has not been finally adjudicated or whose temporary resident status  
5 has been proposed for termination (hereinafter referred to as “Sub-  
6 class C.i. members”),  
7 ii. was denied or whose temporary resident status was terminated,  
8 where the INS or CIS action or inaction was because INS or CIS  
9 believed the applicant had failed to meet the “known to the  
10 government” requirement, or the requirement that s/he demonstrate  
11 that his/her unlawful residence was continuous (hereinafter referred  
12 to as “Sub-class C.ii. members”).

13 **2. Enumerated Categories**

- 14 (1) Persons who violated the terms of their nonimmigrant status prior to  
15 January 1, 1982 in a manner known to the government because  
16 documentation or the absence thereof (including, but not limited to, the  
17 absence of quarterly or annual address reports required on or before  
18 December 31, 1981) existed in the records of one or more government  
19 agencies which, taken as a whole, warrants a finding that the applicant was  
20 in an unlawful status prior to January 1, 1982, in a manner known to the  
21 government.  
22 (2) Persons who violated the terms of their nonimmigrant visas before January  
23 1, 1982, for whom INS/DHS records for the relevant period (including  
24 required school and employer reports of status violations) are not contained  
25 in the alien’s A-file, and who are unable to meet the requirements of 8 C.F.R.  
26 §§ 245a.1(d) and 245a.2(d) without such records.  
27 (3) Persons whose facially valid “lawful status” on or after January 1, 1982 was  
28 obtained by fraud or mistake, whether such “lawful status” was the result of

- (a) reinstatement to nonimmigrant status;
- (b) change of nonimmigrant status pursuant to INA § 248;
- (c) adjustment of status pursuant to INA § 245; or
- (d) grant of some other immigration benefit deemed to interrupt the continuous unlawful residence or continuous physical presence requirements of INA § 245A.

**3. Notice to Class Members**

**A. General notice provisions**

Defendants shall, within sixty (60) days from the date of the Court's final approval of this Settlement Agreement pursuant to Paragraph 18 below, issue a press release and a Class Notice in English and Spanish (the texts of which are attached as Exhibit 1) announcing this Settlement Agreement. The press release, Class Notice, Class Member Worksheet (attached as Exhibit 2), and all necessary application forms shall be distributed to the media and community-based organizations according to CIS's normal procedure for doing so, with a copy of these lists provided to Class Counsel. The final Settlement, press release, Class Notice, Class Member Worksheet and Form I-687 shall at that time be posted on Defendants' web site in accordance with the regular practice for posting Forms and Settlement information on the site.

**B. Individual notice to Sub-class C class members**

Within 15 days of the district Court's final approval of this Settlement Agreement pursuant to Paragraph 18 below, Defendants shall forward an instruction to all District Offices, Regional Offices, and Service Centers to use reasonable efforts to identify Sub-class C members whose legalization applications were pending at any level of USCIS as of January 1, 2006. Within one week of issuing such instruction, Defendants shall provide a copy of the instruction to Plaintiffs' counsel. Within forty-five (45) days of the notice sent to District Offices, Regional Offices, and Service Centers, such offices shall use reasonable efforts to identify Sub-class C members whose legalization applications were pending at any level of USCIS. Defendants shall, within 90 days of the Court's final approval of this

1 Settlement Agreement pursuant to Paragraph 18 below, forward to Plaintiffs' counsel a  
2 list (in Excel format) containing the name, A Number, SSN (if available) and last known  
3 address of applicants in Sub-class C pursuant to the instruction mentioned above. This  
4 list will be provided pursuant to an agreed Protective Order, attached hereto.

5 In the event that defendants identify further potential Sub-class C members within  
6 one (1) year after providing the initial list to class counsel, defendants shall within 30 days  
7 of so identifying additional class members provide plaintiffs' counsel with the same  
8 categories of information as in the initial list of Sub-class C members.

9 **4. Application procedures**

10 **A. Distribution of application materials**

11 Within sixty (60) days of the Court's final approval of this Settlement Agreement  
12 pursuant to Paragraph 18 below and during the remainder of the application period  
13 specified in ¶ 4, Defendants shall make available at their district offices the final  
14 Settlement, press release, Class Notice and Class Member Worksheet, and Form I-687.

15 Within sixty (60) days of the Court's final approval of this Settlement Agreement  
16 pursuant to Paragraph 18 below and during the remainder of the application period  
17 specified in ¶ 4, Defendants shall make available to all persons upon oral or written  
18 request, including a request submitted through its forms webpage, a copy of Form I-687,  
19 Class Member Worksheet and instructions, and Form I-765. All forms and instructions  
20 shall be as agreed herein.

21 **B. Application Period for Sub-class A and Sub-class B Members**

22 Defendants shall, within sixty (60) to ninety (90) days after the issuance of Notices  
23 required in ¶ 3A above, commence accepting NWIRP/IAP Class Membership Worksheets  
24 and Forms I-687, Application for Status as a Temporary Resident, with fee and supporting  
25 documentation, from individuals who assert they are Sub-class A or Sub-class B class  
26 members as defined above. Defendants shall thereafter continue to accept such  
27 worksheets and applications for twelve (12) months.



1 Applications shall be deemed filed on the date postmarked in accordance with the  
2 provisions at 8 C.F.R. § 245a.12(a). All I-687 applications and motions to reopen showing  
3 prima facie eligibility under INA § 245A submitted pursuant to this Settlement  
4 Agreement shall be deemed timely filed applications under Immigration and Nationality  
5 Act § 245A.

6 **C. Application Period for Sub-class C Members**

7 **1. Applicants Who Filed Initially During the Regular Application**  
8 **Period (May 1987-May 1988) and Are Still Pending a Final Decision**  
9 **or whose Lawful Temporary Residence has been Proposed for**  
10 **Termination.**

11 Defendants shall, after the issuance of Notices required in ¶ 3A above, commence  
12 adjudicating all pending subclass C.i. applications in accordance with the terms of this  
13 Settlement Agreement. The Defendants shall, within a reasonable time, either approve  
14 the application, or send notice of this settlement agreement in the form of Exhibit 1 (either  
15 with or without a notice of intent to deny or request for evidence).

16 Class members whose timely filed applications are still pending or who have  
17 received a notice of proposed termination of the approval of their applications, may (but  
18 are not required to) submit a **NWIRP Class Member Worksheet** to the USCIS. Such  
19 **NWIRP Class Member Worksheet**, together with any available copies of their timely  
20 filed applications, receipts, and any notices that the former INS or the USCIS sent them  
21 regarding their applications to NWIRP Worksheet, USCIS, California Service Center,  
22 24000 Avila Rd. 2<sup>nd</sup> Fl., Room 2312, Laguna Niguel, CA 92677.

23 **2. Applicants Who Initially Filed During the Regular Application**  
24 **Period (May 1987-May 1988) and Have Received a Final Denial of**  
25 **Their Application or whose Lawful Temporary Residence has been**  
26 **Terminated.**

27 Applicants who initially filed during the regular application period and have  
28 received a final denial of their applications or whose Lawful Temporary Residence has  
been terminated (Subclass C.ii.) may file a class member worksheet and motion to reopen  
on Form I-290B (Notice of Appeal to the Administrative Appeals Office) with fee, at any 9  
Settlement

1 time, but no later than one year after receiving the notice under Paragraph 3B. of this  
2 agreement. If a class member worksheet and motion to reopen are to be denied as  
3 untimely under this paragraph, the Defendants shall have the burden of proving that the  
4 class member actually received the notice under Paragraph 3B of this agreement,  
5 provided that the class member files or filed the class member worksheet and motion to  
6 reopen while physically present in the United States and not from abroad. A completed  
7 **NWIRP Class Member Worksheet** and motion to reopen on Form I-290B shall be filed  
8 with fee at USCIS, PO Box 805876, Chicago, Illinois, 60680-4120.

9 All I-687 applications and motions to reopen showing prima facie eligibility under  
10 INA § 245A submitted pursuant to this Settlement Agreement shall be deemed timely  
11 filed applications under Immigration and Nationality Act § 245A.

## 12 **5. Application fees**

13 There shall be no fee for filing a Class Member Worksheet. When under this  
14 Settlement Agreement a filing fee may be charged, the fee shall be the fee applicable by  
15 regulation or Federal Register Notice at the time of filing the application(s). Class  
16 members who previously filed an I-687 with fee during the period May 5, 1987 to May 4,  
17 1988 are not required under this Settlement Agreement to pay a new I-687 fee. However,  
18 a Subclass C member whose I-687 application was previously denied, will be required to  
19 pay the current motion to reopen filing fee to reopen the application

20 All class member applicants must file a Form I-765 with fee if they wish to receive  
21 employment authorization. All applicants must pay the standard biometrics fee.

22 Applications timely filed and pending as of the date of this Settlement Agreement  
23 under the settlements in *Catholic Social Services, Inc. v. Reno*, CIV No. S-86-1343 LKK (E.D.  
24 Cal.), or *Newman; et al. v. Bureau of Citizenship and Immigration Services, et al.*, Civ. No. 87-  
25 4757-WDK (C.D. Cal.), shall be adjudicated in accordance with the adjudications  
26 standards described below in Paragraph 8B. No further fee is required of such applicants  
27 in order for these provisions to apply.

1 Applications timely filed and pending as of the date of this Settlement Agreement  
2 under § 1104 of the Legal Immigration Family Equity Act (LIFE Act), Title XI of H.R. 5548,  
3 enacted by reference in Public Law 106-553 (Dec. 21, 2000), and the LIFE Act  
4 Amendments, Title XV of H.R. 5666, *enacted by reference in* Public Law 106-554 (Dec. 21,  
5 2000), shall be adjudicated in accordance with the adjudications standards described  
6 below in ¶ 8B. No further fee is required of such applicants in order for these provisions  
7 to apply.

8 CSS, *Newman*, and LIFE Act § 1104 applicants whose applications have been denied  
9 but are approvable under the standards established in this settlement may file motions to  
10 reopen in accordance with ¶ 4C2 above.

## 11 **6. Adjudication of Class Member Worksheets**

### 12 **A Adjudicatory standard**

13 NWIRP Class Membership Worksheets shall be approved if, based on responses to  
14 questions asked on the Worksheet, it appears more probable than not that the applicant  
15 meets the class definition. A determination that an applicant is a class member is not  
16 binding on Defendants for the purposes of an adjudication on the merits of the  
17 application for temporary residence, which shall be conducted *de novo*. Class Member  
18 Worksheets and any accompanying evidence of entry on a non-immigrant visa prior to  
19 January 1, 1982, shall not be disapproved solely because applicants do not possess  
20 Government-issued records establishing class membership. Applicants, other than  
21 Subclass C members, shall attach to the Class Member Worksheet any available evidence  
22 regarding their non-immigrant entry into the United States before January 1, 1982,  
23 including, for example, copies of passports, entry stamps, visa applications, I-94's, I-20's,  
24 airline travel records, documents showing that they were present in the United States in  
25 non-immigrant status prior to or shortly after January 1, 1982, or credible declarations  
26 regarding entry prior to January 1, 1982 with a non-immigrant visa. If an applicant does  
27 not possess or is unable to obtain this type of evidence, the applicant may submit a sworn  
28 statement including the U.S. Consulate where the pre-1982 non-immigrant visa was

1 applied for, the approximate date that it was obtained, the type of visa obtained, the  
2 approximate date when the visa was used to enter the United States, where the applicant  
3 entered the United States using the non-immigrant visa, and a brief description of any  
4 activities that the class member engaged in consistent with the terms of the visa  
5 immediately after entering the United States. Applicants may also request that the USCIS  
6 check its records, prior to an adjudication of the Worksheet, to determine if any evidence  
7 exists of the alien's nonimmigrant entry prior to January 1, 1982. If the applicant has (1)  
8 failed to sign a Class Member Worksheet or I-687, or (2) failed to attach an appropriate  
9 fee, or (3) on the Class Member Worksheet or I-687 failed to state that he commenced  
10 unlawful residence prior to January 1, 1982, or (4) is clearly statutorily ineligible based on  
11 documents submitted with the application, then the application can be rejected as  
12 improperly filed, and returned to the applicant. If the application is rejected as  
13 improperly filed, then the application will be returned to the applicant with an  
14 explanation for the rejection. The applicant may resubmit the application in proper form  
15 within the filing period.

16 In order for a person to be eligible for benefits under this lawsuit, he or she must be  
17 *prima facie* eligible for legalization, as that term is defined in 8 C.F.R. § 245a.1(n). A person  
18 who claims eligibility as a derivative beneficiary (the spouse or child of a person who was  
19 turned away by INS or a QDE during the legalization application period) must establish  
20 that (1) the qualifying family relationship existed at the time the primary applicant was  
21 turned away by INS or a QDE; and (2) he or she is otherwise eligible for legalization in his  
22 or her own right.

23 **B Notice of intent to deny**

24 Before denying an application for class membership, Defendants shall forward the  
25 applicant or his or her representative a notice of intended denial explaining the perceived  
26 deficiency in the applicant's Class Member Worksheet and providing the applicant thirty  
27 (30) days to submit additional written evidence or information to remedy the perceived  
28 deficiency.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**C Written notice of reasons for denying class member worksheet**

Defendants shall send a written notice of any decision to deny a Class Member Worksheet to the applicant and to his or her attorney of record, with a copy to Class Counsel. The notice shall explain the reason for the denial of the Worksheet, and notify the applicant of his or her right to seek review of such denial by a Special Master, on the document attached as Exhibit 3. On review, neither Defendants nor the applicant shall be permitted to submit new evidence to the Special Master.

**D. Approval of Class Member Worksheet of Applicants under Subclass C.ii.**

Upon approval of the Class Member Worksheet for Applicants under Subclass C.ii., the Defendants shall reopen the denied I-687 or termination proceedings under 8 C.F.R. § 245a.2(u). Defendants shall adjudicate the reopened forms I-687 and termination proceedings under the terms of paragraph 8 of this Agreement.

**7. Review by Special Master**

**A. Selection of the Special Master.**

Each party shall select one person, from a list of three names recommended by the other party, to serve as a Special Master. Appeals from denial of applications for class membership shall be assigned randomly to a Special Master. The two Special Masters shall jointly designate the mailing address for appeals and determine procedures for random assignment.

**B. Review of Decisions Involving Determination of Class Membership.**

Any decision by the Defendants denying an application for class membership may be appealed to a Special Master. Any such appeal must be post-marked within thirty (30) days of the date of mailing of the notice denying the application for class membership. The Special Master's review shall be a record review, based on the documents and other evidence submitted by the applicant, and any documentary evidence relied upon by the Defendants in reaching the decision to deny the application for class membership.

The Special Master shall be paid a fee of \$125 for adjudicating each appeal under this subparagraph. Payment of this fee shall be borne by the applicant. If the applicant

1 prevails, and it is determined to be a class member, the fee of \$125 shall be refunded to the  
2 Applicant by defendants as court costs per order of the Special Master.

3 **C. Review of Other Decisions.**

4 An applicant who believes that Defendants have violated his or her individual  
5 rights pursuant to ¶¶ 3, 4, 5, 6, 10B, or 11, of this Settlement Agreement may file a claim  
6 with the Special Master. However, prior to filing any such claim, the applicant must  
7 advise Defendants by certified mail, or other documented delivery service to an address  
8 specified by Defendants, within 90 days of the discovery of the alleged violation that he or  
9 she believes that Defendants have violated his or her rights under such paragraphs.  
10 Defendants shall have forty-five (45) days from the date they are notified of the  
11 applicant's intent to file a claim under this paragraph in which to investigate and, if  
12 appropriate, rectify any deficiency. If within fifty (50) days after notifying Defendants of  
13 his or her intent to file a claim, the applicant does not receive notice that Defendants have  
14 sustained the applicant's challenge, then the applicant may file his or her appeal to the  
15 Special Master. Any such appeal must be post-marked within eighty (80) days of the date  
16 the applicant advised Defendants of the alleged violation.

17 The Special Master shall be paid a fee of \$65 for adjudicating each appeal under  
18 this subparagraph C. The applicant must pay the entire fee at the time he or she files the  
19 notice of appeal. If the applicant prevails on the merits of his or her appeal, the fee of \$65  
20 shall be refunded to the Applicant by defendants as court costs per order of the Special  
21 Master.

22 **8. Adjudication of Applications for Temporary and Permanent Residence**

23 **A. General adjudicatory standards**

24 Defendants shall utilize the standards set forth in 8 C.F.R § 245a.18(d), or 8 C.F.R. §  
25 245a.2(k)(4), which ever is more favorable to the applicant. Failure to provide evidence  
26 other than affidavits shall not be the sole basis for finding that an alien failed to meet the  
27 continuous residence and physical presence requirements. For purposes of establishing  
28 residence and presence of subclass A and subclass B members within the meaning of 8

1 C.F.R. § 245a.2(b), the term “until the date of filing” shall mean until the date the alien  
2 visited an INS or QDE office consistent with the Class Definition. In evaluating the  
3 sufficiency of applicant’s proof of residence, Defendants shall take into account the  
4 passage of time and attendant difficulties in obtaining corroborative documentation of  
5 unlawful residence.

6 Where a Request for Evidence or Notice of Intent to Deny has been issued, an  
7 application shall not be denied as abandoned pursuant to 8 CFR § 103.2(b)(13) unless the  
8 applicant is notified in writing of the consequences of failure to respond, including the  
9 absence of a right to appeal, and informed of his/her right to a decision on the existing  
10 record that may be appealed if the applicant notifies the CIS that he or she does not have  
11 additional evidence to present.

12 An applicant’s appearance at an interview shall constitute a “request for a  
13 decision” based on the evidence submitted for purposes of 8 CFR § 103.2(b)(14).

14 **B. Standard for determining whether unlawful status “known to the**  
15 **Government” or “continuity” of unlawful residence.**

16 With respect to the “known to the government” requirement in INA §  
17 245A(a)(2)(b), Defendants shall adjudicate or readjudicate class members’ eligibility for  
18 temporary residence in accordance with the following procedures:

19 1. With respect to individuals within Enumerated Category 1 and the “known to  
20 the government” requirement of 8 U.S.C. § 1255a(a)(2)(B), the burden of proof shall shift  
21 as follows: an applicant must make a *prima facie* showing that prior to January 1, 1982, the  
22 applicant violated the terms of his or her non-immigrant status in a manner known to the  
23 government because documentation or the absence thereof (including, but not limited to,  
24 the absence of quarterly or annual address reports required on or before December 31,  
25 1981) existed in the records of one or more government agencies which, taken as a whole,  
26 warrants a finding that the applicant was in an unlawful status prior to January 1, 1982, in  
27 a manner known to the government. Once the applicant makes such a showing, USCIS  
28 then has the burden of coming forward with proof to rebut the evidence that the

1 applicant violated his or her status. If the USCIS fails to carry this burden, then it will be  
2 found that the alien's unlawful status was known to the government as of January 1, 1982.  
3 If USCIS does rebut the evidence that the applicant violated his status, the applicant must  
4 then show by a preponderance of the evidence that he or she was in unlawful status for  
5 some other reason and that this unlawful status was known to the government. At all  
6 times, the applicant carries the burden of persuasion to prove eligibility for legalization.  
7 Unrebutted evidence of the lack of required § 265 address reports from agency files shall  
8 establish that the applicant's unlawful status was known to the government within the  
9 meaning of 8 U.S.C. § 1255a(a)(2)(B).

10 2. With respect to individuals within Enumerated Category 2 and the "known to  
11 the government" requirement of 8 U.S.C. § 1255a(a)(2)(B), the burden of proof shall shift  
12 as follows: an applicant must make a prima facie showing that he or she violated the  
13 terms of his or her duration of status visa prior to January 1, 1982. It is presumed that the  
14 school or employer complied with the law and reported violations of status to the INS.  
15 Upon an applicant's presenting prima facie evidence that he or she violated the terms of  
16 his or her non-immigrant status, USCIS then has the burden to come forward with  
17 evidence either that unlawful status did not occur through the passage of time or to rebut  
18 the presumption that the unlawful status was reported to the government. The absence of  
19 the school or employer report in government records is not alone sufficient to rebut this  
20 presumption. If USCIS fails to carry this burden, then it will be found that the alien's  
21 unlawful status was known to the government as of January 1, 1982. If USCIS comes  
22 forward with this evidence, the applicant must show by a preponderance of the evidence  
23 that he or she is eligible for legalization under either the "passage of time" or "known to  
24 the government" standards. The applicant always has the burden of persuasion on this  
25 point.

26 3. With respect to individuals within Enumerated Category 3, defendants shall  
27 adhere to Matter of N, 19 I. & N. 760 (BIA 1988) (status obtained by fraud or mistake), in  
28 adjudicating or re-adjudicating their applications for legalization or adjustment to lawful



1 permanent resident status. The alien bears the burden of establishing that he or she  
2 obtained “lawful” status by fraud or mistake.

3 **C. Administrative appeals**

4 The Administrative Appeals Office shall adjudicate such appeals in accordance  
5 with the standards set forth in this Settlement Agreement. Applicants are entitled to work  
6 authorization during the pendency of such appeals as provided in INA § 245A. Appeals  
7 and motions to reopen properly presented to the Administrative Appeals Office showing  
8 prima facie eligibility under INA § 245A shall be deemed timely filed applications under  
9 Immigration and Nationality Act § 245A.

10  
11 **9. Issuance or Renewal of Employment Authorization and Travel Authorization**

12 **A. Employment Authorization.**

13  
14 Defendants shall issue employment authorization to class members  
15 pursuant to 8 C.F.R. § 245a.2(n) and 8 C.F.R. § 274a.12(c)(22). Class member applications  
16 for employment authorization and renewal of employment authorization shall be  
17 accepted and adjudicated in accordance with 8 C.F.R. § 274a.13.

18  
19 **B. Advance Parole**

20 Defendants shall adjudicate advance parole requests made by class members  
21 pursuant to 8 C.F.R. § 212.5(f) and 8 C.F.R. § 245a.2(m), & (n).

22  
23 **10. Time for Determining Class Membership and Legalization Applications**

24 **A. Class member worksheets**

25 Defendants shall use good faith and reasonable efforts either to approve Class  
26 Membership Worksheets or to issue notices of intended denials of same within one  
27 hundred and twenty (120) days of the date such applications are received by CIS. If a  
28

1 notice of intended denial is issued, defendants shall endeavor to issue a final decision on  
2 the application for class membership within ninety (90) days after receipt of an applicant's  
3 supplemental evidence or explanation, if any.

4 **B. Legalization applications**

5 Defendants shall use good faith and reasonable efforts to adjudicate I-687 or I-698  
6 forms filed by class members within one hundred and eighty (180) days of the approval  
7 of their Class Membership Worksheet. "Adjudication" as used in this paragraph includes  
8 the mailing of a request for additional evidence or issuance of a notice of intent to deny.  
9 The time it takes an applicant to respond to a request for additional evidence or a notice of  
10 intent to deny shall not be included in the period of adjudication.

11 **C. Adjustment for high volume**

12 If the aggregate volume of Form I-687 applications received under this Settlement  
13 Agreement and the Settlement Agreements reached in *CSS v. Ridge*, S86-1343-LKK (E.D.  
14 Cal); *Newman v. DHS*, Civ 87-4757-WDK (C.D. Cal), exceeds two hundred forty thousand,  
15 it is anticipated that the approximate processing times referenced in subparagraphs A and  
16 B above will double. In the event Defendants believe good cause exists to extend the time  
17 periods set forth above, such as in the case of excessive fraud, unexpected geographic  
18 distribution of applications and skeletal applications, Defendants shall provide Class  
19 Counsel with a written explanation of such cause and proposed alternative target periods.  
20 The parties shall meet and confer in a good faith effort to resolve any disagreements over  
21 proposed new target periods prior to petitioning this District Court pursuant to ¶ 16  
22 below.

23 **11. Confidentiality of Applications**

24 Defendants shall treat all applications, Class member worksheets, and materials  
25 filed pursuant to this Settlement Agreement, including applications for employment  
26 authorization and advance parole as confidential in accordance with 8 U.S.C. §  
27 1255a(c)(5). The confidentiality provisions in existence at the time of the access, use or  
28

1 disclosure of information in applications determines the whether the access, use or  
2 disclosure is permissible.

3 **12. Reporting on Implementation of This Agreement**

4 Defendants shall file with Plaintiffs' counsel reports of their compliance with the  
5 provisions described in ¶¶ 3-4. In addition, commencing four months after the beginning  
6 of the filing period referenced in ¶ 4, Defendants shall prepare quarterly reports setting  
7 forth the cumulative number of Class Membership applications, Forms I-687, motions to  
8 reopen, that were received, reopened, approved, denied and pending. Copies of such  
9 reports shall be provided to Class Counsel, within 30 days of the close of each quarter.

10 **13. Costs and Attorneys Fees**

11 Defendants will pay plaintiffs attorneys fees and costs, as determined by a separate  
12 agreement, hereby incorporated into this Settlement Agreement. Plaintiffs shall bear any  
13 costs incurred by plaintiffs in connection with notifying the class of the terms and  
14 conditions of this Stipulation.

15 **14. Duration of Agreement**

16 The parties agree that this Settlement Agreement will become effective on the date  
17 it is approved by the Court. This Settlement Agreement will remain in effect for one year  
18 after the Defendants adjudicate the last I-687 application filed by a class member, except  
19 insofar as provided in ¶ 4C2, with respect to which it will remain in effect indefinitely.  
20 Defendants agree to promptly notify Class Counsel of the date it adjudicates the last such  
21 application.

22 **15. Dismissal of Complaint, Dissolution of Injunctive Orders and Other Decisions**

23 In the event the district court approves this Settlement Agreement, the parties will  
24 seek dismissal of this action pursuant to Paragraph 19 below. If the district court does not  
25 approve settlement, this Settlement Agreement is null and void.

26 **16. Continuing Jurisdiction**

27 The parties agree that notwithstanding the filing and granting of any motion  
28 pursuant to ¶ 15, the district court will retain jurisdiction in this action over only the

1 matters described immediately below. Defendants reserve and do not waive any defenses  
2 that they may have to a claim brought under this paragraph, including defenses without  
3 limitation already raised in the Litigation and defenses that may arise under new laws or  
4 regulations.

5 A. Claims by Plaintiffs or Defendants that either party has engaged in a pattern  
6 and practice of refusing to implement any of the relief set forth in this Agreement.

7 B. Claims by Plaintiffs that Defendants have expressly repudiated this Agreement.

8 C. At least sixty (60) days prior to bringing any action pursuant to this provision,  
9 the parties shall meet and confer in a good faith effort to resolve any of their differences.

10 D. Any action under this provision must be brought within one year after  
11 Defendants adjudicate the last I-687 legalization application filed by a class member.

12 **17. Class Counsel**

13 Class Counsel for the purposes of this Settlement Agreement are Robert H. Gibbs  
14 and Robert Pauw, Gibbs, Houston and Pauw, 1000 Second Ave, Suite 1600, Seattle, WA  
15 98104 (206) 682-1080, and Peter Schey and Carlos Holguín, Center for Human Rights and  
16 Constitutional Law, 256 S. Occidental Blvd., Los Angeles, CA 90057 (213) 388-8693. Each  
17 document required to be served on Class Counsel under this Agreement will be served on  
18 the Class Counsel designated to receive such document by Class Counsel pursuant to this  
19 paragraph within 20 days of the Court's approving this Settlement Agreement.

20 **18. Approval of Agreement**

21 This Agreement has been approved by authorized representatives of the Secretary  
22 of the U.S. Department of Homeland Security, and the Assistant Attorney General, United  
23 States Department of Justice.

24 This Agreement is subject to approval by the United States District Court pursuant  
25 to Federal Rule of Civil Procedure 23. Concurrently with their filing of this Stipulation,  
26 Class Counsel and Defendants' Counsel shall jointly apply to the Court for preliminary  
27 Court approval of the Settlement contemplated by this Stipulation and entry of a  
28 Preliminary Approval Order, substantially in the form appended hereto as Exhibit 4.

1 Such Preliminary Approval Order will seek approval of a Notice to the Class, as well as a  
2 finding that the following satisfies the publication requirements of Fed. R. Civ. P. 23: (1)  
3 Defendants shall post the Settlement agreement and the Exhibits attached to the  
4 Settlement agreement in appropriate places on the USCIS website. [www.uscis.gov](http://www.uscis.gov); (2)  
5 Plaintiffs shall post the Settlement agreement and the Exhibits attached to the Settlement  
6 agreement in appropriate places on plaintiffs' counsels' websites.  
7 [www.centerforhumanrights.org](http://www.centerforhumanrights.org) and [www.ghp-law.net](http://www.ghp-law.net); (3) Defendants shall distribute  
8 the Settlement agreement and the Exhibits attached to the Settlement agreement to all  
9 immigration assistance providers listed, as of the Effective Date of this Settlement, on the  
10 Roster of Recognized Organizations and Accredited Representatives maintained by the  
11 Executive Office for Immigration Review pursuant to 8 C.F.R. § 292 and § 1292, and the  
12 Pro Bono Program section of the EOIR website.

13 **19. Terms of Order and Final Judgment**

14 If the Settlement contemplated by this Stipulation is approved by the Court,  
15 counsel for the parties shall request that the Court enter Final Judgment and dismissal of  
16 this action substantially in the form appended hereto as Exhibit 5.

17 **20. Effective Date of Settlement, Waiver or Termination**

18 The Effective Date of this Stipulation shall be the date when all the following shall  
19 have occurred:

- 20 (A) entry of the Preliminary Approval Order in all material respects in  
21 the form appended hereto as Exhibit 4;
- 22 (B) approval by the Court of the Settlement, following notice to the Class  
23 and a hearing, as prescribed by Rule 23 of the Federal Rules of Civil Procedure; and
- 24 (C) entry by the Court of Final Judgment, in all material respects in the  
25 form appended hereto as Exhibit 5, and the expiration of any time for appeal or review of  
26 such Final Judgment, or, if any appeal is filed and not dismissed, after such Final  
27 Judgment is upheld on appeal in all material respects and is no longer subject to review  
28 upon appeal or review by writ of certiorari, or, in the event that the Court enters an order

1 and final judgment in a form other than that provided above (“Alternative Judgment”)  
2 and none of the parties hereto elects to terminate this Settlement, the date that such  
3 Alternative Judgment becomes final and no longer subject to appeal or review by writ of  
4 certiorari.

5 **21. Termination of Settlement and Stipulation**

6 Defendants’ Counsel or Class Counsel shall have the right to terminate the  
7 Settlement and this Stipulation by providing written notice of their election to do so  
8 (“Termination Notice”) to all other parties hereto within thirty (30) days of (a) the Court’s  
9 declining to enter the Preliminary Approval Order or modification of that Preliminary  
10 Approval Order in any material respect; (b) the Court’s declining to approve the  
11 Settlement embodied in this Stipulation, or any material part of it; (c) the Court’s  
12 declining to enter the Final Judgment or modification of the Final Judgment in any  
13 material respect; (d) the date upon which the Final Judgment is modified, reversed, or  
14 vacated in any material respect by the Court, the Court of Appeals or the United States  
15 Supreme Court; or (e) the date upon which an Alternative Judgment is modified,  
16 reversed, or vacated in any material respect by the Court, the Court of Appeals or by the  
17 United States Supreme Court.

18 Except as otherwise provided herein, in the event the Settlement is terminated or  
19 modified in any material respect or fails to become effective for any reason, then the  
20 Settlement shall be without prejudice and none of its terms shall be effective or  
21 enforceable; the parties to this Stipulation shall be deemed to have reverted to their  
22 respective status in the Action as of the date and time immediately prior to the execution  
23 of this Stipulation; and except as otherwise expressly provided, the parties shall proceed  
24 in all respects as if this Stipulation and any related orders had not been entered. In the  
25 event the Settlement is terminated or modified in any material respect, the Defendants  
26 shall be deemed not to have waived, modified, or be estopped from asserting any  
27 additional defenses available to them.

1 **22. No Admission of Wrongdoing**

2 This Stipulation, whether or not consummated, and any proceedings taken  
3 pursuant to it:

4 (A) shall not be construed to waive, reduce or otherwise diminish the  
5 authority of the Defendants to enforce the laws of the United States against class members  
6 notwithstanding the terms of this Stipulation, consistent with the Constitution and laws of  
7 the United States.

8 (B) shall not be offered or received against the Defendants as evidence of,  
9 or construed as or deemed to be evidence of, any presumption, concession, or admission  
10 by any of the Defendants of the truth of any fact alleged by the Plaintiffs or the validity of  
11 any claim that had been or could have been asserted in the Action or in any litigation, or  
12 the deficiency of any defense that has been or could have been asserted in the Action, or  
13 of any liability, negligence, fault, or wrongdoing of the Defendants; or any admission by  
14 the Defendants of any violations of, or failure to comply with, the Constitution, laws or  
15 regulations.

16 (C) shall not be offered or received against the Defendants as evidence  
17 that failure to provide documents within the time frame set forth herein, or within any  
18 time frame, is unjustified or illegal; and

19 (D) shall not be offered or received against the Defendants as evidence of  
20 a presumption, concession, or admission of any liability, negligence, fault or wrongdoing,  
21 or in any way referred to for any other reason as against any of the parties to this  
22 Stipulation, in any other civil, criminal, or administrative action or proceeding, other than  
23 such proceedings as may be necessary to effectuate the provisions of this Stipulation;  
24 provided, however, that if this Stipulation is approved by the Court, Defendants may  
25 refer to it and rely upon it to effectuate the liability protection granted them hereunder.

26 **23. Additional Provisions**

27 A. This Stipulation, and the obligations incurred herein, shall be in full and  
28 final disposition of the Action with prejudice and any and all Settled Claims against

1 Defendants. On the Effective Date, Plaintiffs shall be deemed to have fully, finally, and  
2 forever released, relinquished, and discharged the defendants of and from any and all  
3 Settled Claims.

4 B. All of the exhibits attached hereto are hereby incorporated by reference as  
5 though fully set forth herein.

6 C. This Stipulation may not be modified or amended, nor may any of its  
7 provisions be waived except by a writing signed by all parties hereto or their successors-  
8 in-interest.

9 D. The headings herein are used for the purpose of convenience only and are  
10 not intended to have legal effect.

11 E. The waiver by one party of any breach of this Stipulation by any other party  
12 shall not be deemed a waiver of any other prior or subsequent breach of this Stipulation.

13 F. This Stipulation and its exhibits constitute the entire agreement among the  
14 parties hereto concerning the Settlement of the Action, and no representations, warranties,  
15 or inducements have been made by any party hereto other than those contained and  
16 memorialized in such documents.

17 G. This Stipulation may be executed in one or more counterparts. All executed  
18 counterparts and each of them shall be deemed to be one and the same instrument  
19 provided that counsel for the parties to this Stipulation shall exchange among themselves  
20 original signed counterparts.

21 H. This Stipulation shall be binding upon, and inure to the benefit of, the  
22 successors and assigns of the parties hereto.

23 I. This Stipulation shall not be construed more strictly against one party than  
24 another merely by virtue of the fact that it, or any part of it, may have been prepared by  
25 counsel for one of the parties, it being recognized by the parties that this Stipulation is the  
26 result of arms' length negotiations between the parties and that all parties have  
27 contributed substantially and materially to the preparation of this Stipulation.  
28



1 J. All counsel and any other person executing this Stipulation and any of the  
2 exhibits hereto, or any related settlement documents, warrant and represent that they  
3 have the full authority to do so and that they have the authority to take appropriate action  
4 required or permitted to be taken pursuant to the Stipulation to effectuate its terms.

5 K. Class Counsel and Defendants' Counsel agree to cooperate fully with one  
6 another in seeking Court approval of the Preliminary Order in Connection with the  
7 Settlement Proceedings, the Stipulation and Agreement of Settlement, and to promptly  
8 agree upon and execute all such other documentation as may be reasonably required to  
9 obtain final approval by the Court of the Settlement.

10  
11  
12  
13  
14  
15  
16  
17  
18 Dated: \_\_\_\_\_, 2007.

19  
20 GIBBS HOUSTON PAUW  
21 Robert H. Gibbs, WSBA 5932  
22 Robert Pauw

CENTER FOR HUMAN RIGHTS &  
CONSTITUTIONAL LAW  
Peter A. Schey  
Carlos R. Holguin

23 ALTSHULER, BERZON, NUSSBAUM,  
24 RUBIN & DEMAIN  
25 Michael Rubin  
26 177 Post Street, Suite 300  
27 San Francisco, CA 94108  
28 (415) 391-1655

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

---

Robert H. Gibbs  
WSBA Number 5932  
GIBBS HOUSTON PAUW  
1000 Second Ave, Suite 1600  
Seattle, WA 98104  
Telephone: (206) 224-8790  
Fax: (206) 689-2270  
E-mail: [rgibbs@ghp-law.net](mailto:rgibbs@ghp-law.net)

*Counsel for Plaintiffs*

---

Peter A. Schey  
Cal. Bar Number 58232  
CENTER FOR HUMAN RIGHTS  
& CONSTITUTIONAL LAW  
256 S. Occidental Blvd.  
Los Angeles, CA 90057  
Telephone: (213) 388-8693  
Fax: (213) 386-9484  
E-mail: [pschey@centerforhumanrights.org](mailto:pschey@centerforhumanrights.org)

Dated: \_\_\_\_\_, 2007.

Anthony Norwood  
David E. Dauenheimer  
U.S. Department of Justice  
Office of Immigration Litigation  
P.O. Box 878, Ben Franklin Station  
Washington, DC 20044  
202-353-9777

Robert R. Raymond  
Associate General Counsel  
U.S. Department of Homeland Security  
Citizenship and Immigration  
Services

---

David E. Dauenheimer

---

Anthony Norwood

---

Robert R. Raymond  
*Counsel for Defendants*

1  
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

NORTHWEST IMMIGRANT RIGHTS PROJECT, ) Case No. 88-379R  
ET AL., )  
Plaintiffs, ) Exhibit 1  
vs. ) CLASS NOTICE  
U.S. CITIZENSHIP AND IMMIGRATION )  
SERVICES, ET AL., )  
Defendants. )  
\_\_\_\_\_) )  
) )

IMPORTANT CLASS NOTICE

This Notice contains important information that may pertain to you. Please read it carefully.

Under the Court-approved settlement in *Northwest Immigrant Rights Project, et al., v. United States Citizenship and Immigration Services* ("NWIRP"), formerly known as *Immigrant Assistance Project v. INS* ("IAP"), certain individuals who were turned away when they attempted to apply for legalization or "amnesty" under the Immigration Reform and Control Act of 1986 may now apply for legalization.

The settlement also allows certain individuals who filed applications and whose applications were denied for certain reasons, to move to reopen the application with the United States Citizenship and Immigration Services ("CIS") to have the application decided under specified legal standards.

The individuals entitled to benefits under the Court's order are *NWIRP* class members.

## WHO IS A *NWIRP* CLASS MEMBER?

The requirements for *NWIRP* class membership are quite complex, and you should consult a qualified attorney or community-based immigrant assistance agency if you think there is any possibility that you may be a *NWIRP* class member.

In summary, you must meet three types of requirements to be a *NWIRP* class member:

- (1) General legalization requirements. You must meet all of the following general requirements for legalization:
  - (a) You entered the United States on a non-immigrant visa (for example a visitor's visa, or student visa, or temporary worker visa) prior to January 1, 1982; and
  - (b) You lived continuously and illegally in the United States from prior to January 1, 1982 until some time between May 5, 1987, and May 4, 1988, when you visited the INS or a Qualified Designated Entity ("QDE") to apply for legalization under the 1986 "amnesty" law; and
  - (c) You have not been convicted of certain criminal offenses: (1) one felony or three misdemeanors in the United States, (2) any crime involving moral turpitude, such as theft or fraud, except a single petty offense or a juvenile conviction, or (3) any drug offense, except simple possession of marijuana under 30 grams.
- (2) *NWIRP* requirements. Next, you must fall into at least one of the following three categories:
  - (a) You violated your nonimmigrant status prior to January 1, 1982 and the violation of status is evident based on a review of federal government files (for example, you worked without authorization before January 1, 1982 and you have Social Security records, tax records, or other federal government records to show income relating to your pre-1982, unauthorized work in your name; or you were here with a non-immigrant visa and before 1982, you failed to file annual or quarterly address reports with the INS, as then required by the law); or
  - (b) You entered the United States prior to January 1, 1982 as a student (on "F" or "J" visa) or as a temporary workers (on "H" or "L" visa), and you failed to maintain your status through January 1, 1982 (for example, before January 1, 1982, you dropped out of school, took less than a full course of

1 study, transferred schools without advance INS authorization, or terminated  
2 your authorized H or L employment); or

3 (c) After January 1, 1982, you obtained reinstatement to nonimmigrant status,  
4 or entry into the United States on a nonimmigrant visa, or a change of  
5 nonimmigrant status, or adjustment of status, or some other immigration  
6 benefit that apparently put you in lawful immigration status, though you  
7 did not qualify for such benefit (for example, because when you applied for  
the benefit, you did not inform INS or the consulate that you had previously  
worked without authorization).

8 (3) Filing/front-desking requirements. Finally, you must have made a significant  
9 effort to apply for legalization during the 1987-88 application year. You must have  
10 done *one* or more of the following:

11 (a) Between May 5, 1987 and May 4, 1988, you attempted to file a complete  
12 application for legalization under § 245A of the INA and fees with an INS  
13 officer or agent acting on behalf of the INS, including a QDE,<sup>1</sup> and had your  
application rejected for filing; or

14 (b) Between May 5, 1987 and May 4, 1988, you attempted to apply for  
15 legalization with an INS officer, or agent acting on behalf of the INS,  
16 including a QDE, but were advised that you were ineligible for legalization,  
17 or were refused a legalization application form, and this information, or  
18 inability to obtain an application form, was a substantial cause of your  
19 failure to file or complete a timely written application; or

20 (c) You filed an application for legalization between May 5, 1987 and May 4,  
21 1988; and

22 (i) no final decision has been made on your application and it remains  
23 pending; or

24 (ii) your application was denied, or

25 (iii) your application was initially approved and then later terminated (or  
26 proposed for termination) because your violation of status prior to  
27 January 1, 1982 was not "known to the government," or because you

---

28 <sup>1</sup> QDEs were usually community-based non-profit organizations (such as Catholic  
Charities) that were authorized to accept amnesty applications for the INS.  
Settlement

1 were reinstated to nonimmigrant status or granted a visa or some  
2 other benefit that put you in a lawful immigration status.

### 3 ANSWERS TO FREQUENTLY ASKED QUESTIONS

#### 4 • What are the benefits of class membership?

5 Certain class members who attempted to file applications (as described in the Worksheet  
6 at III) during the 1986-87 amnesty application year may apply now for legalization under  
7 the 1986 amnesty law. Class members who were able to timely file an application during  
8 the 1987-88 application year, but had their applications denied or left undecided may now  
9 have their applications decided under the specified legal standards of this settlement.

10 While their legalization applications (or requests for decision or reconsideration) are  
11 pending, class members are entitled to remain in the United States and to employment  
12 authorization. Class members may also be granted advance parole.

13 Class members whose legalization applications are approved will receive "Temporary  
14 Resident Status," and 18 months later become eligible to apply for permanent residence.

15 Class members granted temporary residence may have their spouses and children apply  
16 to remain with them in the United States under "family unity" status if the family  
17 member resided in the United States on May 4, 1988. Persons who have applied for and  
18 been granted family unity status may receive work authorization and permission to  
19 remain in the United States lawfully.

#### 20 • How do I prove I am a class member?

21 *Persons who filed during the 1987-88 application year.* Class members whose timely filed  
22 applications are still pending or who have received a notice of proposed termination of  
23 the approval of their applications, may (but are not required to) submit a **NWIRP Class  
24 Member Worksheet** to the USCIS. Such **NWIRP Class Member Worksheet**, together  
25 with any available copies of their timely filed applications, receipts, and any notices that  
26 the former INS or the USCIS sent them regarding their applications to NWIRP Worksheet,  
27 USCIS, California Service Center, 2400 Avila Rd. 2<sup>nd</sup> Fl., Room 2312, Laguna Niguel, CA  
28 92677.

*Persons who were turned away during the 1987-88 application year.* If you did not manage to  
get a legalization application on file during the 1987-88 application year, then you must  
submit a "Class Member Worksheet" and application for temporary residence (Form I-  
687) to the CIS.

USCIS will generally decide within 90 days whether or not it agrees that you are a class  
member. If the CIS thinks you are not a class member, you will be given an opportunity to  
Settlement

1 submit evidence that you are. You may do this by producing a copy of your original 1987-  
2 88 amnesty application or declarations from persons who know you tried to apply for  
3 legalization between May 1987 and May 1988, but were turned away.

4 Applicants, other than Subclass C members, shall attach to the Class Member Worksheet  
5 any available evidence regarding their non-immigrant entry into the United States before  
6 January 1, 1982, including, for example, copies of passports, entry stamps, visa  
7 applications, I-94's, I-20's, airline travel records, documents showing that they were  
8 present in the United States in non-immigrant status prior to or shortly after January 1,  
9 1982, or credible declarations regarding entry prior to January 1, 1982 with a non-  
10 immigrant visa. If an applicant does not possess or is unable to obtain this type of  
11 evidence, the applicant may submit a sworn statement including the U.S. Consulate  
12 where the pre-1982 non-immigrant visa was applied for, the approximate date that it was  
13 obtained, the type of visa obtained, the approximate date when the visa was used to enter  
14 the United States, where the applicant entered the United States using the non-immigrant  
15 visa, and a brief description of any activities that the class member engaged in consistent  
16 with the terms of the visa immediately after entering the United States.

17 If despite such evidence, the CIS still believes you are not a class member, then you may  
18 appeal to a court official, called a Special Master, who will decide whether you are a class  
19 member.

20 • How long do I have to apply for class member benefits?

21 If you were prevented from filing for legalization during the 1987-88 application year, you  
22 must submit a Class Member Worksheet and completed legalization application form to  
23 the USCIS in the 12 month period beginning \_\_\_\_\_, and ending \_\_\_\_\_. [To  
24 be inserted according to Paragraph 4B of the Settlement]

25 If you filed a legalization application during the legalization application period from May  
26 1987 to May 1988 but have never had that application decided, the USCIS will now decide  
27 your application. You may (but are not required to) send to the USCIS a class member  
28 worksheet and a letter requesting that the USCIS now make a decision on your  
29 application, and if available to you, attach copies of your application filed in 1987-88, your  
30 receipt, and any notices that the former INS or CIS sent you regarding your application.

31 If you filed a legalization application during the legalization application period from May  
32 1987 to May 1988, but the INS denied your application (and you did not file an appeal to  
33 the AAO or the AAO denied your appeal), you may file a motion to reopen (re-decide)  
34 your application within one year from the date you receive a written notice of this  
35 settlement mailed to you by the CIS.

36 • What if I have already applied for legalization as a *Catholic Social Services (CSS)* or  
37 *Newman/LULAC* class member, or have applied for residence under the LIFE Act? 5

1 Under the terms of the settlement, CIS will apply the *NWIRP* adjudication standards to  
2 *CSS/Newman* and LIFE Act applications. If your application was denied without proper  
3 consideration of the standards of Paragraph 8 of this settlement, you may ask for your  
4 *CSS/Newman* or LIFE Act case to be reopened. You must submit a Class Member  
5 Worksheet and a Form I-290B. You should consult with an attorney or community-based  
6 legal services organization about your rights and remedies.

- If I am denied legalization, will I be deported?

7 Under the amnesty law, applications and the information they contain are confidential  
8 and generally may not be used to put you into removal (deportation) proceedings.  
9 Generally, the information in your application may only be used to make a determination  
10 on your application for amnesty, or, if you commit fraud in the application, to prosecute  
11 you criminally.

- Where can I obtain forms and further information?

12 For further information and forms, go to the web site of class counsel,  
13 [www.centerforhumanrights.org](http://www.centerforhumanrights.org). and [www.ghp-law.net](http://www.ghp-law.net) Forms and information are also  
14 available on the U.S. Citizenship and Immigration Service's web site, [www.uscis.gov/](http://www.uscis.gov/)

You may also contact the lawyers representing the class:

CENTER FOR HUMAN RIGHTS & CONSTITUTIONAL LAW  
256 S. Occidental Blvd.,  
Los Angeles, CA 90057  
(213) 388-8693, exts. 104 or 109  
E-mail: [amnestycoordinator@centerforhumanrights.org](mailto:amnestycoordinator@centerforhumanrights.org)

GIBBS HOUSTON PAUW  
1000 Second Ave., Suite 1600,  
Seattle, WA 98104  
(800) 654-9155  
E-mail: [info@ghp-law.net](mailto:info@ghp-law.net).

22 Do not contact the Court for information.  
23  
24  
25  
26  
27  
28



1  
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

NORTHWEST IMMIGRANT RIGHTS PROJECT, ) Case No. 88-379R  
ET AL., )  
 ) Exhibit 2  
Plaintiffs, )  
 ) INSTRUCTIONS AND CLASS MEMBER  
vs. ) WORKSHEET  
 )  
U.S. CITIZENSHIP AND IMMIGRATION )  
SERVICES, ET AL., )  
 )  
Defendants. )  
 )  
\_\_\_\_\_ )  
 )

INSTRUCTIONS

The attached Class Member Worksheet should be completed by persons who believe they are *IAP/NWIRP* class members and who wish to apply to legalize their status under the 1986 Immigration Reform and Control Act.

Use this form if (1) the Immigration and Naturalization Service (“INS”) or a Qualified Designated Entity (“QDE”) <sup>2</sup> rejected your application and filing fees for legalization or “amnesty” between May 5, 1987 and May 4, 1988; or (2) you filed a legalization application during the 1987-88 application year, but your application was denied (or your temporary residence was revoked or proposed for revocation). You may, but are not required to, use this form if you filed a legalization application during the 1987-88 application year, but your application has still not been decided, or you have an appeal of a denial of your timely application that is still pending at the Administrative Appeals Office (AAO). You may submit whatever additional evidence you have to support your application to the United States Citizenship and Immigration Services (“USCIS”), and the your application will be adjudicated.

\_\_\_\_\_

<sup>2</sup> QDEs were usually community-based non-profit organizations (such as Catholic Charities) that were authorized to accept amnesty applications for the INS.

1 You may consult with an accredited community organization, church group or lawyer to  
2 help you fill out this form.

3 **The benefits of class membership.**

4 The primary benefit of class membership is that you will be able to apply for legalization  
5 and receive a decision based upon specified legal standards.

6 The basic issue asserted by *IAP/NWIRP* class members is that during the 1987-88  
7 legalization program the INS or QDE concluded that they were ineligible for legalization  
8 because their unlawful status was not "known to the government" prior to January 1,  
1982.

9 In *IAP/NWIRP*, it was argued that students and other "nonimmigrants" violated their  
10 status whenever they failed to report their addresses to the INS or when they failed to  
11 take the required number of units at school. Such violations were in all likelihood known  
12 to the government, precisely because the required reports were not made or because  
13 schools were required to report foreign students whenever they failed to take the required  
14 number of units. It was argued that a pre-1982 violation of status was presumptively  
15 "known to the government" if you failed to file address reports, failed to maintain full-  
16 time student status, or worked without authorization. Class members who obtained a visa  
17 or were reinstated to lawful status after January 1, 1982, based upon a false statement may  
18 also apply for consideration under the terms of this agreement.

19 Class members whose legalization applications are approved are first granted  
20 "Temporary Resident Status." Eighteen months later, these class members may apply for  
21 permanent resident status. In addition the spouses and minor, unmarried children (who  
22 arrived in the United States before 5/4/1988) of *approved* applicants may be eligible for  
23 family unity benefits (work authorization and a stay of removal) while they wait to  
24 immigrate through their newly legalized family member.

25 In addition, class member are entitled to work authorization and protection against  
26 removal (deportation) while their applications are pending.

27 **Determining whether you are an *IAP/NWIRP* class member.**

28 The requirements for *IAP/NWIRP* class membership are quite complex, and you should  
consult a qualified attorney or community-based immigrant assistance agency if you  
think there is any possibility that you may be a *IAP/NWIRP* class member.

In summary, you must meet three types of requirements to be an *IAP/NWIRP* class  
member:

- 1 (1) Basic eligibility for legalization. You must appear to meet all of the following basic  
2 requirements for legalization:
- 3 (a) You entered the United States on a non-immigrant visa (for example a  
4 visitor's visa, or student visa, or temporary worker visa) prior to January 1,  
5 1982; and
- 6 (b) You lived continuously and illegally in the United States from prior to  
7 January 1, 1982 until some time between May 5, 1987 and May 4, 1988, when  
8 you visited the INS or a Qualified Designated Entity ("QDE") to apply for  
9 legalization under the 1986 "amnesty" law; and
- 10 (c) You have not been convicted of certain criminal offenses: (1) one felony or  
11 three misdemeanors in the United States, (2) any crime involving moral  
12 turpitude, such as theft or fraud, except a single petty offense or a juvenile  
13 conviction, or (3) any drug offense, except simple possession of marijuana  
14 under 30 grams.
- 15 (2) IAP/NWIRP requirements. Next, you must fall into at least one of the following  
16 three categories:
- 17 (a) You violated your nonimmigrant status prior to January 1, 1982 and the  
18 violation of status is evident based on a review of federal government files  
19 (for example, you worked without authorization before January 1, 1982 and  
20 you have Social Security records, tax records, or other federal government  
21 records to show income relating to your pre-1982, unauthorized work in  
22 your name; or you were here with a non-immigrant visa and before 1982,  
23 you failed to file annual or quarterly address reports with the INS, as then  
24 required by the law); or
- 25 (b) You entered the United States prior to January 1, 1982 as a student (on "F"  
26 or "J" visa) or as a temporary workers (on "H" or "L" visa), and you failed  
27 to maintain your status through January 1, 1982 (for example, before  
28 January 1, 1982, you dropped out of school, took less than a full course of  
study, transferred schools without advance INS authorization, or terminated  
your authorized H or L employment); or
- (c) After January 1, 1982, you obtained reinstatement to nonimmigrant status,  
or entry into the United States on a nonimmigrant visa, or a change of  
nonimmigrant status, or adjustment of status, or some other immigration  
benefit that apparently put you in lawful immigration status, though you  
did not qualify for such benefit (for example, because when you applied for

1 the benefit, you did not inform INS or the consulate that you had previously  
2 worked without authorization).

- 3 (3) Attempt to file timely application. Finally, you must have made a significant effort  
4 to apply for legalization between May 5, 1987 and May 4, 1988.

5 You must have either filed an application for legalization or attempted to apply at  
6 an INS or QDE office between May 5, 1987 and May 4, 1988, and been denied an  
7 application form, told that you were ineligible for legalization, or told that your  
8 application for legalization would not be accepted.

8 **Proving that you meet the three requirements of IAP/NWIRP class membership.**

9 You must file an I-687 together with your Class Member Worksheet, as described below.  
10 However, if you filed an application for legalization during the application period  
11 between May 5, 1987 and May 4, 1988 and your application remains pending or was  
12 denied, you do not have to file a new I-687 form. If your application remains pending (at  
13 the District Office, Regional Office or Service Center), then you may, but are not required  
14 to, submit a Class Member Worksheet to USCIS. If your 1987-88 application was denied,  
15 you must file a motion to reopen on Form I-290B to USCIS.

14 **Filling out and filing the Notice of Class Member Worksheet and other forms.**

15 Fill in a Class Member Worksheet by checking the appropriate boxes. You can obtain this  
16 form from your local USCIS (formerly called the INS) office. Local community groups and  
17 immigration lawyers may also have the forms available. You can also obtain the forms  
18 from the USCIS web site, [www.uscis.gov](http://www.uscis.gov), or class counsels' web pages, [www.ghp-law.net](http://www.ghp-law.net), or [www.centerforhumanrights.org](http://www.centerforhumanrights.org).

19 There is no separate fee for filing a Class Member Worksheet.

20 You will need to prepare and file the following forms:

- 21
- 22 (1) If you assert that the INS or a QDE rejected your application between May 5, 1987  
23 and May 4, 1988, then you must file the Class Member Worksheet together with an  
24 Application for Status as a Temporary Resident (Form I-687).
- 25 (2) If you filed a legalization application between May 5, 1987 and May 4, 1988, but  
26 your timely application remains pending (at a District Office, Regional Office, or  
27 Service Center), then you may but are not required to file a Class Member  
28 Worksheet.
- (3) If you filed a legalization application between May 5, 1987 and May 4, 1988, but  
your application has been denied (either at the District Office, Service Center or the

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Administrative Appeals Office), then you must file a Class Member Worksheet together with a Form I-290B and filing fee.

If you request work authorization, then you must submit an Application for Employment Authorization (Form I-765) together with the filing fee. Class members are entitled to temporary employment and advance parole while their applications or timely filed appeals from any denials of class membership or legalization are pending.

Subclass A and B members (those who were turned away when they attempted to file legalization applications in 1987-88) must attach to the Class Member Worksheet any available evidence regarding their non-immigrant entry into the United States before January 1, 1982, including, for example, copies of passports, entry stamps, visa applications, I-94's, I-20's, airline travel records, documents showing that they were present in the United States in non-immigrant status prior to or shortly after January 1, 1982, or credible declarations regarding entry prior to January 1, 1982 with a non-immigrant visa. If an applicant does not possess or is unable to obtain this type of evidence, the applicant may submit a sworn statement including the U.S. Consulate where the pre-1982 non-immigrant visa was applied for, the approximate date that it was obtained, the type of visa obtained, the date when the visa was used to enter the United States, where the applicant entered the United States using the non-immigrant visa, and a brief description of any activities that the class member engaged in consistent with the terms of the visa immediately after entering the United States. Applicants may also request that the USCIS check its records, prior to an adjudication of the Worksheet, to determine if any evidence exists of the alien's nonimmigrant entry prior to January 1, 1982.

If you are filing a Class Member Worksheet together with either an I-687 or I-290B form (Subclass B or C(i)), then mail the completed Class Member Worksheet together with the appropriate forms and filing fees, and four passport photos, and the current biometrics fee, as follows. If you are sending the Worksheet and forms via U.S. Postal Service:

U.S. Citizenship and Immigration Services  
P.O. Box 805876  
Chicago, IL 60680-4120

If you are sending the Worksheet and forms via any other means:

US Citizenship and Immigration Services  
427 S. LaSalle, 3rd Floor  
Chicago, IL 60605-1029

1 If you are filing only a Class Member Worksheet to notify USCIS of your pending I-687  
2 application (Subclass C(ii)), mail the Class Member Worksheet (together with an  
3 Application for Employment Authorization, if desired) to:

4 NWIRP Worksheet  
5 USCIS  
6 California Service Center  
7 24000 Avila Road, 2<sup>nd</sup> Floor, Room 2312  
8 Laguna Niguel, CA 92677

9 Be sure to keep a copy of everything that you submit to the USCIS, including your filing  
10 fee checks or money orders. It is strongly recommended that you send your application  
11 documents by a method that provides proof of delivery, such as USPS Priority Mail with  
12 Confirmation, or FedEx, UPS or DHL. You may also send a copy of your application to  
13 class counsel at the address below.

### 14 **Filing deadline**

15 If your application was rejected between May 5, 1987 and May 4, 1988, you must submit a  
16 Class Member Worksheet and completed legalization application form to the USCIS in the  
17 12 month period beginning \_\_\_\_\_, and ending \_\_\_\_\_. [Insert dates  
18 pursuant to Paragraph 4B of the Settlement]

19 If you filed a legalization application during the May 5, 1987 and May 4, 1988 application  
20 year but the INS denied your application you may file a motion to reopen (re-decide)  
21 your application at any time but no later than one year from the date you receive a  
22 written notice of this settlement sent to you by the CIS.

### 23 **Processing your Class Member Worksheet.**

24 USCIS will decide within 120 days whether it agrees that you are a class member. If  
25 USCIS agrees that you are a class member, it will then decide your legalization  
26 application. Normally, this will take an additional 180 days.

27 If the USCIS opposes your class membership, it will issue you a Notice of Intent To Deny  
28 your class membership. You will then have 30 days to submit additional evidence that  
you are a class member. The USCIS will then have 90 days to decide whether it still  
opposes your class membership. If it does, you will have 30 days to ask a court officer,  
known as a Special Master, to decide whether you are a class member. If the Special  
Master decides that you are a class member, USCIS will then process your legalization  
application in accordance with the time limits previously described.

### **Processing your I-687 legalization application.**

1 The settlement requires the USCIS to adjudicate *IAP/NWIRP* class members' legalization  
2 applications just as though they had been filed during the original 1987-88 application  
3 year, except the USCIS will apply the specified "known to the government" and  
4 continuous unlawful residence standard.

4 While your properly filed I-687 application or Motion to Reopen is pending, you are  
5 entitled to protection against removal (deportation) and to apply for work authorization.  
6 You must apply for employment authorization by submitting a Form I-765 along with  
7 your I-687 legalization application and Class Member Worksheet. An employment  
8 authorization card (EAD) will be issued to you if the USCIS agrees you are a class  
9 member.

9 Class members whose legalization applications the USCIS intends to deny will be sent a  
10 notice of intended denial and will have at least 30 days to correct whatever problems the  
11 USCIS identifies in the legalization application.

11 Class members whose legalization applications the USCIS denies are entitled to appeal to  
12 the USCIS Administrative Appeals Office. You will have 30 days to file such an appeal. To  
13 make sure that your appeal time does not run out before you get notice of a denial, be  
14 sure to keep USCIS informed of your current address.

14 **Confidentiality.** Unless you commit fraud, all the information you submit in connection  
15 with an *IAP/ NWIRP* Class Member Worksheet or legalization application may [generally]  
16 be used only to decide those applications and, generally, may not be used to obtain a  
17 removal (deportation) order against you.

18 **Travel.** You may apply for advance parole while your application is pending by  
19 submitting a Form I-131 application, together with the applicable filing fee and photos.  
20 The Form I-131 can be submitted with your initial application or later.

20 Class counsel strongly recommends, however, that you not leave the country until after  
21 you have received Temporary Residence. Obtaining travel authorization (advance parole)  
22 does not guarantee that you are admissible to the United States, and your legalization  
23 application could also be denied while you are outside of the country.

23 **Family members.** Family members do not obtain legalization merely by being listed on  
24 your legalization application. Each applicant must qualify independently for legalization.

25 However, the spouses and unmarried children of *NWIRP* class members who become  
26 Temporary Residents are eligible to apply for "family unity" benefits if they resided in the  
27 United States on May 5, 1988. Family members granted such benefits will be permitted to  
28 stay and work lawfully in the United States until they become residents through the  
normal family-based immigration system.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**Further information. Do not contact the Court for information.** For further information and forms, go to the web site of class counsel, [www.centerforhumanrights.org](http://www.centerforhumanrights.org) and [www.ghp-law.net](http://www.ghp-law.net) Forms and information are also available on the U.S. Citizenship and Immigration Service's web site, [www.uscis.gov/graphics/index.htm](http://www.uscis.gov/graphics/index.htm).

*After you have read these information sheets, and reviewed the web pages of class counsel, you may also contact the lawyers representing the class:*

CENTER FOR HUMAN RIGHTS & CONSTITUTIONAL LAW  
256 S. Occidental Blvd.,  
Los Angeles, CA 90057  
(213) 388-8693, exts. 104 or 109  
E-mail: [amnestycoordinator@centerforhumanrights.org](mailto:amnestycoordinator@centerforhumanrights.org)

GIBBS HOUSTON PAUW  
1000 Second Ave., Suite 1600,  
Seattle, WA 98104  
(800) 654-9155  
E-mail: [info@ghp-law.net](mailto:info@ghp-law.net).



1  
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

NORTHWEST IMMIGRANT RIGHTS PROJECT, ) Case No. 88-379R  
ET AL., )  
Plaintiffs, ) CLASS MEMBER WORKSHEET  
vs. )  
U.S. CITIZENSHIP AND IMMIGRATION )  
SERVICES, ET AL., )  
Defendants. )  
\_\_\_\_\_ )  
)

///

1  
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**NWIRP Class Member Worksheet**

**Last Name                      First Name                      Middle Initial                      A Number**

\_\_\_\_\_

Please complete this Class Member Worksheet if you wish to apply for class member benefits pursuant to the settlement in *NWIRP v. U.S. Citizenship and Immigration Services ("IAP/NWIRP")*. In order to apply, answer every question on this Class Member Worksheet and staple it, with any attachments, to the top of the appropriate documents.

I am filing this Worksheet because:

a) I have previously filed for legalization, and

1. Check here:  I wish to notify USCIS that my application for legalization on Form I-687 or Form I-485 (LIFE Act) is still pending. If this applies to you, you do not need to complete the rest of this Worksheet, but merely sign the bottom of the form and mail it to

**NWIRP WORKSHEET**

**USCIS**

24000 AVILA ROAD 2<sup>ND</sup> FLOOR ROOM 2312

LAGUNA NIGUEL CA 92677

**OR**

2. Check here:  I wish to notify USCIS that my application for legalization on Form I-687 or Form I-485 (LIFE Legalization) was denied because INS/USCIS asserted that I failed to prove that my lawful nonimmigrant status expired or was unlawful prior to January 1, 1982, or that my unlawful residence after January 1, 1982 was not continuous, and I request that the application be reopened. If this applies to you, you do not need to complete the rest of this Worksheet, but merely sign the bottom of this form and send it with a completed Form I-290B and filing fee to

**USCIS**

P.O. Box 805876

Chicago, IL 60680-4120

**OR**

b) Check here:  I attempted to file during the legalization application period, May 5, 1987 to May 4, 1988 and the application was rejected, and I now wish to file as I

1 qualify for class membership as described below. If this applies to you, you need to  
2 complete the rest of the worksheet, and submit it with a completed Form I-687 and filing  
3 fee with to

4 USCIS

5 P.O. Box 805876

6 Chicago, IL 60680-4120

7 **Important:** USCIS will accept your I-687 application and Class Member Worksheet for  
8 filing so long as the following requirements are met:

- 9  The boxes checked on my Parts I, II and III below establish that I am a  
10 *IAP/NWIRP* class member, as explained in the instructions.
- 11  I have *signed* my Class Member Worksheet.
- 12  I have attached evidence available to me about my entry prior to January 1,  
13 1982, with a non-immigrant visa as described in the Instructions to this  
14 Worksheet.
- 15  I have *signed* my Form I-687 legalization application
- 16  I have included a money order or personal check for the current I-687 filing  
17 fee .
- 18  I have included a money order or personal check for the current biometrics  
19 fee

20 If your application and Worksheet does not meet the above requirements, *CIS may reject*  
21 *it and return it to you within 30 days of receipt*. If the application is rejected and  
22 returned to you as incomplete, you must correct the deficiency and re-file your  
23 application, and do so BEFORE the *IAP/NWIRP* class member filing period ends. *Rejected*  
24 *applications re-submitted after the close of the filing period will not be accepted. It is very*  
25 *important that you properly submit a complete application within the filing deadline.*

26 I General requirements

|   | Yes                      | No                       |
|---|--------------------------|--------------------------|
| A I entered the United States before January 1, 1982 on a nonimmigrant visa, and then resided in continuous unlawful status, except for brief absences, from before 1982 until the date I (or my parent or spouse) was turned away by the INS when I (or my parent or spouse) tried to apply for legalization in 1987-88. | <input type="checkbox"/> | <input type="checkbox"/> |

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

|   |   |
|---|---|
|   |   |
| B I was continuously physically present in the United States, except for brief, casual and innocent departures from November 6, 1986 until the date I (or my parent or spouse) was turned away by the INS when I (or my parent or spouse) tried to apply for legalization.  | Yes No<br><input type="checkbox"/> <input type="checkbox"/> |
| C I have <i>not</i> been convicted in the United States of one felony or three or more misdemeanors, nor have I ever been convicted of crimes, or committed acts which make me inadmissible pursuant to any provision of the Immigration and Nationality Act, including but not limited to:<br>212(a)(2)(A)(i)(I) (crime involving moral turpitude);<br>212(a)(2)(B) (multiple criminal convictions);<br>212(a)(2)(C)(controlled substance traffickers);<br>212(a)(2)(A)(i)(II) (controlled substances) ,[other than less than 30 gr. marijuana]; 212(a)(3) (security and related grounds). | Yes No<br><input type="checkbox"/> <input type="checkbox"/> |

*If you answered "yes" to IA, B and C, go on to the next section. If you answered "no" to any of these sections, stop. You are not eligible.*

II IAP/NWIRP CLASS REQUIREMENTS

|   |   |
|---|---|
| A I violated my nonimmigrant status prior to January 1, 1982 and the violation of status is evident based on a review of government files.<br><br>This category includes individuals who worked without authorization before January 1, 1982, and who have Social Security records, tax records, or other government records to show income relating to such unauthorized work in their name. It also includes individuals who failed to file annual and quarterly address reports as required under § 265 of the Immigration and Nationality Act before January 1, 1982. | Yes No<br><input type="checkbox"/> <input type="checkbox"/> |
|---|---|

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

|   |  |
|---|--|
| <p>B I entered the United States prior to January 1, 1982 as a student (on "F" or "J" visa) or as a temporary worker (on "H" or "L" visa), and I failed to maintain my status until January 1, 1982.</p> <p>This category includes individuals who dropped out of school, took less than a full course of study, or transferred schools without advance INS authorization, or who terminated their authorized employment, before January 1, 1982.</p>                   | <p>Yes No</p> <p><input type="checkbox"/> <input type="checkbox"/></p> |
| <p>C After January 1, 1982 I obtained reinstatement to nonimmigrant status, or entry into the United States on a nonimmigrant visa, or a change of nonimmigrant status, or adjustment of status, or some other immigration benefit that apparently put me in lawful immigration status, even though I did not qualify for such benefit.</p> <p>This category includes individuals who did not inform the INS that they had previously worked without authorization.</p> | <p>Yes No</p> <p><input type="checkbox"/> <input type="checkbox"/></p> |

*If you answered "yes" to any one of these three questions, then go to the following section. If you answered "no" to all of them, stop. You are not eligible.*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

III PRIOR FILING REQUIREMENT

|  |                                 |                                |
|--|---------------------------------|--------------------------------|
| A I (or my parent or spouse) visited an INS or QDE office with a complete application for legalization (Form I-687) and filing fee between May 5, 1987 and May 4, 1988, and the application and fee were rejected for filing by either the INS or the QDE. | Yes<br><input type="checkbox"/> | No<br><input type="checkbox"/> |
| B I (or my parent or spouse) visited an INS or QDE office in an attempt to apply for legalization between May 5, 1987 and May 4, 1988, and was refused application forms or was turned away by either the INS or QDE officer;                              | Yes<br><input type="checkbox"/> | No<br><input type="checkbox"/> |

*If you answered "yes" to IIIA or III B, then go to the following section. If you answered "no" to both, stop. You are not eligible.*

IV CERTIFICATION

I certify under the penalty of perjury under the laws of the Unites States of America that the above statements and the evidence submitted herewith are true and correct. I authorize the release of any information from my records that the Department of Homeland Security needs to verify the foregoing.

I understand that information I provide in connection with this Claim, or the related applications I-687, I-765, I-131, or G-639 is confidential and may not be used to arrest or deport me or for any purpose unrelated to the adjudication of this Claim except as provided in 8 U.S.C. § 1255a(c)(5).

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature

1  
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

NORTHWEST IMMIGRANT RIGHTS PROJECT, ) Case No. 88-379R  
ET AL., )  
Plaintiffs, ) APPEAL TO SPECIAL MASTER FROM DENIAL  
OF CLASS MEMBERSHIP  
vs. ) Exhibit 3  
U.S. CITIZENSHIP AND IMMIGRATION )  
SERVICES, ET AL., )  
Defendants. )  
\_\_\_\_\_ )  
)

**Instructions**

Use this form if you wish to appeal a final denial of class membership. Appeals will be decided by an *IAP/NWIRP* Special Master.

Do not use this form if you have only received a Notice of Intent to Deny your class membership application.

Mail this form, along with a copy of your Class Membership Application and the final denial of your Class Member Worksheet, to *IAP/NWIRP* Special Master, c/o Center for Human Rights and Constitutional Law, 256 S. Occidental Blvd., Los Angeles, CA 90057. With this appeal form you must enclose a check or money order in the amount of \$125 made payable to "*IAP/NWIRP* Special Master."

If you do not have a copy of your Class Member Worksheet, mail this form, your final denial, and your check or money order to the Special Master at the address listed above. The Special Master will obtain a copy of your Class Membership Worksheet.

Copy: Be sure to keep a copy of everything that you mail to the *NWIRP* Special Master.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Complete the information requested below.

Name \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Telephone (     ) \_\_\_\_\_ INS A number (if any) \_\_\_\_\_

1) Do you have and have you attached a copy of your Class Member Worksheet?  
Yes // No //

2) You must attach a copy of the *denial* of your *NWIRP* Class Member Worksheet.  
Have you attached a copy? Yes // No //

3) You must attach a check or money order payable to *IAP/NWIRP* Special Master in  
the amount of \$125. Have you attached a check or money order as required?  
Yes // No //

4) Explain why you believe your Class Member Worksheet was incorrectly denied.  
You are not required to fill in this section, but may do so if you wish. You may attach a  
separate sheet of paper with you explanation if it is too long to fit on this page.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(Please use additional sheets of paper if you need more space to explain your complaint)

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

|                                  |   |                         |
|----------------------------------|---|-------------------------|
| NORTHWEST IMMIGRANT RIGHTS       | ) | Case No. 88-379R        |
| PROJECT, ET AL.                  | ) |                         |
| PLAINTIFFS,                      | ) | [PROPOSED] ORDER OF     |
| vs.                              | ) | PRELIMINARY APPROVAL OF |
|                                  | ) | CLASS ACTION SETTLEMENT |
| U.S. CITIZENSHIP AND IMMIGRATION | ) |                         |
| SERVICES, ET AL.                 | ) | (Exhibit 4)             |
| DEFENDANTS.                      | ) |                         |
| _____                            | ) |                         |
|                                  | ) |                         |

///

1 Plaintiffs in the above captioned matter, on behalf of themselves, the Class and all  
2 Class Members, and Defendants, by and through their undersigned counsel, have entered  
3 into a Settlement agreement, as of August 2, 2007, subject to the approval of the Court.  
4 The parties have sought provisional certification of the settlement class and preliminary  
5 approval of the settlement.

6 It Is Hereby Ordered that the Settlement is preliminarily approved subject to notice  
7 to the class and final approval by the Court.

8 The settlement class is provisionally approved pursuant to Rule 23 of the Federal  
9 Rules of Civil Procedure as follows:

10 All persons who entered the United States in a non-immigrant status prior to  
11 January 1, 1982, who are otherwise *prima facie* eligible for legalization under § 245A  
12 of the INA, 8 U.S.C. § 1255a, who are within one or more of the Enumerated  
13 Categories described below in paragraph 2, and who —

- 14 A) between May 5, 1987 and May 4, 1988, attempted to file a complete  
15 application for legalization under § 245A of the INA and fees to an INS  
16 officer or agent acting on behalf of the INS, including a Qualified  
17 Designated Agency (“QDE”), and whose applications were rejected for  
18 filing (hereinafter referred to as “Sub-class A members”); or  
19 B) between May 5, 1987 and May 4, 1988, attempted to apply for legalization  
20 with an INS officer, or agent acting on behalf of the INS, including a QDE,  
21 under § 245A of the INA, but were advised that they were ineligible for  
22 legalization, or were refused legalization application forms, and for whom  
23 such information, or inability to obtain the required application forms, was a  
24 substantial cause of their failure to file or complete a timely written  
25 application (hereinafter referred to as “Sub-class B” members); or  
26 C) filed a legalization application under INA § 245A and fees with an INS  
27 officer or agent acting on behalf of the INS, including a QDE, and whose  
28 application

- 1           iii.       has not been finally adjudicated or whose temporary resident status  
2                   has been proposed for termination (hereinafter referred to as “Sub-  
3                   class C.i. members”),  
4           iv.       was denied or whose temporary resident status was terminated,  
5                   where the INS or CIS action or inaction was because INS or CIS  
6                   believed the applicant had failed to meet the “known to the  
7                   government” requirement, or the requirement that s/he demonstrate  
8                   that his/her unlawful residence was continuous (hereinafter referred  
9                   to as “Sub-class C.ii. members”).

10   **2.   Enumerated Categories**

- 11       (1)   Persons who violated the terms of their nonimmigrant status prior to  
12           January 1, 1982 in a manner known to the government because  
13           documentation or the absence thereof (including, but not limited to, the  
14           absence of quarterly or annual address reports required on or before  
15           December 31, 1981) existed in the records of one or more government  
16           agencies which, taken as a whole, warrants a finding that the applicant was  
17           in an unlawful status prior to January 1, 1982 in a manner known to the  
18           government.  
19       (2)   Persons who violated the terms of their nonimmigrant visas before January  
20           1, 1982, for whom INS/DHS records for the relevant period (including  
21           required school and employer reports of status violations) are not contained  
22           in the alien’s A-file, and who are unable to meet the requirements of 8 C.F.R.  
23           §§ 245a.1(d) and 245a.2(d) without such records.  
24       (3)   Persons whose facially valid “lawful status” on or after January 1, 1982 was  
25           obtained by fraud or mistake, whether such “lawful status” was the result of  
26           (a)   reinstatement to nonimmigrant status;  
27           (b)   change of nonimmigrant status pursuant to INA § 248;  
28           (c)   adjustment of status pursuant to INA § 245; or

1 (d) grant of some other immigration benefit deemed to interrupt the  
2 continuous unlawful residence or continuous physical presence  
3 requirements of INA § 245A.

4 In satisfaction of Rule 23(e)(1)(B) of the Federal Rules of Civil Procedure, the  
5 parties shall provide notice to the class as follows: (1) Defendants shall post the  
6 Settlement agreement and the Exhibits attached to the Settlement agreement in  
7 appropriate places on the USCIS website. [uscis.gov](http://uscis.gov) (2) Plaintiffs shall post the  
8 Settlement agreement and the Exhibits attached to the Settlement agreement in  
9 appropriate places on plaintiffs' counsels' websites [www.centerforhumanrights.org](http://www.centerforhumanrights.org) and  
10 [www.ghp-law.net](http://www.ghp-law.net) (3) Defendants shall distribute the Settlement agreement and the  
11 Exhibits attached to the Settlement agreement to all immigration assistance providers  
12 listed, as of the Effective Date of this Settlement, on the Roster of Recognized  
13 Organizations and Accredited Representatives maintained by the Executive Office for  
14 Immigration Review pursuant to 8 C.F.R. 292 and 1292, and the Pro Bono Program section  
15 of the EOIR website.

16 ///

1           Objections or comments to the Settlement agreement shall be filed with the Court  
2 no later than \_\_\_\_\_, 2007. Within thirty days thereafter the parties may respond to  
3 any objections and the Court shall proceed to consider final approval.  
4

5 IT IS SO ORDERED.

6  
7 Dated: \_\_\_\_\_, 2007

\_\_\_\_\_  
8 Honorable James L. Robart  
9 United States District Judge

10 Presented by:  
11

12  
13 \_\_\_\_\_  
14 Peter A. Schey

15  
16 \_\_\_\_\_  
17 Robert Gibbs  
18 *Attorneys for Plaintiffs*

19  
20 \_\_\_\_\_  
21 Anthony Norwood  
22 U.S. Department of Justice  
23 Office of Immigration Litigation

24  
25 \_\_\_\_\_  
26 David E. Dauheimer  
27 U.S. Department of Justice  
28 Office of Immigration Litigation  
*Attorneys for Defendants*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

|                                  |   |                     |
|----------------------------------|---|---------------------|
| NORTHWEST IMMIGRANT RIGHTS       | ) | Case No. 88-379R    |
| PROJECT, ET AL.                  | ) |                     |
| PLAINTIFFS,                      | ) | [PROPOSED] ORDER OF |
| vs.                              | ) | FINAL JUDGMENT      |
| U.S. CITIZENSHIP AND IMMIGRATION | ) | (Exhibit 5)         |
| SERVICES, ET AL.                 | ) |                     |
| DEFENDANTS.                      | ) |                     |
| _____                            | ) |                     |
|                                  | ) |                     |

///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Rule 23(e) of the Federal Rules of Civil Procedure provides:

A class action shall not be dismissed or compromised without the approval of the court, and notice of the proposed dismissal or compromise shall be given to all members of the class in such manner as the court directs.

With respect to the merits of the settlement, Rule 23(e) requires the Court to determine whether a proposed settlement in a class action is fundamentally fair, adequate, and reasonable. *Class Plaintiffs v. City of Seattle*, 955 F.2d 1268, 1276 (9th Cir. 1992). It is the settlement taken as a whole, rather than the individual component parts, that must be examined for overall fairness. *Officers for Justice v. Civil Serv. Comm'n of San Francisco*, 688 F.2d 615, 628 (9th Cir. 1982). The decision to approve or reject a settlement is committed to the sound discretion of the trial judge because he is "exposed to the litigants, and their strategies, positions and proof." *Officers for Justice*, 688 F.2d at 626 (internal quotation omitted).

For the reasons set out in the parties' Joint Statement re Final Approval of Settlement, the Court finds that the settlement is fundamentally fair, adequate and reasonable.

Accordingly,

IT IS HEREBY ORDERED that the proposed settlement is approved, and each and every claim of the Complaint, as amended, is dismissed with prejudice, and any injunctive orders and decisions of this Court are dissolved.

IT IS FURTHER ORDERED that the settlement class be certified as follows pursuant to Rule 23 of the Federal Rules of Civil Procedure as follows:

1 All persons who entered the United States in a non-immigrant status prior to  
2 January 1, 1982, who are otherwise *prima facie* eligible for legalization under § 245A  
3 of the INA, 8 U.S.C. § 1255a, who are within one or more of the Enumerated  
4 Categories described below in paragraph 2, and who —

- 5 A) between May 5, 1987 and May 4, 1988, attempted to file a complete  
6 application for legalization under § 245A of the INA and fees to an INS  
7 officer or agent acting on behalf of the INS, including a Qualified  
8 Designated Agency (“QDE”), and whose applications were rejected for  
9 filing (hereinafter referred to as “Sub-class A members”); or
- 10 B) between May 5, 1987 and May 4, 1988, attempted to apply for legalization  
11 with an INS officer, or agent acting on behalf of the INS, including a QDE,  
12 under § 245A of the INA, but were advised that they were ineligible for  
13 legalization, or were refused legalization application forms, and for whom  
14 such information, or inability to obtain the required application forms, was a  
15 substantial cause of their failure to file or complete a timely written  
16 application (hereinafter referred to as “Sub-class B” members); or
- 17 C) filed a legalization application under INA § 245A and fees with an INS  
18 officer or agent acting on behalf of the INS, including a QDE, and whose  
19 application
- 20 v. has not been finally adjudicated or whose temporary resident status  
21 has been proposed for termination (hereinafter referred to as “Sub-  
22 class C.i. members”),
- 23 vi. was denied or whose temporary resident status was terminated,  
24 where the INS or CIS action or inaction was because INS or CIS  
25 believed the applicant had failed to meet the “known to the  
26 government” requirement, or the requirement that s/he demonstrate  
27 that his/her unlawful residence was continuous (hereinafter referred  
28 to as “Sub-class C.ii. members”).



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**2. Enumerated Categories**

- (1) Persons who violated the terms of their nonimmigrant status prior to January 1, 1982 in a manner known to the government because documentation or the absence thereof (including, but not limited to, the absence of quarterly or annual address reports required on or before December 31, 1981) existed in the records of one or more government agencies which, taken as a whole, warrants a finding that the applicant was in an unlawful status prior to January 1, 1982 in a manner known to the government.
- (2) Persons who violated the terms of their nonimmigrant visas before January 1, 1982, for whom INS/DHS records for the relevant period (including required school and employer reports of status violations) are not contained in the alien's A-file, and who are unable to meet the requirements of 8 C.F.R. §§ 245a.1(d) and 245a.2(d) without such records.
- (3) Persons whose facially valid "lawful status" on or after January 1, 1982 was obtained by fraud or mistake, whether such "lawful status" was the result of
  - (a) reinstatement to nonimmigrant status;
  - (b) change of nonimmigrant status pursuant to INA § 248;
  - (c) adjustment of status pursuant to INA § 245; or
  - (d) grant of some other immigration benefit deemed to interrupt the continuous unlawful residence or continuous physical presence requirements of INA § 245A.

Dated: \_\_\_\_\_, 2007

\_\_\_\_\_  
Honorable James L Robart  
United States District Judge

Presented by:  
Settlement

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

---

Peter A. Schey

---

Robert Gibbs  
*Attorneys for Plaintiffs*

---

Anthony Norwood  
U.S. Department of Justice  
Office of Immigration Litigation

---

David E. Dauheimer  
U.S. Department of Justice  
Office of Immigration Litigation  
*Attorneys for Defendants*