

Judge Robert Lasnik

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

GABRIEL RUIZ-DIAZ, HYUN SOOK  
SONG, CINDY LEE MARSH, PETER  
GILLETTE, SALECK OULD DAH OULD  
SIDINE, PABLO SANDOVAL, YURIY  
KASYANOV, LELIA TENREYRO-VIANA,  
EDGARDO GASTON ROMERO  
LACUESTA, ROSARIO RAZO ROMERO,  
YOUN SU NAM, HAROLD MICHAEL  
CARL LAPIAN, LAND OF MEDICINE,  
UKRAINIAN AUTOCEPHALOUS  
ORTHODOX CHURCH, SEATTLE  
MENNONITE CHURCH,

Plaintiffs,

v.

UNITED STATES OF AMERICA,  
U.S. CITIZENSHIP AND IMMIGRATION  
SERVICES, U.S. DEPARTMENT OF  
HOMELAND SECURITY, U.S.  
DEPARTMENT OF JUSTICE, JONATHAN  
SCHARFEN, Acting Director of Citizenship  
and Immigration Services,<sup>1</sup> MICHAEL  
CHERTHOFF, Secretary of Department of  
Homeland Security, MICHAEL MUKASEY  
Attorney General,

Defendants.

NO. CV07-1881-RSL

PLAINTIFFS' SECOND AMENDED  
COMPLAINT

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<sup>1</sup> Jonathan Scharfen, Acting Director of Citizenship and Immigration Services is substituted for Emilio T. Gonzalez, former Director of Citizenship and Immigration Services.

## INTRODUCTION

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1. This is a class action lawsuit brought on behalf of certain religious workers who are statutorily eligible to file applications for adjustment of status under INA § 245, 8 U.S.C. § 1255, but whose applications the Citizenship and Immigration Services (CIS) refuses to accept.

2. Family-based applicants for permanent resident status and non-religious employment-based applicants for permanent resident status can file a petition for an immigrant visa and an application for adjustment of status (AOS) concurrently. Concurrent filing provides important benefits to both the applicant, and his or her family members. Once CIS accepts the application for adjustment of status for filing, the applicant is allowed to remain in the United States and obtain work authorization pending the final adjudication of the petition for an immigrant visa and the application for adjustment of status. Religious workers, however, are denied this benefit.

3. It is the policy and practice of CIS to refuse to accept the application for adjustment of status from religious workers until the associated petition for an immigrant visa has been approved. As a result, if there is a delay in the adjudication of the religious worker's petition for an immigrant visa and the applicant's nonimmigrant status expires, then that person is required to stop his or her religious work and leave the United States. Commonly, religious workers initially enter the United States in a non-immigrant capacity valid for up to five years. At the end of that time, they may either depart the U.S. or adjust status to permanent resident status if they are continuing in their religious occupation.

4. CIS acts unlawfully in refusing to accept the concurrent AOS applications filed by religious workers, when it accepts such applications from other similarly situated employment-based and family-based applicants for permanent resident status. CIS's policy and practice constitutes a violation of the Immigration and Nationality Act (INA); the First Amendment and the Equal Protection Guarantee of the United States Constitution; and the Religious Freedom Restoration Act (RFRA).



1 America (UAOC) in Brooklyn, New York. He is the beneficiary of a pending I-360 filed by the  
2 UAOC.

3 13. Plaintiff Lelia Tenreryo-Viana is a citizen of Argentina. She was admitted to the  
4 United States on a student visa and changed status to a religious worker visa (R-1 visa). She works  
5 as the Director of Music Ministry at Saint Cecilia Church in Ashland, Massachusetts. She is the  
6 beneficiary of a pending I-360 filed by St. Cecilia Church.

7 14. Plaintiff Edgardo Gaston Romero Lacuesta is a citizen of Uruguay. He was admitted  
8 to the United States on a tourist visa and changed status to a religious worker visa (R-1 visa). He  
9 works as pastor for Colonial Heights Baptist Church's Hispanic church, Iglesia Bautista Vida  
10 Abundante in Jackson, Mississippi. He is the beneficiary of a pending I-360 petition filed by  
11 Colonial Heights Baptist Church.

12 15. Plaintiff Rosario Razo Romero is a citizen of Mexico. She was admitted to the  
13 United States on a religious worker visa (R-1 visa). She works as the Christian Education  
14 Coordinator for Sol del Valle Christian School in Sun Valley, California. She is the beneficiary of a  
15 pending I-360 petition filed by Sol del Valle Christian School.

16 16. Plaintiff Youn Su Nam is a citizen of South Korea. He is currently in the United  
17 States on an unexpired religious worker visa (R-1 visa). He works as the pastor of the Korean  
18 Crystal Christian Church in Everett, Washington. He is the beneficiary of a pending I-360 petition  
19 filed by Korean Crystal Christian Church.

20 17. Plaintiff Harold Michael Carl Lapien is a citizen of Indonesia. He is currently in the  
21 United States on a religious worker visa (R-1 visa). He works as the pastor for the Indonesian  
22 Christian Reformed Church in Dover, New Hampshire. He is the beneficiary of a pending I-360  
23 petition filed by the Christian Reformed Church in North America.

24 18. Plaintiff Land of Medicine is a California nonprofit religious organization and  
25 501(c)(3) tax-exempt religious organization under the Internal Revenue Service code. Land of

1 Medicine is a Buddhist organization in the Mahayana Tibetan tradition, located in Soquel,  
2 California. Land of Medicine employs religious workers.

3 19. Plaintiff Ukrainian Autocephalous Orthodox Church (UAOC) is a 501(c)(3) tax-  
4 exempt organization under the Internal Revenue Service code. UAOC is an orthodox Christian  
5 religious organization located Westchester County, New York. UAOC employs religious workers.

6 20. Plaintiff Seattle Mennonite Church (SMC) is a Washington state nonprofit  
7 organization and is tax-exempt under section 501(c)(3) of the Internal Revenue Service code. SMC  
8 is a Christian religious organization in the Anabaptist tradition, located in Seattle, Washington.  
9 SMC employs religious workers.

10 21. Defendant United States of America is responsible for the adjudication of the  
11 applications for adjustment of status that the Plaintiffs and the class members they represent have  
12 filed or will file.

13 22. Defendant U.S. Citizenship and Immigration Services (CIS) is the administrative  
14 agency of the United States that is responsible for the adjudication of the applications for adjustment  
15 of status that the Plaintiffs and the class members they represent have filed or will file. CIS is a  
16 bureau within the Department of Homeland Security.

17 23. Defendant U.S. Department of Homeland Security is the agency of the United States  
18 that is ultimately responsible for the enforcement of immigration laws and granting immigration  
19 benefits. CIS is a bureau within the Department of Homeland Security.

20 24. Defendant U.S. Department of Justice is an agency also responsible for implementing  
21 and enforcing the Immigration and Nationality Act (INA). The Executive Office for Immigration  
22 review is an agency within the Department of Justice that has responsibility for applying the INA to  
23 persons who appear before immigration judges in removal proceedings.

24 25. Defendant Jonathan Scharfen is the Acting Director of CIS. He is responsible for  
25 the adjudication of the applications for adjustment of status that the Plaintiffs and the class members  
they represent have filed or will file. He is sued in his official capacity.



1 are eligible to remain in the United States as derivative beneficiaries for the same amount of time. 8  
2 C.F.R. § 214.2(r)(8). If approved for an R visa, the initial period of authorized stay in the United  
3 States is valid for a period of up to three years, which can be extended for a period of two additional  
4 years. 8 C.F.R. § 214.2(r)(4) and (5).

5 32. Immigrant visas are divided into family-based visas, described in INA §  
6 201(b)(2)(A), 8 U.S.C. § 1151(b)(2)(A) (immediate relatives) and § 203(a), 8 U.S.C. § 1153(a)  
7 (other family members), and employment-based immigrant visas, described in INA § 203(b), 8  
8 U.S.C. § 1153(b).

9 33. The first step in obtaining permanent resident status is for the appropriate family  
10 member or employer to file an immigrant visa petition to classify the non-citizen in the appropriate  
11 immigrant category. In the case of family-based immigrant visas, the U.S. citizen family member  
12 files a Petition for Alien Relative (Form I-130) for the benefit of the non-citizen. In the case of  
13 employment-based immigrant visas, for non-citizens who fall under the first three employment  
14 categories (INA § 203(b)(1), (2), or (3)), the U.S. employer files an Immigrant Petition for Alien  
15 Worker (Form I-140). If the non-citizen falls under the fourth employment category (INA §  
16 203(b)(4) (religious worker), then the employer (which must be a recognized religious organization)  
17 files a Petition for Special Immigrant (Form I-360). The approval of the visa petition constitutes the  
18 agency's finding that the non-citizen is classified in the appropriate immigrant category.

19 34. The second step in the immigration process is for the non-citizen to file an application  
20 for permanent resident status (application for adjustment of status) (Form I-485). If the non-citizen  
21 is lawfully in the United States on a non-immigrant visa category, he or she can adjust status in the  
22 United States pursuant to INA § 245, 8 U.S.C. § 1255, if the statutory requirements are met.  
23 Immediate family members of the primary applicant are considered derivative beneficiaries and can  
24 apply to adjust status at the same time. INA § 203(d), 8 U.S.C. § 1153(d).

1           35.     Certain individuals who would otherwise be eligible for adjustment of status may be  
2 disqualified by operation of INA § 245(c), which provides that individuals who are out of status or  
3 who have worked without authorization are not eligible for adjustment of status.

4           36.     There is no statutory requirement that before the application for adjustment of status  
5 (Form I-485) is filed, an immigrant visa petition (Form I-130, I-140, or I-360) must be approved; the  
6 statute provides only that an application for adjustment of status may be filed if the applicant is  
7 eligible to receive an immigrant visa. INA § 245(a)(2), 8 U.S.C. § 1255(a)(2).

8           37.     CIS has taken the position that an immigrant visa petition and an application for  
9 adjustment of status can be filed concurrently if the applicant is a family-based petitioner or if the  
10 applicant falls under one of the first three employment-based visa categories. In other words, under  
11 CIS policies a family-based applicant can file an I-130 and I-485 application concurrently, and a  
12 non-religious worker can file an I-140 and I-485 application concurrently. However, CIS refuses to  
13 accept concurrently filed I-360 and I-485 applications from religious workers. In other words, if the  
14 applicant is a religious worker, then CIS will refuse to accept the concurrently filed applications.

15           38.     On or about August 28, 2006, Impact Church International filed an I-360 petition for  
16 the benefit of Plaintiff Cindy Lee Marsh. At the time, Plaintiff Marsh was in the United States  
17 pursuant to an R-1 visa. On or about November 8, 2007 Plaintiff Marsh submitted an application for  
18 adjustment of status to CIS. Because of its discriminatory policies, CIS refused to accept that  
19 application for adjustment of status on December 7, 2007. As a result, according to the unlawful  
20 policies and practices of CIS, Plaintiff Cindy Marsh accrued unlawful presence in the United States  
21 since November 21, 2007, the date her R-1 visa expired. On December 7, 2007 CIS approved the I-  
22 360 petition that was filed on behalf of Plaintiff Cindy Marsh. Plaintiff Marsh has re-filed her  
23 adjustment of status application on December 28, 2007. This application remains pending.

24           39.     On or about November 16, 2007, the Church of the Nazarene filed an I-360 petition  
25 for the benefit of Plaintiff Gabriel Ruiz-Diaz, who was in the United States pursuant to a religious  
worker visa. This petition was approved on January 23, 2008. Plaintiff Ruiz-Diaz is eligible to file



1 an application for adjustment of status. On or about November 16, 2007 Plaintiff Ruiz-Diaz  
2 submitted an application for adjustment of status to CIS. Because of its discriminatory policies, CIS  
3 refused to accept this application for adjustment of status. As a result, according to the unlawful  
4 policies and practices of CIS, Plaintiff Ruiz-Diaz has accrued unlawful presence in the United States.  
5 On February 12, 2008, CIS acknowledged receipt of Plaintiff Ruiz-Diaz's re-filed application for  
6 adjustment of status. This application remains pending.

7 40. Plaintiff Hyun Sook Song is in the United States on a religious worker visa. On or  
8 about May 12, 2006, Zion Castle Church filed an I-360 petition for the benefit of Plaintiff Song. On  
9 or about July 11, 2007 Plaintiff Song submitted an application for adjustment of status to CIS.  
10 Plaintiff Song is eligible for adjustment of status. Because of its discriminatory policies, CIS refused  
11 to accept this application for adjustment of status and on August 29, 2007 CIS returned the  
12 application to Plaintiff Song. On November 27, 2007, CIS denied the I-360 petition that was filed  
13 on behalf of Plaintiff Hyun Sook Song. A timely appeal of the denial was filed with the  
14 Administrative Appeals Office of Defendant USCIS and remains pending.

15 41. On or about August 1, 2006, the Catholic Archdiocese of Seattle filed an I360  
16 petition for the benefit of Plaintiff Peter Gillette. At the time, Plaintiff Gillette was in the United  
17 States on a religious worker visa. This petition was approved on January 3, 2008. Plaintiff Gillette  
18 filed his application for adjustment of status, Form I-485, on January 29, 2008. That application  
19 remains pending. Plaintiff Gillette would have been able to file his I-485 in August 2006 but for  
20 CIS's discriminatory policies. As a result, according to the unlawful policies and practices of CIS,  
21 Plaintiff Peter Gillette has accrued unlawful presence in the United States.

22 42. On or about October 15, 2005, the Zaytuna Institute filed an I-360 petition for the  
23 benefit of Plaintiff Saleck Ould Dah Ould Sidine, who was in the United States on a religious worker  
24 visa. This petition was approved on January 31, 2008. Plaintiff Sidine is eligible to file an  
25 application for adjustment of status. On or about June 12, 2007, Plaintiff Sidine submitted an  
application for adjustment of status to CIS. Because of its discriminatory policies, CIS refused to

1 accept this application for adjustment of status and on June 22, 2007, CIS returned the application to  
2 Plaintiff Sidine. As a result, according to the unlawful policies and practices of CIS, Plaintiff Sidine  
3 has accrued unlawful presence in the United States. On February 21, 2008, CIS acknowledged  
4 receipt of Plaintiff Sidine's re-filed application for adjustment of status. That application remains  
5 pending.

6 43. On or about April 9, 2007, Worldwide Missionary Movement, Inc. filed an I-360  
7 petition for the benefit of Plaintiff Pablo Sandoval, who was in the United States on a religious  
8 worker visa. This petition has not been approved and is still pending. Plaintiff Sandoval is eligible  
9 to file an application for adjustment of status. Plaintiff Sandoval desires to file an application for  
10 adjustment of status but he is prevented from doing so because of CIS's discriminatory policies.  
11 Plaintiff Sandoval would file an application for adjustment of status but for CIS's discriminatory and  
12 unlawful policy of refusing to accept concurrent filings from religious workers.

13 44. On June 29, 2006, Ukrainian Autocephalous Orthodox Church of North and South  
14 America filed an I-360 petition for the benefit of Plaintiff Yuriy Kasyanov, who was in the United  
15 States on a religious worker visa. This petition has not been approved and is still pending. Plaintiff  
16 Kasyanov is eligible to file an application for adjustment of status. Plaintiff Kasyanov filed an  
17 application for adjustment of status on March 23, 2008, but because of CIS's discriminatory policies,  
18 it refused to accept this application. As a result, according to the unlawful policies and practices of  
19 CIS, Plaintiff Yuriy Kasyanov has accrued unlawful presence in the United States.

20 45. St. Cecilia Church filed an I-360 petition for Plaintiff Lelia Tenreyro-Viana's benefit,  
21 which was received by CIS on March 30, 2007. At the time, Plaintiff Tenreyro-Viana was in the  
22 United States on a religious worker visa. That petition remains pending. Plaintiff Tenreyro-Viana is  
23 eligible to file an application for adjustment of status. Plaintiff Tenreyro-Viana would file an  
24 application for adjustment of status but for CIS's discriminatory and unlawful policy of refusing to  
25 accept concurrent filings from religious workers. As a result, according to the unlawful policies and  
practices of CIS, Plaintiff Cindy Marsh has accrued unlawful presence in the United States.

1           46. Colonial Heights Baptist Church filed an I-360 petition for Plaintiff Edgardo Gaston  
2 Romero Lacuesta's benefit, which was received by CIS on April 12, 2007. At the time, Plaintiff  
3 Romero Lacuesta was in the United States on a religious worker visa. This petition remains  
4 pending. Plaintiff Romero Lacuesta is eligible to file an application for adjustment of status.  
5 Plaintiff Romero Lacuesta would file an application for adjustment of status but for CIS's  
6 discriminatory and unlawful policy of refusing to accept concurrent filings from religious workers.  
7 As a result, according to the unlawful policies and practices of CIS, Plaintiff Romero Lacuesta has  
8 accrued unlawful presence in the United States.

9           47. On November 8, 2007 Sol del Valle Christian School filed an I360 petition for  
10 Plaintiff Rosario Razo Romero's benefit. At the time, Plaintiff Razo Romero was in the United  
11 States on a religious worker visa. This petition remains pending. Plaintiff Razo Romero is eligible  
12 to file an application for adjustment of status. On April 30, 2008, Plaintiff Razo Romero filed an  
13 application for adjustment of status. Due to its discriminatory and unlawful policy, CIS has or will  
14 refuse to accept this application. As a result, according to the unlawful policies and practices of CIS,  
15 Plaintiff Razo Romero has accrued unlawful presence in the United States.

16           48. Plaintiff Youn Su Nam is in the United States on a religious worker visa. On March  
17 19, 2007, Korean Crystal Christian Church filed an I-360 petition for Plaintiff Nam's benefit. This  
18 petition remains pending. Plaintiff Nam is eligible to file an application for adjustment of status.  
19 Plaintiff Nam would file an application for adjustment of status but for CIS's discriminatory and  
20 unlawful policy of refusing to accept concurrent filings from religious workers.

21           49. Plaintiff Harold Michael Carl Lopian is in the United States on a religious worker  
22 visa. On January 8, 2008, Christian Reformed Church in North America filed an I-360 for Plaintiff  
23 Lopian's benefit. This petition remains pending. Plaintiff Lopian is eligible to file an application for  
24 adjustment of status. Plaintiff Lopian would file an application for adjustment of status but for CIS's  
25 discriminatory and unlawful policy of refusing to accept concurrent filings from religious workers.

1           50. Plaintiff Land of Medicine currently employs approximately eight religious workers  
2 who were admitted to the United States on R visas. Land of Medicine has filed I-360 petitions on  
3 behalf of two of these workers. Land of Medicine intends to employ these two workers on a  
4 permanent basis, and would file or would have filed concurrent I-485 applications for adjustment of  
5 status but for CIS's policy of refusing to accept such applications. Land of Medicine and its  
6 members are harmed by CIS's policy of refusing to accept concurrently filed applications for  
7 adjustment of status, and seek to challenge this policy of refusing to accept concurrently filed  
8 applications for adjustment of status on behalf of religious workers. Land of Medicine's ability to  
9 provide the religious practices necessary in the Mahayana tradition will be disrupted if their nuns,  
10 monks or other religious workers are forced to depart the country because of the expiration of their R  
11 visas, and where the I-360s filed for their religious workers' benefit remain pending. The Buddhist  
12 practitioners served by Land of Medicine will no longer be able to receive the spiritual guidance  
13 needed.

14           51. Plaintiff Ukrainian Autocephalous Orthodox Church (UAOC) currently employs  
15 approximately 15 religious workers who were admitted to the United States on religious worker  
16 visas. UAOC has filed an I-360 petition on behalf of one of these workers, and expects to file I-360  
17 petitions on behalf of additional religious workers in the near future. UAOC intends to employ these  
18 individuals on a permanent basis, and they would file concurrent I-485 applications for adjustment  
19 of status but for CIS's policy of refusing to accept such applications. UAOC and its members are  
20 harmed by CIS's policy of refusing to accept concurrently filed applications for adjustment of status,  
21 and seek to challenge this policy of refusing to accept concurrently filed applications for adjustment  
22 of status on behalf of religious workers. If UAOC's religious workers are forced to depart the  
23 country at the expiration of their R visa status and prior to the approval of their I-360 petitions,  
24 UAOC and its members will be unable to provide or participate in the religious practices essential to  
25 their faith.



1 §245.2(a)(2)(i)(B) that the Form I-360 petition must be approved before the  
 2 Form I-485 application can be filed.<sup>2</sup>

3 57. The requirements of Rules 23(a) and 23(b)(2) are met in that the class is so numerous  
 4 that joinder of all members is impracticable (plaintiffs estimate that there are at least between 500  
 5 and 1,000 individuals in the defined class); there are questions of law and fact common to the class  
 6 (whether CIS's policy codified at 8 C.F.R. § 245.2(a)(2)(i)(B) is lawful and constitutional); the  
 7 claims of the representative parties are typical of the claims of the class; the representative parties  
 8 will fairly and adequately represent the interests of the class in that their claims are typical of the  
 9 claims of the class and they are represented by pro bono counsel with extensive expertise in class  
 10 action litigation regarding the rights of immigrants; and the party opposing the class has acted on  
 11 grounds generally applicable to the class, thereby making appropriate final injunctive relief with  
 12 respect to the class as a whole.

### 13 **IRREPARABLE INJURY**

14 58. Plaintiffs, members of the class, and U.S. citizens, permanent residents, and religious  
 15 organizations who employ, worship with and associate with class members have suffered and will  
 16 suffer irreparable harm because of the challenged policies and practices of the Defendants as  
 17 described throughout this complaint.

### 18 **CAUSES OF ACTION**

19 59. The decision of CIS to refuse to accept applications for adjustment of status from  
 20 Plaintiffs and class members violates the Immigration and Nationality Act, INA § 245(a), (c) and  
 21 (k), 8 U.S.C. § 1255(a), (c) and (k), and the Due Process Clause of the United States Constitution.

22 60. The individual plaintiffs and class members of this lawsuit are statutorily eligible under INA  
 23 § 245, 8 U.S.C. § 1255, to file applications for adjustment of status. CIS's refusal to accept the

24 <sup>2</sup> This definition modifies the previous proposed definition slightly by including those who were eligible to file an  
 25 Application for Adjustment of Status, but are no longer eligible because (prior to any relief order of the court) they have  
 exceeded the 180-day grace period following the expiration of their nonimmigrant visas, making them ineligible for  
 adjustment of status under INA § 245(c) and (k).

1 applications for adjustment of status and adjudicate those applications constitutes a violation of the  
2 Immigration and Nationality Act and a violation of the Due Process Clause of the United States  
3 Constitution.

4 61. CIS's policy of refusing to accept concurrently filed I-360 and I-485 applications for  
5 the benefit of religious workers, when it accepts concurrently filed I-130 and I-485 applications for  
6 the benefit of family members and also accepts concurrently filed I-140 and I-485 applications for  
7 the benefit of non-religious workers, constitutes unlawful discrimination against religious  
8 organizations and religious workers, and violates the Equal Protection Guarantee of the United  
9 States Constitution.

10 62. CIS's policy of refusing to accept concurrently filed I-360 and I-485 applications for  
11 the benefit of religious workers, when it accepts concurrently filed I-130 and I-485 applications for  
12 the benefit of family members and also accepts concurrently filed I-140 and I-485 applications for  
13 the benefit of non-religious workers, constitutes unlawful discrimination against religious  
14 organizations and religious workers, and violates the Religious Freedom Restoration Act.

15 63. The refusal of CIS to grant employment authorization to Plaintiffs and class members  
16 who would be eligible to file applications for adjustment of status, but for CIS's policy of not  
17 accepting concurrently filed petitions for immigrant visas and applications for adjustment of status,  
18 violates the governing regulations and constitutes unlawful discrimination against religious  
19 organizations and religious workers, and also violates RFRA and the First Amendment and the  
20 Equal Protection Guarantee of the United States Constitution.

### 21 **REQUEST FOR RELIEF**

22 WHEREFORE, Plaintiffs request that this Court grant the following relief:

- 23 (1) Accept jurisdiction over the claims presented in this lawsuit;
- 24 (2) Declare that the individual plaintiffs and class members of this lawsuit are statutorily  
25 eligible to file applications for adjustment of status, and that the I-485 applications they have filed  
shall be deemed to have been filed on the date that such applications are submitted to CIS;

1 (3) Declare that CIS's refusal to accept concurrently filed petitions for religious workers  
2 (Form I-360) and applications for adjustment of status (Form I-485) violates the Equal Protection  
3 Guarantee of the United States Constitution and violates the Religious Freedom Restoration Act;

4 (4) Declare that, for purposes of INA § 245(c), 8 U.S.C. § 1255(c) and INA § 245(k), 8  
5 U.S.C. § 1225(k), individual plaintiffs and class members who have filed or will concurrently file a  
6 Petition for Immigrant Visa (Form I-360) and Application for Adjustment of Status (Form I-485) do  
7 not accrue time in which they have failed to maintain continuous lawful status, engaged in  
8 unauthorized employment, or otherwise violated the terms and conditions of their immigration  
9 status, and that no such period of time shall begin except in accordance with the orders of this Court;

10 (5) Declare that, for purposes of INA § 212(a)(9)(B), 8 U.S.C. § 1182(a)(9)(B),  
11 individual plaintiffs and class members who have filed or will concurrently file a Petition for  
12 Immigrant Visa (Form I-360) and Application for Adjustment of Status (Form I-485) do not accrue  
13 unlawful presence, and that unlawful presence shall not begin to accrue except in accordance with  
14 the orders of this Court;

15 (6) Declare that the individual plaintiffs and class members of this lawsuit who have filed  
16 or will concurrently file a Petition for Immigrant Visa (Form I-360) and Application for Adjustment  
17 of Status (Form I-485) are eligible for employment authorization pursuant to 8 C.F.R. §  
18 274a.12(c)(9), and order CIS to accept and adjudicate such applications for employment  
19 authorization (Form I-765) in the same manner that such applications filed by other family-based  
20 and employment-based applicants are adjudicated;

21 (7) Grant an award of attorneys' fees and costs;

22 (8) Grant such other relief as may be just and reasonable.

23 Dated this 15th day of May, 2008.



/s/ Robert Pauw

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***Attorneys for Plaintiffs***

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