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TONY N., KAREN M., JACK S.,  
HEGHINE MURADYAN, DAYANA  
VERA DE APONTE,  
Individually and on Behalf of All Others  
Similarly Situated,  
  
Plaintiffs,  
  
v.  
  
U.S. CITIZENSHIP & IMMIGRATION  
SERVICES; DEPARTMENT OF  
HOMELAND SECURITY; ALEJANDRO  
MAYORKAS, Secretary of Homeland  
Security; UR JADDOU, Director of USCIS  
  
Defendants.

Case No. 4:21-cv-08742-KAW

**PLAINTIFFS' MOTION FOR  
PRELIMINARY INJUNCTION AND  
PROVISIONAL CLASS  
CERTIFICATION**

Magistrate Judge Kandis A. Westmore  
Hearing: December 16, 2021, 1:30 pm

1                                   **NOTICE OF MOTION FOR PRELIMINARY INJUNCTION**  
2                                   **AND PROVISIONAL CLASS CERTIFICATION**

3                   PLEASE TAKE NOTICE that on December 16, 2021 at 1:30 pm or as soon  
4 thereafter as the matter may be heard at the Oakland Federal Courthouse, 1301 Clay Street,  
5 Oakland, CA 94612, with the Honorable Kandis A. Westmore, Plaintiffs move the Court for  
6 a preliminary injunction compelling Defendants to adjudicate class member applications to  
7 renew their employment authorization within the 180-day automatic extension period at 8  
8 C.F.R. § 274a.13(d) and to adjudicate renewal applications already pending beyond the 180-  
9 day automatic extension period within 14 days.  
10

11                   Plaintiffs also move the Court to provisionally certify a class and to grant a  
12 preliminary injunction as to the class. *See* Fed. R. Civ. P. 23(a). Plaintiffs ask the Court to  
13 certify the following class:

14                   All individuals:

- 15                   a. who filed applications to renew their employment authorization documents  
16                   pursuant to 8 C.F.R. §§ 208.7(b); 274a.12(c)(8); and  
17                   b. who received a 180-day automatic extension of their employment  
18                   authorization pursuant to 8 C.F.R. § 274a.13(d); and  
19                   c. whose applications have a processing time of at least 180 days pursuant to 8  
20                   C.F.R. § 103.2(b)(10)(i).

21                   This motion is based on the Memorandum of Points and Authorities, *infra*, the  
22 pleadings, records and files in this action, and such other evidence and argument as may be  
23 presented at the time of hearing.

24                   A proposed order accompanies this filing.  
25  
26  
27

1 DATE: November 11, 2021

Respectfully submitted,

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**TABLE OF CONTENTS**

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I. INTRODUCTION ..... 1

II. LEGAL BACKGROUND AND STATEMENT OF FACTS ..... 2

    A. Statement of Facts.....2

    B. Statutory, Regulatory, and Administrative Background Relevant to Asylum Applicants Renewing EADs .....4

    C. USCIS Delays in Adjudicating Renewal EADs for Asylum Applicants.....5

III. ARGUMENT ..... 7

    A. Standard for Preliminary Injunction .....7

    B. Plaintiffs Are Likely to Succeed on Their Claims under the APA and the Mandamus Act .....8

        1. *Defendants Have a Duty to Timely Adjudicate Plaintiffs’ Applications to Renew Their EADs* .....8

        2. *Defendants Have Unreasonably Delayed Adjudicating EAD Renewal Applications of Asylum Seekers by Failing to Adjudicate Within the 180-Day Automatic Extension Period* .....9

            a. *TRAC Factors One and Two: “Rule of Reason” and the Statutory, Regulatory Timetable*.....9

            b. *TRAC Factors Three and Five: The Prejudice to Human Health and Welfare Due to Delay* .....12

            c. *TRAC Factor 4: Higher or Competing Priorities*.....13

            d. *TRAC Factor 6: Impropriety* .....14

    C. Plaintiffs Will Be Irreparably Harmed Absent Preliminary Relief.....14

        1. *Plaintiffs Seek a Prohibitory Injunction But Can Meet the Higher Mandatory Injunction Standard*.....14

        2. *Loss of Employment Authorization Prevents Plaintiffs From Supporting Themselves and Their Families Financially*.....15

        3. *Without Employment Authorization Plaintiffs Stand to Lose Health Insurance and Disability Benefits* .....16

        4. *Defendants’ Delays Prevent Plaintiffs From Advancing in Their Careers* ..18

        5. *Defendants’ Delay Denies Plaintiffs’ Access to Driver’s Licenses and Government- Issued Identification Necessary to Pursue Work and Care for Themselves and Their Families* .....19

        6. *Long Delays in Processing Plaintiffs’ EAD Renewal Applications Causes Severe Emotional Distress that is Especially Damaging to Asylum Seekers who have Suffered Severe Trauma*.....20

    D. The Balance of Equities and the Public Interest Favor Plaintiffs .....22

    E. Provisional Class Certification is Warranted .....23

IV. CONCLUSION..... 25

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10 **Regulations**

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 21 12, 15

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 Deportation and for Employment Authorization, 59 Fed. Reg. 14779 (Mar. 30, 1994)..... 13

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23 N. Narea, *Immigrants Could Fix the US Labor Shortage*, Vox (Oct. 26, 2021),  
24 [https://www.vox.com/business-and-finance/2021/10/26/22733082/labor-shortage-inflation-](https://www.vox.com/business-and-finance/2021/10/26/22733082/labor-shortage-inflation-immigration-foreign-workers)  
25 [immigration-foreign-workers](https://www.vox.com/business-and-finance/2021/10/26/22733082/labor-shortage-inflation-immigration-foreign-workers) ..... 23  
26 USCIS, *Check Case Processing Times*, <https://egov.uscis.gov/processing-times/> (last visited  
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(last visited Nov. 10, 2021) ..... 5

**PLAINTIFFS’ MOTION FOR PRELIMINARY INJUNCTION AND  
PROVISIONAL CLASS CERTIFICATION  
MEMORANDUM OF POINTS OF LAW AND AUTHORITY**

**I. INTRODUCTION**

Plaintiffs and class members—people with pending asylum applications who Defendant U.S. Citizenship and Immigration Services (USCIS) has previously authorized to work—seek a preliminary injunction to compel Defendants USCIS and Department of Homeland Security (DHS) to do what Defendants have long-represented they would do: adjudicate employment authorization document (EAD) renewal applications within the 180-day automatic extension of employment authorization at 8 C.F.R. § 274a.13(d). Abandoning their own rule of reason, Defendants are taking upwards of ten months to adjudicate EAD renewal applications for asylum seekers. Plaintiffs and proposed class members have lost jobs, employment benefits, and driver’s licenses, and as a result are unable to support themselves and their families, suffer from anxiety, separation from communities of support, and a loss of essential stability. At a time when the United States is in desperate need of workers, Defendants are preventing Plaintiffs from doing that work. Because Plaintiffs are likely to succeed on their claims that Defendants have unreasonably delayed in adjudicating their EAD renewal applications under the Mandamus Act or, in the alternative, under the Administrative Procedure Act (APA), and because Plaintiffs have shown serious, irreparable harm from those delays, this Court should enter a preliminary injunction compelling Defendants to adjudicate Plaintiffs’ renewal applications within the automatic extension period. Plaintiffs also ask the Court to certify a provisional class and to provide the class with preliminary injunctive relief.



1 **II. LEGAL BACKGROUND AND STATEMENT OF FACTS**

2 **A. Statement of Facts**

3 Plaintiff Tony N. is an asylum seeker from East Africa and a truck driver who  
4 delivered personal protective equipment across the country during the pandemic. Ex. A,  
5 Decl. of Tony N., ¶¶ 1, 8-10. At the time his current work authorization expired, Mr. N. was  
6 on the verge of starting his own truck driving business. *Id.* ¶ 11. But because of Defendants'  
7 delay in processing his work authorization application he instead lost his driver's license and  
8 his current job. *Id.* ¶ 12. Living without any support network in the United States, Mr. N. has  
9 been forced to deplete his savings because he cannot work and he struggles with paying for  
10 necessities such as rent and health insurance. *Id.* ¶¶ 13-14.  
11

12 Plaintiff Muradyan is an asylum seeker from Armenia and a medical doctor. Ex. B,  
13 Decl. of Dr. Heghine Muradyan, ¶¶ 1-2, 7. Doctor Muradyan has now lost her residency  
14 positions at two hospitals, as well as her health insurance, due to the delay in processing her  
15 work permit renewal, and, as a result, she can no longer provide care to her patients or  
16 support herself and her young son. *Id.* ¶¶ 7, 13-14. If Doctor Muradyan is unable to work for  
17 over three months, she will lose her Postgraduate Training License to practice medicine in  
18 different states and will need to redo an entire year of residency beginning in July 2022. *Id.*  
19 ¶¶ 11-12.  
20

21 Plaintiff Karen M. is a pregnant asylum seeker from El Salvador with three other  
22 young children she supports. Ex. C, Decl. of Karen M., ¶¶ 1-2. Ms. M. works as a manager at  
23 McDonald's and has been informed by her employer that if her work permit is not renewed  
24 by November 15, 2021, she will be terminated from her position. *Id.* ¶¶ 4-5. Ms. M. has  
25 already been unable to renew her driver's license because of the delay in processing her work  
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1 permit application, and now, a month before she is scheduled to give birth, she fears that she  
2 will also lose her primary means to support herself and her family. *Id.* ¶¶ 6-8. Ms. M. will  
3 face significant economic hardship without her employment authorization, and will struggle  
4 to cover necessities such as rent, food, and clothing for herself and her young children. *Id.* ¶  
5 6.

7 Plaintiff Jack S. is an asylum seeker and an Apple, Inc. employee. Ex. D, Decl. of  
8 Jack S., ¶¶ 2, 7. Mr. S recently lost his position because of the delay in renewing his work  
9 permit and will soon lose his employer-based health insurance coverage. *Id.* ¶¶ 12, 17, 20. In  
10 addition, Mr. S has lost his driver's license as a result of Defendants' delay and can no longer  
11 drive to important medical appointments or easily acquire necessities such as groceries. *Id.* ¶¶  
12 15-16. Mr. S is suffering significant economic hardship without employment authorization  
13 and is struggling with how to pay his bills and cover his basic needs as he has nearly used up  
14 his savings. *Id.* ¶¶ 13, 14, 18.

16 Plaintiff Vera de Aponte is an asylum seeker from Venezuela and a Registered  
17 Behavior Technician for special needs children. Ex. E, Decl. of Dayana Vera de Aponte  
18 Decl. ¶¶ 2, 7. Ms. Vera de Aponte is the primary source of income for her family. *Id.* ¶ 9. She  
19 was recently terminated because her work authorization was not renewed. *Id.* ¶ 8. She is at  
20 risk of losing her Medicaid provider number, which Medicaid typically revokes after a period  
21 of inactivity, which could have serious long-term implications for her career. *Id.* ¶¶ 11-13.

23 Plaintiffs Tony N., Muradyan, Karen M., Jack S., and Vera de Aponte all experience  
24 significant mental anguish, emotional pain and severe anxiety as a result of the delays in  
25 processing their renewal applications. Tony N. Decl. ¶¶ 14-15; Muradyan Decl. ¶¶ 9, 13-15;  
26  
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1 Karen M. Decl. ¶¶ 6-7, 9; Jack S. Decl. ¶¶ 9, 11, 13-14, 20; Vera de Aponte Decl. ¶¶ 9, 14,  
2 17-18.

3 **B. Statutory, Regulatory, and Administrative Background Relevant to**  
4 **Asylum Applicants Renewing EADs**

5 Congress authorized the DHS Secretary (and previously the Attorney General) to  
6 provide work authorization to asylum applicants by regulation. 8 U.S.C. § 1158(d)(2). By  
7 regulation, eligible people with asylum applications pending before DHS or the Executive  
8 Office of Immigration Review (EOIR) may obtain employment authorization, as evidenced  
9 by a valid EAD. 8 C.F.R. §§ 208.7, 274a.12(c)(8). An EAD for an asylum applicant is  
10 usually valid for two years. Compl. ¶ 27. An asylum applicant may apply to renew the EAD  
11 if their asylum application remains pending. 8 C.F.R. § 208.7(b). Defendant USCIS provides  
12 an automatic 180-day extension of the asylum applicant's current work authorization, if the  
13 applicant meets certain criteria, including filing their renewal application before their EAD  
14 expires. 8 C.F.R. § 274a.13(d). The automatic extension is a 180-day maximum; it ends if the  
15 renewal application is approved or denied earlier and it ends even if the renewal application  
16 remains pending on the expiration date. *Id.* The agency also advises employers that certain  
17 people may receive an automatic 180-day extension of their work authorization while USCIS  
18 adjudicates the renewal application. Compl. ¶ 33.

21 To renew an EAD, an asylum applicant files with the Dallas Lockbox a Form I-765  
22 Application for Employment Authorization, required evidence, filing fee or fee waiver  
23 request, and a biometrics fee (unless an ASAP or CASA member) or fee waiver request.  
24 Compl. ¶ 40. The Form I-765 and instructions identify information collected from all EAD  
25 applicants and additional information and documentation asylum applicants must provide.  
26 *See id.* ¶ 38. The Dallas Lockbox accepts or rejects the EAD renewal application; if accepted,  
27

1 deposits any payments, issues a Notice of Action to acknowledge receipt of the application,  
2 and forwards the application to a USCIS Service Center for processing. *Id.* ¶ 40. The Notice  
3 of Action, commonly referred to as a “receipt notice,” provides proof that the applicant is  
4 entitled to a 180-day extension of their work authorization, identifies the assigned Service  
5 Center, and has a receipt number that the applicant can use to track status. *Id.* ¶¶ 41-42.

### 7 C. USCIS Delays in Adjudicating Renewal EADs for Asylum Applicants

8 From Fiscal Year (FY) 2017 through July of FY 2021, the median processing time for  
9 all EAD applications ranged between 2.6 and 3.9 months. USCIS, *Historical National*  
10 *Median Processing Times (in Months) for All USCIS Offices for Select Forms By Fiscal*  
11 *Year*, USCIS, <https://egov.uscis.gov/processing-times/historic-pt> (last visited Nov. 10, 2021).  
12 But by the end of FY 2020, Defendant USCIS was taking longer than 180 days to adjudicate  
13 EAD renewals for many asylum applicants and processing times have continued to increase.  
14 Ex. G, Decl. of Swapna Reddy, ¶¶ 17-19 (reporting that of 1,253 respondents to an October  
15 25, 2021 survey, 454 asylum seekers with pending EAD renewal applications had been  
16 waiting over six months for adjudication of their applications and 165 had been waiting over  
17 had been waiting over nine months); Ex. I, Decl. of Jenna Gilbert, ¶ 8; Ex. F, Decl. of Rachel  
18 Kafele, ¶ 24. In fact, Defendant USCIS reports that a “normal processing time” is ten months  
19 at the Potomac Service Center, and seven months at the Nebraska and Texas Service Centers.  
20 USCIS, *Check Case Processing Times*, <https://egov.uscis.gov/processing-times/> (selecting  
21 “Form: I-765 Application for Employment Authorization” and “Field Office or Service  
22 Center: Potomac Service Center” or “Field Office or Service Center: Nebraska Service  
23 Center” or “Field Office or Service Center: Texas Service Center” and scrolling down to  
24 “Form type: Based on a pending asylum application [(c)(8)]”) (last visited Nov. 9, 2021).  
25  
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1           These delays are not happenstance. Defendants made a series of policy changes that  
2 unnecessarily slowed adjudications processes and led to adjudication delays across benefits.  
3 These delays included requiring interviews of all applicants for employment-based lawful  
4 permanent residents, overturning longstanding practice; substantially increasing requests for  
5 evidence for nonimmigrant petitions for H-1B specialty occupation workers; rescinding a  
6 2004 policy memorandum that authorized adjudicators under certain circumstances to defer  
7 to a prior nonimmigrant visa petition approval when deciding an extension petition;  
8 implementing a “no blank space rejection policy” forcing thousands of applicants for  
9 humanitarian relief, including asylum, to resubmit their applications to USCIS; and  
10 implementing a biometrics requirement for Form I-539 applications to extend or change  
11 nonimmigrant status. Am. Immigr. Lawyers Ass’n, *Deconstructing the Invisible Wall: How*  
12 *Policy Changes by the Trump Administration are Slowing and Restricting Legal*  
13 *Immigration* 7 (March 2018), 17-18,  
14 [https://www.immigrationresearch.org/system/files/Deconstructing\\_the\\_Invisible\\_Wall.pdf](https://www.immigrationresearch.org/system/files/Deconstructing_the_Invisible_Wall.pdf);  
15 Compl. ¶¶ 69-75. While Defendants eventually rescinded many of these policy changes,  
16 sometimes under the threat of litigation, Defendants have failed to resolve the resulting  
17 delays. *See* Compl. ¶¶ 69-75. In August 2021, the Government Accountability Office (GAO)  
18 reported that Defendant USCIS had not implemented plans or identified resources and  
19 funding to reduce the backlogs or established timeliness performance measures for EAD  
20 application adjudications. GAO, *Report to Congressional Requesters, U.S. Citizenship and*  
21 *Immigration Services, Actions Needed to Address Pending Caseload* 24-27, 36-38 (Aug.  
22 2021), <https://www.gao.gov/products/gao-21-529>. Plaintiffs are paying the price.  
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1 **III. ARGUMENT**

2 **A. Standard for Preliminary Injunction**

3 To receive a preliminary injunction, plaintiffs must satisfy four elements: (1) likely to  
4 succeed on the merits, (2) likely to suffer irreparable harm without preliminary relief, (3)  
5 balance of equities tips in their favor, and (4) an injunction is in the public interest. *Winter v.*  
6 *Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). The Ninth Circuit continues to recognize  
7 an alternative that includes a “sliding scale” for the first and third factors. A preliminary  
8 injunction is also warranted if plaintiffs demonstrate (1) “serious questions going to the  
9 merits,” (2) they are likely to suffer irreparable harm without preliminary relief, (3) the  
10 balance of equities “tips sharply” in plaintiffs’ favor, and (4) an injunction is in the public  
11 interest. *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1135 (9th Cir. 2011) (citations  
12 omitted).  
13  
14

15 In evaluating the preliminary injunction factors, courts also consider whether the  
16 preliminary relief requested is prohibitory or mandatory. *Ariz. Dream Act Coal. v. Brewer*,  
17 757 F.3d 1053, 1060 (9th Cir. 2014) (*ADAC*). A prohibitory injunction precludes a party  
18 from acting “and preserves the status quo pending a determination of the action on the  
19 merits.” *Id.* (quoting *Marlyn Nutraceuticals, Inc. v. Mucos Pharma GmbH & Co.*, 571 F.3d  
20 873, 878–879 (9th Cir. 2009)). A mandatory injunction requires a party to act. *Id.* (citing  
21 *Marlyn Nutraceuticals*, 571 F.3d at 878–879). A mandatory injunction may be granted if  
22 “extreme or very serious damage will result.” *Marlyn Nutraceuticals*, 571 F.3d at 879. As  
23 discussed below, Plaintiffs seek a prohibitory injunction, but even if this Court determines  
24 the relief is mandatory, Plaintiffs can meet the higher standard.  
25  
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1           **B.       Plaintiffs Are Likely to Succeed on Their Claims under the APA and the**  
2           **Mandamus Act**

3           Plaintiffs make two claims arising from Defendants’ delay in adjudicating their EAD  
4 renewal applications. Under the Mandamus Act, courts have the power “to compel an officer  
5 or employee of the United States or any agency thereof to perform a duty owed to the  
6 plaintiff.” 28 U.S.C. § 1361. Similarly, under the APA courts “shall compel agency action  
7 unlawfully withheld or unreasonably delayed.” 5 U.S.C. § 706(1). Where, as here, Plaintiffs  
8 seek identical relief under both causes of action, courts analyze unreasonable delay claims  
9 under the APA standard. *Indep. Min. Co. v. Babbitt*, 105 F.3d 502, 507 (9th Cir. 1997).  
10 Because Plaintiffs have established that Defendants have unreasonably delayed their duty to  
11 adjudicate EAD renewal applications for asylum applicants, Plaintiffs are likely to succeed  
12 on both claims. *See id.*

14                     1.       *Defendants Have a Duty to Timely Adjudicate Plaintiffs’ Applications*  
15                     *to Renew Their EADs*

16           Defendants are required by regulation to accept, process, and adjudicate all EAD  
17 applications, including EAD applications by asylum applicants. 8 C.F.R. § 208.7 (“USCIS  
18 has exclusive jurisdiction over all applications for employment authorization and  
19 employment authorization documentation based on a pending application for asylum under 8  
20 C.F.R. § 274a.12(c)(8) . . .”), 274a.13 (requiring that applicants “shall be notified” of the  
21 decision to grant or deny an EAD application); *see also* 274a.12. By court order, Defendant  
22 USCIS has no discretion to deny EADs to otherwise eligible asylum applicants who are  
23 members of the Asylum Seeker Advocacy Project (ASAP) or CASA de Maryland. *CASA de*  
24 *Maryland, Inc. v. Wolf*, 486 F. Supp. 3d 928, 974 (D. Md. 2020). In the circumstances where  
25 Defendants may deny an EAD to an otherwise eligible applicant in the exercise of discretion,  
26  
27

1 Defendants continue to have a duty to adjudicate those applications. *See Babbitt*, 105 F.3d at  
 2 507 n.6 (stating an agency “cannot simply refuse to exercise [its] discretion”). Furthermore,  
 3 “[e]ven where no time limits are imposed by the enabling-statute, Defendants have a non-  
 4 discretionary duty to adjudicate immigration-related petitions ‘within a reasonable period of  
 5 time.’” *Doe v. Risch*, 398 F. Supp. 3d 647, 655 (N.D. Cal. 2019) (quoting 8 U.S.C. § 555(b)).  
 6

7           2.       *Defendants Have Unreasonably Delayed Adjudicating EAD Renewal*  
 8                    *Applications of Asylum Seekers by Failing to Adjudicate Within the*  
 9                    *180-Day Automatic Extension Period*

10           The crux of Plaintiffs’ claims is unreasonable delay. As such, the Court’s analysis  
 11 turns on the six factors first laid out in *Telecommunications Research & Action v. FCC*  
 12 (*TRAC*), 750 F.2d 70, 80 (D.C. Cir. 1984). They are:

13           (1) the time agencies take to make decisions must be governed by a “rule of  
 14 reason”; (2) where Congress has provided a timetable or other indication of the  
 15 speed with which it expects the agency to proceed in the enabling statute, that  
 16 statutory scheme may supply content for this rule of reason; (3) delays that  
 17 might be reasonable in the sphere of economic regulation are less tolerable  
 18 when human health and welfare are at stake; (4) the court should consider the  
 19 effect of expediting delayed action on agency activities of a higher or competing  
 20 priority; (5) the court should also take into account the nature and extent of the  
 21 interests prejudiced by the delay; and (6) the court need not “find any  
 22 impropriety lurking behind agency lassitude in order to hold that agency action  
 23 is unreasonably delayed.”

24           *Brower v. Evans*, 257 F.3d 1058, 1068–69 (9th Cir. 2001). Because these factors weigh in  
 25 Plaintiffs’ favor, the Court should find that Plaintiffs are likely to show that Defendants have  
 26 unreasonably delayed in the adjudication of their EAD renewal applications.

27                   a.       *TRAC* Factors One and Two: “Rule of Reason” and the  
                           Statutory, Regulatory Timetable

          Defendants themselves have provided the content for the “rule of reason” through  
 rulemaking. *See Rosario v. U.S. Citizenship & Immigr. Servs.*, 365 F. Supp. 3d 1156, 1161-  
 62 (W.D. Wash. 2018) (holding a regulation may supply content for the rule of reason);



1 *Garcia v. Johnson*, No. 14-cv-01775-YGR, 2014 WL 6657591, at \*8, 13 (N.D. Cal. Nov. 21,  
2 2014) (finding plaintiffs stated a claim under the APA for unreasonable delay based on  
3 failure to comply with a regulatory deadline). While there is no regulation that sets a  
4 mandatory processing time from receipt to decision, Defendants’ rulemaking makes clear  
5 that adjudication must be completed within the 180-day automatic extension at 8 C.F.R. §  
6 274a.13(d).  
7

8 Defendants have repeatedly represented in their rulemaking that that they would and  
9 could adjudicate EAD renewal applications—and in particular, EAD renewal applications for  
10 asylum seekers—within the automatic extension period. Defendants issued the 180-day  
11 automatic extension rule in November 2016, at the same time they removed a 90-day  
12 processing deadline from receipt to decision, for the express purpose of “ensur[ing]  
13 continued employment authorization for many renewal applicants and prevent[ing] any work  
14 disruptions for both the applicants and their employers.” Retention of EB-1, EB-2, and EB-3  
15 Immigrant Workers and Program Improvements Affecting High-Skilled Nonimmigrant  
16 Workers, 81 Fed. Reg. 82398, 82456 (Nov. 18, 2016). Defendants then went further. In June  
17 2020, Defendants removed as “unnecessary” a prior requirement that EAD applicants with  
18 pending asylum applications submit their renewal applications 90 days prior to the expiration  
19 of their EADs “[i]n order for employment authorization to be renewed before its expiration.”  
20 8 U.S.C. § 208.7 (d) (1997); Removal of 30-Day Processing Provision for Asylum-Applicant  
21 Related Form I-765 Employment Authorization Applications, 85 Fed. Reg. 37502, 37509  
22 (June 22, 2020). Defendants provided this explanation for eliminating the requirement:  
23  
24  
25  
26  
27

1 Because [the 180-day automatic extension at 8 C.F.R. § 274a.13(d)(1)]  
2 *effectively prevents gaps in work authorization for asylum applicants* with  
3 expiring employment authorization and EADs, DHS finds it unnecessary to  
4 continue to require that pending asylum applicants file for renewal of their  
employment authorization 90 days before the EAD's scheduled expiration in  
order to prevent gaps in employment authorization.

5 *Id.* (emphasis added). In other words, Defendants through notice and comment rulemaking  
6 told the public, including asylum seekers and their attorneys, in June 2020 that they did not  
7 have to submit their renewal applications 90 days before expiration of their EADs in order to  
8 avoid gaps in employment authorization because Defendants *would* adjudicate their  
9 applications *within the 180-day automatic extension period. Id.*

10  
11 A rule of reason that requires Defendants to adjudicate applications within the 180-  
12 day automatic extension period is consistent with, and supported by, the sense of Congress  
13 that “the processing of an immigration benefit application should be completed not later than  
14 180 days after the initial filing of the application . . . .” 8 U.S.C. § 1571(b); *see Risch*, 398 F.  
15 Supp. 3d at 657 (finding the sense of Congress “suffices to ‘tip the second *TRAC* factor in  
16 [Plaintiffs’] favor”) (quoting *Islam v. Heinauer*, 32 F. Supp. 3d 1063, 1073 (N.D. Cal.  
17 2014)). It is also entirely reasonable that Defendant USCIS adjudicate EAD applications in  
18 180 days for asylum seekers who it has *already determined are authorized to work*, when  
19 Congress intended that the underlying asylum application—the ultimate high stakes and  
20 complex application—be adjudicated in 180 days. *See* 8 U.S.C. § 1158(d)(5)(A)(iii).

21  
22 Asylum applicants and their attorneys reasonably relied on Defendants’ repeated  
23 representations that Defendant USCIS would adjudicate EAD renewal applications within the  
24 180-day automatic extension period—consistent with its longstanding practice of  
25 adjudicating these applications in less than six months. Kafele Decl. ¶ 23; Reddy Decl. ¶ 27.  
26 Defendants cannot now abandon this rule of reason without notice or explanation. *See Encino*  
27

1 *Motorcars, LLC v. Navarro*, 579 U.S. 211, 136 S. Ct. 2117, 2125–26 (2016) (holding when  
2 an agency changes a policy it must provide ““a reasoned explanation”” where that policy  
3 ““engendered serious reliance interests””) (quoting *FCC v. Fox Television Stations, Inc.*, 556  
4 U.S. 502, 515-16 (2009)); *Nat’l Urb. League v. Ross*, 489 F. Supp. 3d 939, 999 (N.D. Cal.),  
5 *order clarified*, 491 F. Supp. 3d 572 (N.D. Cal. 2020) (“[R]eliance interests should be  
6 considered even where the document giving rise to reliance expressly disclaims conferring  
7 any rights.”).

9 Yet this is precisely what Defendants have done. According to Defendant USCIS’  
10 webpage, the “normal” processing time at all three Service Centers adjudicating EAD  
11 renewal applications for asylum seekers is well over 180 days. *Supra* Part II.C. Moreover,  
12 Defendants have not replaced their prior rule of reason with any rule at all. Defendant USCIS  
13 is not adjudicating applications on a first-in, first out basis. Ex. H, Decl. of Aidan Castillo, ¶  
14 8; Reddy Decl. ¶ 22. For all these reasons, the first and second *TRAC* factors weigh in  
15 Plaintiffs’ favor.  
16

17 b. *TRAC* Factors Three and Five: The Prejudice to Human  
18 Health and Welfare Due to Delay

19 There can be no dispute that Defendants’ delay has resulted in significant harm to the  
20 welfare of Plaintiffs and proposed class members. *See infra* Part III.C. Defendants  
21 themselves have recognized the importance of maintaining employment authorization in  
22 order to avoid “work disruptions.” 81 Fed. Reg. at 82456. Plaintiffs and class members have  
23 suffered or will imminently suffer job loss, loss of government-issued identification cards  
24 and driver’s licenses, and employee benefits due to Defendants’ failure to adjudicate EAD  
25 renewal applications within the 180-day automatic extension period. Ex. I, Decl. of Jenna  
26 Gilbert, ¶¶ 6-8; Ex. J, Decl. of Rachel Sheridan, ¶¶ 5-7; Castillo Decl. ¶¶ 13-14; *see infra*  
27

1 Part III.C. The resulting instability and inability to support themselves and their families has  
2 additional consequences for asylum seekers who frequently have experienced significant  
3 trauma such that stability, support, and access to health insurance and other employee  
4 benefits are essential. Sheridan Decl. ¶¶ 5-7; Gilbert Decl. ¶ 8. Given these significant harms,  
5 *TRAC* factors three and five weigh heavily in Plaintiffs’ favor. *See Rosario*, 365 F. Supp. 3d  
6 at 1162 (finding *TRAC* factors three and five “strongly weigh in favor” of plaintiffs when  
7 USCIS delays in adjudicating EADs for asylum seekers); *Yea Ji Sea v. U.S. Dep’t of*  
8 *Homeland Sec.*, No. CV-18-6267-MWF, 2018 WL 6177236, at \*6 (C.D. Cal. Aug. 15, 2018)  
9 (finding factors three and five weighed in favor of plaintiff where, among other things,  
10 “Plaintiff is unable to work or obtain a driver’s license, and therefore will be unable to  
11 support herself”).  
12

13  
14 c. *TRAC* Factor 4: Higher or Competing Priorities

15 An EAD application is inherently a high priority for prompt adjudication. For  
16 noncitizens who do not automatically gain work authorization by virtue of their status, an  
17 EAD provides permission to work for the period of their temporary immigration status or the  
18 time it takes for Defendant USCIS to adjudicate the complex and high stakes underlying an  
19 application for immigration status. *See* 8 C.F.R. § 274a.12(c) (listing categories of  
20 noncitizens required to apply for authorization to work, with an additional nine categories  
21 “reserved”). An EAD application for an asylum applicant, and in particular an EAD *renewal*  
22 application, is neither high stakes nor particularly complex, but is an essential stopgap  
23 measure so people can support themselves while they pursue asylum protection. *See* Rules  
24 and Procedures for Adjudication of Applications for Asylum and Withholding of Deportation  
25 and for Employment Authorization, 59 Fed. Reg. 14779, 14780 (Mar. 30, 1994) (stating that  
26  
27

1 150 days from the initial filing of an asylum application was the period “beyond which it  
2 would not be appropriate to deny work authorization to a person whose claim has not been  
3 adjudicated”). Mandating that Defendant USCIS abide by its own rule of reason and  
4 adjudicate EAD renewal for asylum applicants within the 180-day automatic extension  
5 period is entirely consistent with the priority that such applications take over applications that  
6 carry more significant immigration consequences. Defendant USCIS has acknowledged this  
7 as a priority, by promising applicants that the agency would adjudicate these applications  
8 within the 180-day automatic extension. *See* 85 Fed. Reg. at 37509.

9  
10 Moreover, this is not a matter of cutting ahead in line. There is no line. Defendant  
11 USCIS is not adjudicating applications on a first in-first out methodology—or in any  
12 apparent order. *See* Castillo Decl. ¶ 8; Reddy Decl. ¶ 22. But more importantly, Plaintiffs  
13 seek to enforce the rule of reason as to *all* proposed class members who received a 180-day  
14 automatic extension of their work authorization. As such, the fourth *TRAC* factor also weighs  
15 in Plaintiffs’ favor.

16  
17 d. *TRAC* Factor 6: Impropriety

18 Defendants’ delays in adjudicating EAD renewal applications for asylum seekers are  
19 unreasonable, even if the explanation for the delays is not unscrupulous.

20  
21 **C. Plaintiffs Will Be Irreparably Harmed Absent Preliminary Relief**

22 1. *Plaintiffs Seek a Prohibitory Injunction But Can Meet the Higher*  
23 *Mandatory Injunction Standard*

24 The relief Plaintiffs request in this lawsuit is a prohibitory injunction. “[T]he ‘status  
25 quo’ refers to the legally relevant relationship *between the parties* before the controversy  
26 arose.” *ADAC*, 757 F.3d at 1061 (emphasis in original, citing *McCormack v. Hiedeman*, 694  
27 F.3d 1004, 1020 (9th Cir. 2012)). The legally relevant relationship comes from the regulation

1 providing a 180-day automatic extension of the EADs—the time frame Defendants selected  
 2 because the agency expected that this timeframe would be sufficient to avoid gaps in  
 3 employment for most renewal applicants. 8 C.F.R. § 274a.13(d); 81 Fed. Reg. at 82455-56.  
 4 The status quo is Defendant USCIS adjudicating EAD renewals for asylum applicants within  
 5 the 180-day automatic extension. *See, e.g.*, Castillo Decl. ¶ 10; Rachel Kafele Decl. ¶ 16;  
 6 Jack S. Decl. ¶ 4. The status quo for individual asylum seekers is retention of their  
 7 authorization to work. The preliminary relief is prohibitory because USCIS would be  
 8 enjoined from deviating from the status quo by taking longer than 180 days to adjudicate  
 9 EAD renewals. *See ADAC*, 757 F.3d at 1061. Even if the Court finds that this is a mandatory  
 10 injunction, Plaintiffs have and will continue to suffer extreme or very serious damage absent  
 11 a preliminary injunction due to job loss and an inability to pursue a chosen career path, loss  
 12 of employer-based benefits, loss of drivers' licenses, and emotional distress.<sup>1</sup>

15           2.       *Loss of Employment Authorization Prevents Plaintiffs From*  
 16                    *Supporting Themselves and Their Families Financially*

17           Cut off from their only source of income, Plaintiffs and their families face economic  
 18 hardship, and possible homelessness, due to their loss of work authorization. Muradyan Decl.  
 19 ¶ 13; Jack S. Decl. ¶ 14; Vera De Aponte Decl. ¶ 9; *see also* Karen M. Decl. ¶¶ 6-7; Tony N.  
 20 Decl. ¶¶ 13-14. Plaintiffs are or will be suddenly unable to pay basic expenses such as their  
 21 mortgages, food, medical care, and rent. Muradyan ¶ 13; Jack S. Decl. ¶ 14; Karen M. Decl.  
 22 ¶ 6; Tony N. Decl. ¶¶ 13-14. This is particularly devastating for Plaintiffs who are a primary  
 23

24 \_\_\_\_\_  
 25 <sup>1</sup> The Ninth Circuit has recognized that Plaintiffs are entitled to an injunction where harms  
 26 are either current or immediately threatened. *City of Los Angeles v. Lyons*, 461 U.S. 95  
 27 (1983) (requiring there be a “real and immediate threat” of harm to qualify for an injunction).  
 Even where their work authorization has not yet lapsed, given USCIS’ extreme delays in  
 processing thousands of renewal applications, Plaintiffs are almost certain to suffer the harms  
 described above. Thus, Plaintiffs can easily show that they are suffering, or are immediately  
 threatened with, extreme and very serious harm.

1 source of income for their families. *See* Vera De Aponte Decl. ¶ 9; Muradyan Decl. ¶ 13;  
2 Karen M. Decl. ¶ 6. These harms are typical of class members as well. Reddy Decl. ¶¶ 28-30;  
3 Kafele Decl. ¶¶ 12-13; Gilbert Decl. ¶ 6.

4           This loss of income is a monetary harm for which Plaintiffs have no means of future  
5 recovery. *See* 5 U.S.C. § 702 (waiving sovereign immunity for “relief other than money  
6 damages”). The Ninth Circuit has found that where Plaintiff has no way of recovering  
7 monetary damages, economic harm is irreparable. *See E. Bay Sanctuary Covenant v. Trump*,  
8 993 F.3d 640, 677 (9th Cir. 2021) (“[W]here parties cannot typically recover monetary  
9 damages flowing from their injury—as is often the case in APA cases—economic harm can  
10 be considered irreparable.”); *California v. Azar*, 911 F.3d 558, 581 (9th Cir. 2018) (“[S]uch  
11 harm is irreparable here because the states will not be able to recover monetary damages  
12 connected to the IFRs.”); *Philip Morris USA Inc. v. Scott*, 561 U.S. 1301, 1304 (2010) (“If  
13 expenditures cannot be recouped, the resulting loss may be irreparable.”). Plaintiffs have lost  
14 not only months of income, but they also have been forced to deplete their savings as they  
15 have struggled to survive without work. Tony N. Decl. ¶ 13; Jack S. Decl. ¶ 14. They stand  
16 to remain unemployed for an indeterminate amount of time absent an injunction. They have  
17 no legal recourse for recovering these lost wages now or in the future and are thus entitled to  
18 an injunction to prevent extreme and very serious harm.

19  
20  
21  
22           3.       *Without Employment Authorization Plaintiffs Stand to Lose Health  
23                   Insurance and Disability Benefits*

24           When Plaintiffs lose their jobs because of a lapse in work authorization, they also lose  
25 their employer-based health insurance coverage and disability benefits for themselves and  
26 their families. Jack S. Decl. ¶ 13, 17; Muradyan Decl. ¶ 14; Vera De Aponte Decl. ¶ 14.  
27 Without valid work authorization, many Plaintiffs also cannot apply for alternative health

1 insurance through the government. *See* HealthCare.gov, *Immigration Status and the*  
2 *Marketplace*, <https://www.healthcare.gov/immigrants/immigration-status/> (last visited Nov.  
3 8, 2021) (“Applicants for asylum are eligible for Marketplace coverage only if they’ve been  
4 granted employment authorization or are under the age of 14 and have had an application  
5 pending for at least 180 days.”); Covered California, *Proof of Immigration Status or Lawful*  
6 *Presence*, Covered California, [https://www.coveredca.com/documents-to-confirm-](https://www.coveredca.com/documents-to-confirm-eligibility/immigration-status/)  
7 [eligibility/immigration-status/](https://www.coveredca.com/documents-to-confirm-eligibility/immigration-status/) (last visited Nov. 8, 2021). *See also* Vera De Aponte Decl. ¶  
8 14; Kafele Decl. ¶ 10; Gilbert Decl. ¶ 7. A need for health care, and the consequences of its  
9 loss, is not speculative harm for Plaintiffs. For example, Plaintiff Jack S. is worried about  
10 disruptions to his HIV treatment once he loses his employer-based insurance. Jack S. Decl. ¶  
11 18. Plaintiff Muradyan is unable to access mental health services to treat her depression  
12 because she has lost her employer-based health insurance. Muradyan Decl. ¶ 14.

15 The Ninth Circuit has recognized that the deprivation of benefits, such as disability  
16 benefits, amounts to irreparable harm. *See, e.g., Lopez v. Heckler*, 713 F.2d 1432 (9th Cir.  
17 1983); *Leschniok v. Heckler*, 713 F.2d 520, 524 (9th Cir. 1983) (“We fail to comprehend the  
18 Secretary’s argument that financial compensation at some future date, should the claimants  
19 survive and prevail, mitigates the hardship which is visited upon claimants and their families  
20 each and every day” due to loss of disability benefits). In *Lopez v. Heckler*, the Ninth Circuit  
21 noted that “[d]eprivation of benefits pending trial might cause economic hardship, suffering  
22 or even death. Retroactive restoration of benefits would be inadequate to remedy these  
23 hardships.” 713 F.2d at 1437. The very serious harm suffered from a loss of access to health  
24 insurance is only heightened during a pandemic, and alone shows that Plaintiffs have  
25 satisfied the harm standard necessary for a preliminary injunction.  
26  
27



1  
2           4.       *Defendants' Delays Prevent Plaintiffs From Advancing in Their*  
3                   *Careers*

4           In addition to irreparable harm due to loss of current employment, Defendants' delays  
5 also prevent Plaintiffs from advancing in their careers. Stripped of their work authorization  
6 through no fault of their own, Plaintiffs and class members have had to forego long-term  
7 employment contracts, promotions, and the option to pursue their chosen profession. *See*  
8 Vera De Aponte Decl. ¶¶ 11-13; Muradyan Decl. ¶¶ 11-12; Tony N. Decl. ¶¶ 11-13. For  
9 example, Plaintiff Dayana Vera de Aponte's lapse in work authorization could force her to  
10 lose her license as a Registered Behavior Technician. Vera De Aponte Decl. ¶¶ 7, 11.  
11 Granting of work permit later will not restore Plaintiff Vera de Aponte's license and will  
12 therefore have long-term career consequences, because she will be required to reapply, a  
13 process that can take many months, and new applications are not being accepted currently.  
14 *Id.* ¶¶ 11-13. Plaintiff Heggine Muradyan will also lose her Postgraduate Training License  
15 and Drug Enforcement Administration licenses, which allow her to practice medicine and  
16 prescribe medication in different states. Muradyan Decl. ¶ 12. Plaintiff Tony N. worked as a  
17 truck driver, an essential job during the pandemic. He had been saving his money to start his  
18 own trucking business and had even registered his business before his work authorization  
19 expired. Tony N. Decl. ¶¶ 11-13. Unable to work or even drive, he has been forced to set  
20 aside his dream of owning his own business and use up his savings in order to survive. *Id.*

21  
22           The Ninth Circuit has recognized harms to people's career opportunities as  
23 irreparable even in less severe cases. *See ADAC*, 757 F.3d at 1068 (finding irreparable harm  
24 to plaintiffs because the inability to acquire a driver's license and drive legally limited their  
25 professional and career opportunities in the state of Arizona, where 87 percent of the  
26  
27

1 workforce drives to work); *see also Semmes Motors, Inc. v. Ford Motor Co.*, 429 F.2d 1197,  
2 1205 (2d Cir. 1970) (“[T]he right to continue a business . . . is not measurable entirely in  
3 monetary terms, the [Plaintiffs] Semmes want to sell automobiles, not to live on the income  
4 from a damages award.”). Here, Plaintiffs have not only been deprived of their means to  
5 commute to work, but the ability to obtain any employment at all. Like the Plaintiffs in  
6 *ACDC*, many are in formative stages of their careers. *See* Muradyan Decl. ¶¶ 11-12; Vera de  
7 Aponte Decl. ¶ 11; *see also* Reddy Decl. ¶ 33; Ex. L, Decl. of Maria Odom, ¶ 9 (“Children  
8 turning 18, particularly those who are forced out of foster care at that time, require  
9 employment authorization to be able to support themselves, or to acquire work or internship  
10 experience as an essential step toward becoming self-supporting.”).

11  
12  
13 5. *Defendants’ Delay Denies Plaintiffs’ Access to Driver’s Licenses and*  
14 *Government- Issued Identification Necessary to Pursue Work and*  
*Care for Themselves and Their Families*

15 Due to the expiration of their work authorization, Plaintiffs are not able to renew their  
16 drivers’ licenses and have lost the ability to drive. Tony N. Decl. ¶ 12; Karen M. Decl. ¶ 8;  
17 Jack S. Decl. ¶ 15; *see also*, Sheridan Decl. ¶ 8; Gilbert Decl. ¶ 7. This has caused severe  
18 hardship for Plaintiffs. For example, Plaintiff Tony N. relied on his driver’s license to work  
19 as a truck driver. The company he worked for has been unable to assign him to any jobs since  
20 September because of his expired license. Tony N. Decl. ¶ 12. For Plaintiff Karen M. it has  
21 become very difficult to complete daily tasks, such as dropping her children off at school and  
22 attending doctor’s appointments as an expecting mother. Karen M. Decl. ¶ 9-10. Plaintiff  
23 Jack S. has also faced significant hardship by being unable to drive to medical appointments  
24 and to secure necessities such as groceries. Jack S. Decl. ¶ 16. Moreover, as displaced asylum  
25 seekers many Plaintiffs here do not have family and networks who they can rely on for  
26  
27

1 transportation and support. *See* Tony N. Decl. ¶ 14; Karen M. Decl. ¶ 6, 10; *see also*, Kafele  
 2 Decl. ¶ 13. Thus, the harm here extends beyond the inability to commute to work and has had  
 3 even more severe consequences than the harm in *ADAC*. *See* 757 F.3d at 1068.

4           Moreover, without a valid EAD card, many Plaintiffs and class members have also  
 5 lost their only form of government identification. Karen M. Decl. ¶ 12; *see also*, Odom Decl.  
 6 ¶ 9 (“In many states, an EAD or social security number is required to obtain state  
 7 identification documents, a driver’s license, a bank account, or funding for higher  
 8 education—all critical steps toward establishing a young person’s future independence and  
 9 stability.”); Gilbert Decl. ¶ 7 (“Often, without work authorization asylum seekers cannot  
 10 apply for state-issued identification cards or driver’s licenses, further limiting their access to  
 11 transportation, banking, or other private support services.”); Sheridan Decl. ¶ 5 (noting that  
 12 “[s]etbacks in meeting their basic life needs such as . . . valid identification have serious  
 13 consequences”). This is especially difficult for asylum seekers like Plaintiff Karen M. and  
 14 her children, who are unable to acquire passports as alternative identification because doing  
 15 so would require their father’s consent and could endanger them. Karen M. Decl. ¶ 12.

18           6.       *Long Delays in Processing Plaintiffs’ EAD Renewal Applications*  
 19                    *Causes Severe Emotional Distress that is Especially Damaging to*  
 20                    *Asylum Seekers who have Suffered Severe Trauma*

21           Defendants’ delays have also caused Plaintiffs emotional distress and psychological  
 22 injury. Tony N. Decl. ¶¶ 14-15; Jack S. Decl. ¶¶ 9, 11, 13, 20; Vera de Aponte Decl. ¶¶ 9, 14,  
 23 17-18; Muradyan Decl. ¶¶ 9, 13-15; Karen M. Decl. ¶¶ 6-7, 9. For Plaintiffs, losing their  
 24 work authorization has resulted in anxiety, loss of sleep, and depression. Muradyan Decl. ¶¶  
 25 9, 14; Jack S. Decl. ¶ 20; Tony N. Decl. ¶ 14-15; Vera de Aponte Decl. ¶ 9, 14, 18; *see also*  
 26 Kafele Decl. ¶ 15 (noting that asylum seekers suffer from severe depression and even  
 27 suicidal ideation as a result of loss of work authorization). The Ninth Circuit in *Chalk v. US*

1 *District Court Cent. Dist.* found that emotional and psychological injury constituted  
2 irreparable harm, when a teacher was denied the opportunity to pursue a particular teaching  
3 position based on his AIDS diagnosis. *Chalk v. United States Dist. Court Cent. Dist.*, 840  
4 F.2d 701, 709-10 (9th Cir. 1988). Even though the plaintiff in *Chalk* was offered alternative  
5 employment, that job involved different, and less preferable, job duties, and “[id] not utilize  
6 his skills, training or experience.” *Id.* at 709. The court of appeals found that the alleged  
7 discrimination deprived the teacher of work that brought him “tremendous personal  
8 satisfaction and joy” and the resulting “emotional and psychological” injury was irreparable.  
9 *Id.* at 709-10. Here, Plaintiffs and class members suffer from significant emotional distress  
10 and do not have alternative employment options currently available to them because they are  
11 not authorized to work at all. Thus, Plaintiffs’ harm rises to the level of extreme and very  
12 serious damage necessary for an injunction.  
13  
14

15 Moreover, the loss of stability that comes with unemployment is especially harmful  
16 for asylum seekers, who have escaped from traumatic situations and are often recovering  
17 from Post-Traumatic Stress Disorder (PTSD) while working to get their lives in order. *See*  
18 Sheridan Decl. ¶¶ 5-7. Losing their income and the ability to support themselves and their  
19 families causes extreme emotional distress and can be immensely triggering. Jack S. Decl. ¶¶  
20 9, 11, 13-14, 20; Tony N. Decl. ¶¶ 14-15; Vera de Aponte Decl. ¶ 9, 14, 17-18; *see also*,  
21 Sheridan Decl. ¶ 6. Moreover, losing work authorization can also lead to an interruption in  
22 mental health care, which can exacerbate the risk of homelessness for asylum seekers. *See*  
23 Kafele Decl. ¶ 15.  
24

25 For all these reasons—loss of income that cannot be recovered, loss of essential  
26 employment-based benefits including health insurance and disability benefit, loss of the  
27

1 ability to pursue one’s chosen career, loss of driver’s licenses and government-issued  
2 identification, and emotional distress—Plaintiffs have established that they will suffer severe  
3 harm if a preliminary injunction is not entered.

4 **D. The Balance of Equities and the Public Interest Favor Plaintiffs**

5  
6 When the government is a party, the balance of equities and public interest factors are  
7 merged. *E. Bay Sanctuary Covenant*, 993 F.3d at 668 (citing *Nken v. Holder*, 556 U.S. 418,  
8 435 (2009)). Plaintiffs and proposed class members, the government, and the public all have  
9 an interest in asylum applicants who qualify for renewal of their EADs having their  
10 applications adjudicated before the 180-day extension period expires. Loss of work  
11 authorization due to Defendants’ adjudications delays harms the public interest because the  
12 U.S. economy is severely impacted by a shortage of workers. Without work authorization,  
13 Plaintiffs and proposed class members can no longer legally be part of the workforce. The  
14 need for such workers is great. The U.S. Department of Labor reported that in August 2021  
15 there were 10.4 million job openings, while the number of people leaving employment rose  
16 to 4.3 million, the highest monthly level reported since December 2000. Compl. ¶ 3 “The  
17 U.S. labor force participation rate has only recovered about half of what it lost at the onset of  
18 the pandemic,” attributable to reasons such as early retirement, no childcare, and relocation.  
19 K. Marino, *Immigrants could help fill America’s millions of job openings*, Axios (Nov. 3,  
20 2021), [https://www.axios.com/immigration-jobs-employment-pandemic-labor-shortage-](https://www.axios.com/immigration-jobs-employment-pandemic-labor-shortage-2c5af6a4-4c90-451c-9b8a-124ee55ceb7b.html)  
21 [2c5af6a4-4c90-451c-9b8a-124ee55ceb7b.html](https://www.axios.com/immigration-jobs-employment-pandemic-labor-shortage-2c5af6a4-4c90-451c-9b8a-124ee55ceb7b.html).  
22  
23

24 As leading economic experts have long recognized, authorizing immigrants, like the  
25 named plaintiffs and proposed class members, to work can play a crucial role in mitigating  
26 labor shortages. *See, e.g.*, N. Narea, *Immigrants Could Fix the US Labor Shortage*, Vox (Oct.  
27

1 26, 2021), <https://www.vox.com/business-and-finance/2021/10/26/22733082/labor-shortage->  
2 [inflation-immigration-foreign-workers](https://www.vox.com/business-and-finance/2021/10/26/22733082/labor-shortage-) (quoting such experts on the importance of immigrant  
3 workers in addressing the shortage). Plaintiffs work in essential industries where demand for  
4 workers is especially great. *See* Jennifer Smith, *Where Are All the Truck Drivers? Shortage*  
5 *Adds to Delivery Delays*, Wall Street Journal (Nov. 3,  
6 2021), <https://www.wsj.com/articles/truck-driver-shortage-supply-chain-issues-logistics->  
7 [11635950481](https://www.wsj.com/articles/truck-driver-shortage-supply-chain-issues-logistics-); Gaby Galvin, *Nearly 1 in 5 Health Care Workers Have Quit Their Jobs*  
8 *During the Pandemic*, Morning Consult (Oct. 4,  
9 2021), <https://morningconsult.com/2021/10/04/health-care-workers-series-part-2->  
10 [workforce/](https://morningconsult.com/2021/10/04/health-care-workers-series-part-2-).

11  
12 The equities and public interest also tip in favor of Plaintiffs and proposed class  
13 members because of the particular vulnerability of asylum seekers. *See supra*, Part III.C.

#### 14 **E. Provisional Class Certification is Warranted**

15  
16 Plaintiffs also move the Court to provisionally certify a class and to grant a  
17 preliminary injunction as to the class. *See* Fed. R. Civ. P. 23(a); *Meyer v. Portfolio Recovery*  
18 *Assocs., LLC*, 707 F.3d 1036, 1041-43 (9th Cir. 2012) (allowing for provisional class  
19 certificate for the purpose of preliminary injunctive relief). As discussed fully in Plaintiffs'  
20 Motion for Class Certification and accompanying memorandum of points and authority, ECF  
21 No. 16, Plaintiffs meet the requirements for class certification under Federal Rule of Civil  
22 Procedure 23.

23  
24 Plaintiffs seek class certification because joinder would be impracticable in this  
25 case; Plaintiffs estimate that hundreds, if not more than 1,000, geographically dispersed  
26 asylum seekers are affected by Defendant USCIS' delays. Fed. R. Civ. P. 23(a)(1). *See*  
27

1 Reddy Decl. ¶ 18. Common questions of law and fact predominate any questions affecting  
2 the individually named Plaintiffs, including whether there is a duty to adjudicate the EAD  
3 renewal applications of asylum applicants within the 180-day automatic extension at 8  
4 C.F.R. § 274a.13(d), and whether Defendants' delays are unreasonable. *See* Fed. R. Civ.  
5 P. 23(a), 23(b)(2). Plaintiffs' claims are typical of the claims of the entire class as they  
6 are all asylum applicants whose applications to renew their EADs have been pending with  
7 Defendant USCIS for at least 180 days pursuant to 8 C.F.R. § 103.2(b)(10)(i) and they  
8 received the 180-day automatic extension. Fed. R. Civ. P. 23(a)(3). Plaintiffs will fairly and  
9 adequately represent the interests of the proposed class as they seek relief on behalf of the  
10 class as a whole and they have no interest antagonistic to the class members. Fed. R. Civ. P.  
11 23(a)(4). Plaintiffs are represented by competent counsel with extensive experience in both  
12 complex class actions and immigration law and can fairly, competently, and ethically  
13 represent the interests of the class. *See* Fed. R. Civ. P. 23(a)(4); Mot. Class Cert. Decls. I, J.

14  
15  
16 Finally, class-wide relief under Rule 23(b)(2) is appropriate. Plaintiffs challenge—  
17 and seek declaratory and injunctive relief from—systemic policies and practices that  
18 consistently prevent the timely adjudication of EAD renewal applications for asylum  
19 seekers.

20 Accordingly, Plaintiffs ask the Court to certify the following class:

21 All individuals:

- 22
- 23 a. who filed applications to renew their employment authorization documents  
24 pursuant to 8 C.F.R. §§ 208.7(b); 274a.12(c)(8); and
  - 25 b. who received a 180-day automatic extension of their employment authorization  
26 pursuant to 8 C.F.R. § 274a.13(d); and
  - 27 c. whose applications have a processing time of at least 180 days pursuant to 8  
C.F.R. § 103.2(b)(10)(i).

1 **IV. CONCLUSION**

2 For the foregoing reasons, Plaintiffs request that the Court certify a provisional class  
3 and enter a preliminary injunction compelling Defendants to adjudicate Plaintiffs' and class  
4 members' renewal applications within the 180-day automatic extension period at 8 C.F.R.  
5 § 274a.13(d) and to adjudicate renewal applications already pending beyond the 180-day  
6 automatic extension period within 14 days.  
7

8  
9 DATE: November 11, 2021

Respectfully submitted,

10 /s/ Zachary Manfredi  
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*Counsel for Plaintiffs Tony N., et al.*  
*\*Pro hac vice motions pending*



# Exhibit A

**DECLARATION OF [REDACTED] TONY N.**

I, **[REDACTED] TONY N.**, declare under penalty of perjury that the following is true and correct to the best of my knowledge and recollection.

1. My name is **[REDACTED] TONY N.** I am 26 years old and was born in East Africa. I currently reside in Walnut Creek, California.
2. I came to the U.S. to seek asylum because, as a gay man, I was persecuted by the government of my home country. The government of my home country tried to put me in prison and others tried to murder me several times because of my sexual orientation.
3. I applied for my first work permit based on my asylum application and my work permit application was approved on April 15, 2019.
4. I applied to renew my work permit in December of 2020 — approximately four months prior to its expiration date on April 14, 2021. According to my I-797C receipt form, USCIS received my application on December 23, 2020.
5. My I-797C receipt form, which USCIS issued on February 1, 2021, states that my application is being processed at the Potomac Service Center in Arlington, Virginia.
6. My I-797C receipt form also indicated I was given a 180-day automatic extension because I was applying under the C08 category and had filed the renewal application before my current work permit expired. The automatic extension expired on October 11, 2021, at which time I lost the ability to work because my work permit application had not been renewed by USCIS.
7. Before my work permit expired, I worked as an Uber driver and enrolled in a truck driving academy to get my commercial driver's license. I am currently in the process of repaying \$7,000 in debt for these classes.

8. In January 2021, I started a one-year contract with a trucking company. At this company, I drove trucks across the country during the pandemic.
9. In addition to delivering essential goods to stores like Walmart, I made special deliveries of personal protective equipment (PPE) to first responders and sheriff's departments throughout the state of Wisconsin. On one occasion, I delivered body bags from Chicago to Memphis.
10. I caught COVID-19 twice while trucking across the country during the pandemic. I first caught COVID in July of 2020 while working in Colorado, and I got COVID a second time in April 2021 in St. Louis, Missouri. Although I was terribly sick for the first week and saw others who got sick and died, I returned to the road as soon as I recovered.
11. My dream is to start my own trucking company and use technology to connect people looking for work with delivery jobs. In February of 2021 I registered my company with the state of California.
12. My driver's license expired on October 11, 2021. I was unable to renew my driver's license before it expired because of the delay in my work authorization renewal. Because of this, the trucking company could not assign me to any jobs after I finished my last job in September.
13. I had been saving money since January of 2021 to buy my own truck. However, I have had to use these savings to cover the cost of my rent, health insurance, and car payment.
14. Not being able to work and pay my bills has caused me a lot of stress. I wake up each morning worried and uncertain. I am unable to eat or sleep normally because of the stress. Because I came to the United States by myself, I have no family here and no one to rely on for support.



15. When I first came to the United States, I felt free because people here do not judge you for who you are. I was proud that in just two years, I was able to find a good job and start saving for my own business. But now, because of these renewal delays, I feel depressed and trapped. It is a terrible feeling knowing that there is nothing you can do but wait.

I declare under penalty of perjury that this declaration is true and accurate.

TONY N.



11/9/2021

DATE

## Exhibit B

### DECLARATION OF HEGHINE MURADYAN

I, Heggine Muradyan, hereby declare under the penalty of perjury that the following is true and correct to the best of my knowledge:

1. My name is Dr. Heggine Muradyan. I was born in Masis, Armenia. I currently live in Los Angeles, California, with my ten-year-old son, who was born in US, and my two elderly parents.
2. I filed my asylum application in August 2016. I applied for work authorization based on my asylum application, under category (c)(8). USCIS first granted me work authorization in August 2016.
3. I renewed my work permit again in April 2019. Its expiration date was April 2021.
4. My most recent application to renew my work authorization was received by USCIS on April 06, 2021. USCIS sent me an I-797C receipt notice confirming they received my application. The receipt notice indicated that my application was being processed at the Potomac Service Center.
5. The receipt notice granted me a 180-day automatic extension on my current work permit. This automatic extension expired on October 13, 2021.
6. Before my automatic extension expired, both my attorney and I made service center requests to USCIS to expedite my application. Both times, my request was denied without any explanation. The third expedite request was made on October 21, 2021, and is still pending as of November 9, 2021, even though USCIS states it should be addressed within seven business days. All these requests took more than seven days to answer.
7. Before my work permit expired, I worked as a resident physician at Chino Valley Medical Center, a small community hospital that provides care to the underserved population in my

area. I also worked for the East Valley Health Center in Pomona, a Federally Qualified Health Center that provides care for underserved populations in San Bernardino. I lost both jobs when my work authorization expired on October 13, 2021.

8. As a physician, I would typically see 20-30 patients a day. I worked in the emergency room and intensive care unit and cared for hundreds of patients who contracted COVID-19. During the height of the pandemic, my hospital was operating at 150% of its capacity and I had to take care of patients outside, under a tent. I spent long hours in the hospital and was often unable to see my family or loved ones. The dedication of physicians throughout the country was vital to providing continuous medical care to all patients during the pandemic.
9. I am anxious and concerned about my patients now that I am unable to work and provide them with medical care, in both inpatient and outpatient settings.
10. I am worried about the future of the hospitals I worked at before my work permit expired. The hospitals I worked at were among those small community hospitals already struggling the most during the pandemic. Both hospitals were already understaffed with physicians, and I know that my hospital still has not found someone to replace me for my normal night shift next week.
11. I work at my hospitals as part of a three-year residency program with the Accreditation Council for Graduate Medical Education. I am currently in the second year, which began in July 2021. If I am unable to work for 12 weeks, under the program rules, I will be forced to repeat the entire second year. I will not be able to work again until July 2022, and I will be a year behind in my program when I do.

12. If I am unable to work for 90 days, I will lose my Postgraduate Training License (PTL), which allows physicians to practice medicine in different states. After 90 days, I will also lose my license under the Drug Enforcement Administration (DEA), which allows me to prescribe medications for patients.
13. Losing my work authorization has also caused me financial hardship and stress. Since my work permit expired, I have had to apply for government benefits, such as CalFresh (food stamps) and CalWork (cash assistance for families with children) to meet my basic needs for myself, my son, and my parents. If I am terminated from my program and forced to restart in July 2022, I will have had to go nine months without any income. This would be financially devastating for me and my family.
14. I lost my health insurance for myself and my son when I lost my job. This is scary during a pandemic and has been especially difficult because I have started experiencing depression because of the loss of my work authorization. I am suffering from insomnia, loss of appetite, weight loss, and decreased energy and interest in everything, but without health insurance I am unable to seek any professional help or medication.
15. I know that I am not the only person in this position, and I worry about how USCIS's delays are affecting other people's jobs and the people they serve. I want to do whatever I can to help asylum seekers who are suffering like me as they wait for their work authorization.

I declare under penalty of perjury that this declaration is true and accurate.



HEGHINE MURADYAN

11/09/21  
Date



# Exhibit C

**Declaration of** **KAREN M.**

I, **KAREN M.**, hereby declare under the penalty of perjury that the following is true and correct to the best of my knowledge:

1. My name is **KAREN M.**, and I am 28 years old. I reside in Hayward, California, with my husband and three children (ages 11, 7, and 2 years old). I am currently pregnant. I am due to give birth on December 20, 2021.
2. On July 6, 2018, I filed an I-589 Application for Asylum, Withholding of Removal, and Protection Under the Convention Against Torture with the San Francisco Immigration Court. My asylum hearing is scheduled for December 7, 2022.
3. I submitted an application for my first work permit on or around April 29, 2019. My application was approved, and I received a category (c)(8) work permit on May 20, 2019, with an expiration date of May 19, 2021.
4. On April 2, 2021, USCIS received my application to renew my (c)(8) work permit. The receipt notice says that my application is being processed by the Potomac Service Center and that my authorization to work is automatically extended for 180 days, until November 15, 2021.
5. I am currently employed at McDonald's in Hayward, California, as a manager. My attorney provided me with a letter I could give to my employer to show her that my authorization to work was extended by 180 days after the expiration date on my work permit. My employer was pleased to see this. My employer has told me that if I do not have documents to prove that I can work legally, I will lose my job.
6. My husband and I are solely responsible for our family's expenses. If I lose my job, my husband will be the only one who supports us. My husband works as a butcher. He earns around \$1300 - \$1400 every two weeks. My husband would have to look for another job if I lost my job, because our rent costs \$2369 per month, and his wages alone would barely cover our rent, leaving nothing left over for food, clothing, and other necessities

for the children. If my husband is able to find a second job, he would not be available to help me take care of our children, or to bond with and care for them himself.

7. If I lose my job on November 15, I am afraid I may not be able to apply for disability benefits when I give birth in December. I was anticipating that I would qualify for three months of disability leave.
8. Recently I went to the California DMV to apply for a driver's license. However, I was not able to obtain a driver's license, nor a California state ID, because my work permit had expired. My work permit was my only form of photo ID. When I arrived in the United States, I had a passport and a national ID card from El Salvador. Immigration officials confiscated these IDs.
9. It is a hardship for my family if I am not able to drive legally. I need to drive to get to work, and to take my children to school. If I cannot drive, I walk my children to school, which takes 45 minutes each way. This walk is especially difficult as my pregnancy advances. My husband is not available to take the children to school or pick them up because he leaves for work about two hours before their school day begins, and he leaves work after they are dismissed from school. I do not want to drive without a driver's license, because I know it is not permitted and because I do not want to get a ticket, which would be very costly.
10. During my pregnancy, I have had to depend on a neighbor to bring me to medical appointments. My youngest child has speech delays, and as a result she has been scheduled for medical appointments in locations that are far from my home. I have had to cancel some of these medical appointments because I could not legally drive there and was unable to get rides.
11. My older children were with me when we fled El Salvador and are included in my application for asylum. I have also applied to renew their work permits. Their applications were received by USCIS on March 17, 2021, and have not been adjudicated.

12. Although my children are too young to work, the work permits served as their only form of photo identification. While we have been waiting for my children's work permit applications to be processed by USCIS, I looked into applying for Salvadoran passports so that my children would have some form of ID. However, I cannot do that, because the process would require me to request their father's consent, and we fled El Salvador due to his extreme violence.

### CERTIFICATE OF TRANSLATION

I, **KAREN M.**, hereby declare under penalty of perjury that I provided the foregoing statement in Spanish and that it is true and correct to the best of my knowledge and ability.

**KAREN M.**

11.09.2021

Date

I, Julia Hiatt, am competent to translate from Spanish to English, and I certify that I read back the foregoing statement to **KAREN M.** in the Spanish language, that the translation is true and accurate to the best of my abilities, and that she understood it before signing.

  
\_\_\_\_\_  
JULIA HIATT

11.09.2021

Date

# Exhibit D

**DECLARATION OF JACK S.**

I, **JACK S.**, declare under penalty of perjury that the following is true and correct to the best of my knowledge and recollection.

1. My name is **JACK S.** and I am 32 years old. I currently live in San Francisco, California.
2. I applied for asylum with USCIS on September 23, 2016.
3. I applied for asylum because I am gay and HIV positive and my life is in danger as a gay and HIV positive man if I return to my home country. I applied for asylum within one year of my last arrival to the United States.
4. I first applied for employment authorization in March 2017. I then renewed it before the two years expired and was granted a renewal EAD on April 22, 2019 that was valid until April 21, 2021.
5. In March 2021, over a month before my current work permit expired, I applied for my third EAD (second renewal and third EAD overall).
6. USCIS received my application on March 8, 2021, and gave me a receipt notice, Form I-797C. The I-797C said that my application was being processed by USCIS' Potomac Service Center. The receipt said that my EAD would be extended for 180 days— until October 18, 2021—because I was applying under the C08 category and had filed the renewal application before my current work permit expired.
7. I began working for Apple in the United States around 2017, after I received my first EAD as an asylum applicant. I had previously worked for Apple in my home country. My last position with Apple was at the Genius Bar in the San Francisco Union Square store as a computer technician.
8. I enjoyed my job and the stability and meaning it brought to my life.

9. About 6 months before my current work permit expired, my employer began to ask me for renewed proof that I could work legally in the United States. They continued to ask me almost every month until my work permit expired. This was very stressful to me because I believed that I was going to be fired for not having a new work permit to show them.
10. When I received the I-797C from USCIS, I showed this to my employer who accepted it and said I had until October 18, 2021, to show them a valid EAD.
11. My employer continued to send me emails asking for updated documents to show that my EAD had been renewed. This continued to be stressful for me because I had nothing new to show them.
12. The 180-day extension ended on October 18, 2021. My employer informed me that I was being put on a “Work Permit” leave since I had no renewed EAD to show them. Apple says they are able to pay out my accumulated vacation time so I am still getting paid a salary but only for 16.88 more days after my “Work Permit” leave began.
13. I live with my partner who is retired and disabled and we receive money from the State of California for me to be his In-Home Supportive Services worker and provide daily care to him such as cooking, cleaning, doing grocery shopping, and driving him to his medical appointments. My partner and I use this money to buy food and other essential supplies, including his medical appointment and prescription co-pays. Now that my work permit has expired, I do not believe I am able to work as his IHSS worker and therefore I am very afraid about how my partner and I will survive.
14. Once my vacation time from Apple runs out, I will have to rely on my savings to buy food and essential supplies for myself and my partner and pay his medical and



prescription co-pays. I estimate that I have enough savings to support my partner and myself for another 2 months. After that, I will not have any more savings to rely upon.

15. My driver license expired on the date my EAD expired which was April 21, 2021. When I went to the Department of Motor Vehicles, they gave me a 6-month extension tied to the 180-day extension from USCIS. That extension expired on October 18, 2021.
16. Since my driver license extension expired, I have not been able to drive which severely limits my ability to live my life and take care of my partner. I cannot drive us to doctor's appointments or do things like go grocery shopping or pick up prescriptions very easily.
17. I will lose my health insurance once my holiday and sick days run out. I will not have access to my primary care doctor who is treating me for a medical issue that began in August.
18. Once I lose my health insurance, I will have to sign up for Healthy San Francisco, a health PAC run by the City of San Francisco for undocumented immigrants. I know that with Healthy San Francisco, you must seek care through city-run health clinics where there are a lot of patients and not that many doctors. I worry that I will have to wait a long time to get an appointment because of this. I also worry that if I don't want any disruptions to my HIV medication regimen, I might have to pay out of pocket for my HIV medication since it could take me a long time to get an appointment to see a doctor at a city-run health clinic.
19. If I cannot renew my driver's license soon the registration for my car will not be able to be renewed. My car registration expires in December 2021. If I am not able to re-register it before it expires, no one can drive my car and my partner will not be able to get to his medical appointments. I will also have to pay fees to get it registered again since the

registration will be late. For example, if my car registration is paid more than 31 days late, I will have to pay an extra 60% of the vehicle registration fee for that year plus another \$60.

20. This situation is very stressful for me. I have a constant anxiety thinking about what I am going to do and how my partner and I are going to survive. I worry about my physical health and the health of my partner and worry that I will get sicker if I cannot keep my health insurance. I worry that once my "Work Permit" leave expires with Apple, I will have to find a new job.

21. I have now been waiting almost 7 months for USCIS to renew my work permit and I am desperate to start working again and regain the physical and emotional stability my life used to have.

JACK S.

11/09/2021

\_\_\_\_\_  
DATE

## Exhibit E

**DECLARATION OF DAYANA CAROLINA VERA DE APONTE**

I, Dayana Carolina Vera de Aponte, hereby declare under the penalty of perjury that the following is true and correct to the best of my knowledge.

1. My name is Dayana Carolina Vera de Aponte. I was born in Maracay, Estado Aragua, Venezuela, and am 36 years old. I currently live in Miami, Florida, with my husband and 8-year-old child.
2. I am an asylum seeker from Venezuela. I arrived in the United States in 2015, fleeing the dictatorial regime of Nicolas Maduro. I submitted my application for asylum on September 28, 2015.
3. I was first granted work authorization on May 13, 2016, after I applied for a work permit as an asylum seeker with a pending asylum application, which is category c(8).
4. I have applied to renew my work permit three times—including my currently pending renewal application—since I first received work authorization. I received my most recent renewal work authorization on May 14, 2019. Its expiration date is May 13, 2021.
5. I applied to renew my work authorization most recently in February 2021. I received an I-797C receipt notice from the immigration agency, USCIS, in response to my renewal application. The notice says that USCIS received my application on February 25, 2021. The receipt notice shows that my application is being processed at the Potomac Service Center.
6. My most recent renewal receipt notice also says that the validity of my current work permit would be automatically extended by 180 days. This means my current work authorization would expire on November 9, 2021.
7. I was working most recently for behavioral therapy agencies that are sub-contractors of the Medicaid Program. I was working as a Registered Behavior Technician for special needs children. I worked in that role for approximately 5 years.



8. My employer has already notified me that I have been terminated because my work authorization has not been renewed. Over the last several weeks, I have been getting frequent messages from my employer, reminding me that my work authorization is expiring and asking if I have received my new work permit.
9. Every message I received from my employer has filled me with anxiety. I have felt upset and stressed going into work, knowing that I was about to lose my job through no fault of my own. I am the main economic support for my family and my husband's work permit is also about to expire. My nerves have been shattered by all this worry.
10. I am not worried just for myself, but also for the special needs children I had been working with. It is not good for them or fair to them that they now have to work with a new person all of a sudden. This did not need to happen to those children, and I am upset that this renewal delay is hurting them, too.
11. Beyond that, I am losing more than just my job because of my work authorization expiring. I am also at risk of losing my provider number, which licenses me to work as a behavior technician through the Medicaid program. I had to study hard for one year to pass an examination with the Behavior Analyst Certification Board to receive my provider number. But without proof of my work authorization, Medicaid must put a hold on my provider number. Medicaid typically revokes a provider number after a period of inactivity. If this happens to my provider number, I will be unable to return to work through the Medicaid program.
12. This situation is especially stressful because Medicaid is not currently issuing new provider numbers. My understanding is that Medicaid is in a review or auditing process, to determine whether current providers and sub-contractors are fulfilling job requirements properly. It is my understanding that they have a moratorium on issuing any new provider numbers during this period. I know people who have been waiting for over a year to receive a provider number after applying for one.

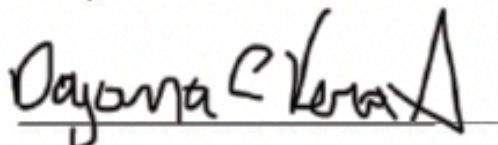
13. This means that even after I finally receive my work authorization, the delay in getting the permit renewed might have already cost me my Medicaid provider number and severely harmed my career opportunities. Without my Medicaid provider number, I would automatically become ineligible for a number of registered behavior technician jobs. Many providers in the field of child behavioral therapy require their therapists to have a provider number. This is because a lot of people cannot access the type of services I provide without Medicaid, so it is very detrimental for my career path to not have a Medicaid provider number.
14. With an expired work authorization, I also risk losing my health insurance. I have been asked to provide proof of work authorization status to my insurance provider by March 2022. If I were to lose my insurance, I would be very worried about my health and that of my family. I suffer from asthma and we are in the middle of the COVID-19 pandemic. I cannot imagine what it would mean to end up hospitalized, without insurance, and having lost my ability to work. The thought fills me with anxiety.
15. I may also lose my driver's license because of my expired work authorization status. My driver's license expires in May 2022. If I cannot demonstrate valid work authorization by then, I will be left without a license. This would make it very difficult for me to take care of my family, such as taking my daughter to school or her doctor's appointments, and taking care of the basic necessities of the home, like shopping for groceries.
16. In the past, whenever I renewed my work authorization, I would get my new work permit in one or two months. I never could have imagined I would be in this situation. My family is in a really difficult position, but we have no other options.
17. I tried calling USCIS several times to explain my situation and ask that they process my renewal application more quickly. I was told that there was nothing that could be done for my case. I am desperate for help. All I want is to be able to work and support my family. I feel panic and fear, even though I have done everything I can to get my work authorization renewed.



18. This has been a very emotionally painful period. I had to stop working for a period during the height of the pandemic, but that was understandable because it was for everyone's well-being. That was a sacrifice that was justified and made sense. But now I have lost my job and there is no good reason. My life is now paralyzed. I cannot even make plans for the holidays with my family because our financial situation is so uncertain. I feel very upset, because I do not understand why this had to happen. My ability to work and provide stability for my family has been taken away, and I do not understand why.

#### CERTIFICATE OF TRANSLATION

I, Dayana Carolina Vera de Aponte, hereby declare under penalty of perjury that I provided the foregoing statement in Spanish and that it is true and correct to the best of my knowledge and ability.



Dayana Carolina Vera de Aponte

11/09/2021

Date

I, Anne Recinos, am competent to translate from Spanish to English, and I certify that I read back the foregoing statement to Dayana Carolina Vera de Aponte in the Spanish language, that the translation is true and accurate to the best of my abilities, and that she understood it before signing.



Anne Recinos

11/09/2021

Date



# Exhibit F

### **DECLARATION OF RACHEL KAFELE**

I, Rachel Kafele, upon my personal knowledge, hereby submit this declaration pursuant to 28 U.S.C. § 1746 and declare as follows:

1. I am the Legal Program Director and co-founder of Oasis Legal Services. Oasis Legal Services (“Oasis”) was founded in May 2017.

2. As Oasis’s Legal Program Director, I oversee all the legal casework performed by Oasis staff, make decisions about which cases Oasis represents, and develop and implement Oasis’s legal strategies and case management processes. I am also the attorney of record for hundreds of LGBTQ+ asylum seekers whose affirmative asylum cases are pending before the U.S. Citizenship and Immigration Services (“USCIS”) and the Executive Office for Immigration Review (“EOIR”). Over my legal career, I have assisted hundreds of asylum seekers and filed hundreds of first time and renewal applications for Employment Authorization Documents.

#### **Oasis’s Mission and Clients**

3. Oasis’s mission is to provide direct legal services and holistic case management to LGBTQ+ asylum seekers living within the jurisdiction of the USCIS San Francisco Asylum Office. Given California's proximity to Mexico and Central America, over 95% of our clients are Latinx. We also serve clients from Asia, Africa, the Middle East, and the Caribbean.

4. Oasis clients are undocumented immigrants, low-income people of color, and victims of hate crimes. All of our clients have endured horrific violence because of their sexual orientation, gender identity, and/or HIV+ status in their countries of origin. Our clients suffer from the psychological impact of trauma experienced – and the continued oppression faced – as

undocumented LGBTQ+ immigrants. Many Oasis clients are also HIV+, making them even more vulnerable.

5. We have a 99% success rate in helping our clients win asylum in the United States. Because of our limited resources, we cannot take on every potential client that comes to us, and we carefully select our clients through a lengthy and in-depth intake process to make sure every case we represent has a very high chance of winning asylum. We also want to use our limited resources to make sure we are serving those who have suffered extreme persecution in their home countries due to their LGBTQ+ identities.

6. In addition to intake, case preparation, application submission, and representation in front of USCIS and EOIR, Oasis provides individualized case management services to our clients. We assist our clients in applying for social security numbers, Medi-Cal, Real IDs, and other benefits for which they are eligible and educate our clients on workplace, housing, and public benefits. We connect clients to newcomer programs for asylees, mental health services and support groups, affordable health care, HIV treatment, emergency housing, cash assistance, job training, assistance with legal name and gender changes, and legal representation for employment discrimination.

7. Since its inception in May 2017, Oasis has filed over 725 affirmative asylum applications for clients and taken on the representation of over 400 other clients who had already filed for asylum but had not yet had their asylum interview. As of October 2021, Oasis has over 700 clients whose asylum cases are still pending with no decision; over half of these clients have been waiting more than three years to receive a decision in their case from USCIS. Some of our

pending asylum clients have been waiting since 2014 for their asylum interview and decision. The long delay is not attributable to our clients but is instead a result of USCIS's backlogs.<sup>1</sup>

### **The Importance of EADs to LGBTQ+ Asylum Seekers**

8. Employment authorization documents (EADs) are integral to our clients' ability to access legal counsel, participate fully in their asylum case, and financially support themselves – especially given the current processing delays for affirmative asylum cases. With a valid, unexpired EAD and their social security number, our clients can apply for a Real ID and medical and mental health care, as well as find stable jobs that pay at least the minimum wage.

9. Because they are not forced to work “under the table” or in underground economies, our clients also have the security to speak out about wage theft, exploitation, and discrimination they experience at their places of employment. As members of the LGBTQ+ community, Oasis clients are often particularly vulnerable to these abuses because of their sexual orientation or gender identity.

10. A valid EAD also allows our clients to apply for unemployment and disability benefits if the need arises. Our clients' ability to apply for unemployment has been lifesaving – especially during the COVID-19 pandemic and resulting economic downturn. In California, where the majority of our clients live, employment authorization and a social security number allow the recipient to apply for Medi-Cal health insurance and to receive both low-cost medical and mental health care. Valid employment authorization, however, is required to maintain enrollment in

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<sup>1</sup> In January 2018, USCIS changed its policy from “First In, First Out” (“FIFO”) to “Last In, First Out” (“LIFO”) with the aim of reducing the backlog by hearing all newly-filed cases within the requisite 45 days of filing. However, because USCIS did not increase the number of asylum officers available to hear cases, the “LIFO” policy has therefore created a second backlog of cases filed between January 2018 and the present date that are still waiting for interviews.

Medi-Cal. If a client's employment authorization expires before USCIS approves the renewal application, they will be disenrolled from Medi-Cal. As survivors of severe and life-long trauma due to persecution in their home countries based on their sexual orientation and gender identities, our clients need to access affordable mental health treatment. This allows them to participate more fully in their asylum case, which leads to a greater chance of success.

11. Because housing prices in the jurisdiction of the San Francisco Asylum Office have soared, work authorization allows our clients to live within this area and remain clients of Oasis. Affirmative asylum applicants fall under the jurisdiction of the Asylum Office assigned to their geographical area. If an applicant moves to a new jurisdiction, their case is automatically transferred to a different Asylum Office. As a small non-profit, we do not have the resources to travel to other Asylum Offices in order to represent our clients, and therefore we cannot represent clients who move. Additionally, much of our work is funded by grants that are connected to the counties where our clients live. If clients move away from these counties because they cannot afford rent, we can no longer represent them, and they will lose access to their legal counsel.

#### **Impact of USCIS' Delays in Adjudicating EAD Renewals on LGBTQ+ Asylum Seekers**

12. Without a valid EAD, LGBTQ+ asylum seekers suffer economically and emotionally. Without a document to show that they can legally work in the United States, they are let go from their jobs and cannot renew their driver licenses and state ID cards. They lose access to health care, including mental health treatment, because their health insurance is either tied to their jobs as an employer benefit or if they are on Medi-Cal, they are disenrolled because they lack valid employment authorization. These losses bring on a cascade of negative consequences.

13. With no job, LGBTQ+ asylum seekers cannot afford to pay for housing since without a valid EAD, they are no longer eligible for unemployment or disability benefits. When they cannot afford housing, they are forced to live with family members or friends or find a space in a homeless shelter if one is available or live on the street if one is not. For LGBTQ+ asylum seekers, their LGBTQ+ identities often cause estrangement from their families. This makes the possibility even higher that without a valid EAD, they will experience homelessness while they wait for their asylum cases to be decided. We have at least one client who, because of USCIS' delay in adjudicating her EAD renewal, lost her housing and has now been living in a homeless shelter with her toddler-aged daughter.

14. Not having a valid driver license because of EAD renewal delay creates added barriers to finding stability. A valid driver license is essential to being able to drive legally and obtain certain jobs.

15. Interruptions in health care and mental health treatment also have a profoundly negative impact on our clients. As survivors of trauma, the interruption of mental health care can be particularly devastating and lead to setbacks in their treatment of trauma-related disorders like PTSD. We have had more than one client tell us that the loss of their work permit through USCIS' delay in renewing it has caused severe depression and even suicidal ideation because they don't know when they will be able to work, have stable housing, and access to mental health care again.

### **EAD Renewal Delays are Getting Worse**

16. In 2019, Oasis filed 237 EAD renewals for our pending asylum clients. On average it took around 4 months for USCIS to adjudicate the renewal I-765 and issue the EAD card. Since

the EAD card is valid for two years, these clients are now applying to renew their EADs and because of USCIS' delays, it is taking significantly longer for them to receive the new EAD.

17. For example, our client J.E.R.G. applied for asylum in November 2015. He applied for his first EAD renewal in June 2019 and it was approved in October 2019 for a processing time of about 4 months. In May 2021 he applied for a second renewal of his work permit and six months later, it is still pending.

18. Our client N.C.C. also applied for asylum in November 2015. She applied for her second work permit renewal in April 2019 and it was granted 3 months later in July 2019. In March 2021 she applied for her third EAD renewal and almost 7 months later it is still pending. She will lose her job in two months if her work permit renewal application is not approved.

19. L.D.S.M. applied for asylum in February 2016. He filed a second renewal for his EAD in April 2019 and it was granted in July 2019 for a processing time of about 3 months. He filed for his third renewal in March 2021 and more than 7 months later it is still pending. He will also lose his job in two months if his work permit renewal application is not approved.

20. I estimate that we have between 60 and 70 clients who applied to renew their EADs in 2019 and received the approval in 4 months or less but who have now applied to renew their EADs again in 2021 and have been waiting more than 6 months.

21. Another way to see the delay is by looking at the difference for clients who applied to renew their EADs in a certain month compared to clients who applied to renew only one or two months later. For example, we mailed EAD renewal applications for 5 clients on September 8, 2020. All of them were granted between December 10 and 17, 2020, for a processing time of about 3 months. We mailed 4 EAD renewal applications on December 7, 2020. The processing times for those renewal applications went up by over a month. They were processed between



April 30 and May 3, 2021. On January 6, 2021, we filed another 8 EAD renewal applications. These applications took on average 7 months to process, with approval dates ranging from August 16 to August 23, 2021. Even though these 8 clients only filed their EAD renewal applications a month later, they took 3 months longer to process.

22. In 2017, USCIS began allowing the receipt Form I-797C, which indicated the applicant's I-765 was properly received and pending, to act as an auto-extension for the EAD document as long as the EAD renewal application had been filed before expiration of the current EAD. In USCIS' June 2020 rulemaking regarding EADs for asylum seekers, the agency represented that it was "unnecessary" for asylum applicants to apply to renew 90 days before expiration of their EADs because USCIS would adjudicate applications within the 180-day automatic extension.

23. At Oasis, we relied upon both USCIS' auto-extension policy and the representation that EADs would be adjudicated within this 180-day period and communicated to our clients that, as long as they filed their EAD renewal before their current EAD expired, they would not be in danger of losing their work authorization due to expiration of the 180-day period.

24. This agency-created reliance has been to the detriment of our clients. Since July 2021, when we began tracking this issue, we've had 10 clients whose 180 day auto-extension expired without them receiving their work permit. For 6 of these clients, they still have not received their work permits and have been let go from their jobs. Two clients have been waiting over 10 months for their work permits to be renewed, three have been waiting over 9 months, and three have been waiting over 8 months.

25. Uninterrupted EADs are the key for LGBTQ+ asylum seekers to have stability – both financially and emotionally – during the often times years-long wait until the resolution of their asylum cases. The USCIS delays in issuing renewals of EADs for asylum applicants has an

extremely negative effect on the ability of LGBTQ+ asylum seekers to support themselves, have a place to live, support their families, and have access to transportation, medical and mental healthcare.

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed this 9 day of November 2021 in Berkeley, California.



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Rachel Kafele  
Legal Program Director  
Oasis Legal Services

# Exhibit G

**DECLARATION OF SWAPNA C. REDDY**

I, Swapna Reddy, declare under the penalty of perjury pursuant to 28 U.S.C. § 1746:

1. I am an attorney and Co-Executive Director of the Asylum Seeker Advocacy Project (“ASAP”).

2. I make this sworn statement based upon personal knowledge, files and documents of ASAP that I have reviewed (such as case files, reports, and collected case metrics), as well as information supplied to me by employees of ASAP whom I believe to be reliable, including ASAP’s management, attorneys, paralegals, and administrative staff. These files, documents, and information are of a type that is generated in the ordinary course of our business and that I would customarily rely upon in conducting ASAP business.

**Background on ASAP**

3. ASAP is a membership-based 501(c)(3) nonprofit organization incorporated in New York with its primary address in New York City. ASAP employs staff in California, Colorado, the District of Columbia, Florida, Illinois, Massachusetts, New York, South Carolina, Texas, and Virginia.

4. ASAP’s mission is to build a future where the United States welcomes individuals fleeing violence. ASAP works alongside its members to make this vision a reality. ASAP’s work has three primary components: (1) building digital communities through the power of technology in order to create the largest community of asylum seekers in U.S. history; (2) creating legal resources that help asylum seekers navigate the legal system, stay up to date on critical news, and succeed in their cases; and (3) advancing member-led advocacy efforts to fight for a U.S. that welcomes asylum seekers, through litigation, press, and policy work.

5. ASAP accepts members who have sought or are seeking asylum in the United States, are 14 years of age or older, and agree with ASAP's mission as stated above. Individuals who apply are screened for eligibility and must be approved by ASAP staff before becoming members.

6. As of November 2021, ASAP has over 185,000 members.

7. ASAP members live throughout the United States in all 50 states, the District of Columbia, and U.S. territories. There are also some ASAP members located in Mexico who have pending U.S. immigration court cases under the "Migrant Protection Protocols" program.

8. Members are in various stages of their immigration proceedings. For example, some members are in affirmative proceedings before United States Immigration and Citizenship Services (USCIS), some are awaiting notice of a first hearing in immigration court, some have pending immigration court cases, some have won asylum, and some have pending asylum appeals.

9. ASAP provides daily support to members Monday through Friday. ASAP staff produce educational materials and host live video sessions to answer members' questions about asylum and the immigration court process, as well as questions related to work authorization, access to health care, and education. Members also have continuous access to ASAP-created information and resources shared online, and ASAP sends members relevant updates by text message and email on a regular basis.

10. ASAP attorneys represent several ASAP members in their immigration proceedings. Other ASAP members secure immigration legal representation from non-ASAP attorneys, and others do not have immigration legal representation. ASAP staff also provide *pro se* assistance to address additional member needs, such as helping unrepresented individuals complete their employment authorization application filing, as capacity permits.

11. ASAP provides resources directly to members who are filing out initial and renewal work permit applications and answers individual members' questions about work authorization. ASAP attorneys and staff answer members' questions about work permits through a designated email inbox. ASAP disseminates guidance documents and toolkits written by ASAP staff to assist members and their attorneys with the preparation of work permit applications.

**Work Permit Renewal Delays are an Urgent Concern for ASAP Members**

12. As noted above, as part of our membership service, ASAP operates an email inbox to collect and respond to all member inquiries related to work permits. During the summer of 2021, ASAP began hearing from members that their work permit renewal applications had been pending for over six months. Members reported that they were no longer covered by the 180-day automatic extension they received when they applied for renewal and feared losing their jobs.

13. In August 2021, ASAP received over 60 messages from members who reported experiencing significant wait times (including many reporting waiting over six months) in the processing of their work permit renewal applications.

14. During September 2021, ASAP received more than 50 additional messages from members expressing concern about significant delays in processing their work permit renewal applications.

15. In October 2021, ASAP received messages from 160 members reporting significant delays in the processing of their renewal applications, a considerable increase from previous months.

16. Because of the increase in member reports of extreme wait times for renewal applications, ASAP sent an opt-in survey to its members over the age of 18 on October 25, 2021, to investigate the scope of these delays.

17. A total of 1,253 ASAP members responded to this survey who indicated that they had submitted Form I-765 to USCIS to apply for a renewal of a previous work permit. All of those



survey respondents reported that they had applied to renew their work authorization based on their I-589 asylum applications (category c(8) on the I-765 form).

18. Of the respondents, 454 members reported that, at the time of completing the survey, they were currently waiting over 180 days for their pending work permit renewal requests to be adjudicated. An additional 37 members reported that their renewal applications had been adjudicated within the past year, but they reported that it had taken over six months to process their applications. All 454 respondents indicated that they had applied to renew their work permits before the expiration of their current work permits. All 454 respondents also reported that to the best of their knowledge they had not received a Request for Evidence in association with their work permit renewal application.

19. Of the respondents, 165 ASAP members reported that their work permit renewal applications were pending for more than nine months.

20. Thirty-six members responded to the survey and indicated that they had already lost a job because their work permit renewal application had not been adjudicated within the 180-day automatic extension period.

21. An additional 132 members stated that their employer has told them that they will lose their jobs imminently if a renewal of their work permit is not approved before their automatic extension period expires.

22. Despite the widespread reports of delays, several members reported having had their renewal applications approved within the automatic extension period, even though they reported filing to renew their work permits later than other members. For instance, at least 11 members reported that they applied to renew their work permits in March and April of 2021 and had their renewal applications approved within 180 days of receipt by USCIS.

23. In November 2021, ASAP has continued to receive daily inquiries from additional members concerned about wait times for work permit renewal applications in excess of six months.

24. ASAP members who responded to the survey reported living in 24 states: California, Florida, Georgia, Illinois, Indiana, Kansas, Maine, Maryland, Massachusetts, Minnesota, Mississippi, Nevada, New Jersey, New York, North Dakota, Ohio, Oklahoma, Oregon, Tennessee, Texas, Utah, Virginia, and Wisconsin.

25. A subset of respondents were asked a question about whether they had received a Request for Evidence (“RFE”) from USCIS in relation to their renewal application. Of the 235 respondent who were asked, 186 respondents (79.1%) said they had not received an RFE, 23 said they did not know if they had received an RFE (9.8%) and 26 (11%) reported that they had received an RFE.

26. As a result of the reported delays in processing work permit renewal applications, ASAP recently issued a new guidance to its members to apply to renew their work permits six months in advance of their current work permits’ expiration. *See* Asylum Seeker Advocacy Project, *Renew Your Work Permit at Least Six Months Before it Expires!*, Oct. 5, 2021, <https://help.asylumadvocacy.org/renewal-delays/> (last updated Oct. 5, 2021).

27. Prior to the widespread reports of delays, ASAP had not advised its members to apply to renew their work permits more than a few weeks in advance of the expiration of their current work permits, because we relied on USCIS representations in its 2020 rulemaking that the 180-day automatic extension period would prevent any “gaps” in asylum seeker work authorization coverage. *See* Removal of 30-Day Processing Provision for Asylum Applicant-Related Form I-765 Employment Authorization Applicants, 85 Fed. Reg. 37,502, 37509 (June 22, 2020) (“[because the automatic 180-day extension] effectively prevents gaps in work authorization for asylum applicants with expiring employment authorization and EADs, DHS finds it unnecessary

to continue to require that pending asylum applicants file for renewal of their employment authorization 90 days before the EAD's scheduled expiration in order to prevent gaps in employment authorization.") Relying on USCIS representation in the rulemaking, ASAP operated, until recently, under the assumption that all of its members' work permit renewal applications would be processed within the 180-day automatic extension period.

### **Work Permit Renewal Delays Are Having a Devastating Impact on ASAP Members**

28. Delays in the processing of work permit renewals often lead to major hardship for asylum seekers. ASAP members report that without a valid work permit they will be without means to support themselves and secure necessities such as housing, food, and medical care. ASAP members report that the loss of work authorization will have significant impact on their ability to care for children, spouses, and other family members. Many ASAP members also indicated that the loss of their work permits had or will have serious collateral consequences. For example, members reported losing their driver's licenses because they no longer had valid work authorization. Members also expressed concern about the potential loss of disability insurance and health care coverage.

29. One ASAP member from Venezuela reported that she recently lost a job she had held for three years at a cybersecurity company due to the delay in adjudicating her renewal application. This member is a single mother supporting a child who has been diagnosed with a developmental disability. Without her job, she fears that she will no longer be able to provide basic necessities for her family and health care for her child.

30. Renewal delays have caused significant mental health consequences for ASAP members, including extreme anxiety. An ASAP member from Ukraine said that she has received inquiries from her employer about her work permit renewal almost every week for the past few months and

that her employer indicated she would be terminated if her work permit was not renewed in November 2021. This member has a 22-month-old son for whom she is the primary caregiver. She reports that the delay in her work permit adjudication has caused her severe anxiety because her job is her only source of income and her only means of providing for her child.

31. One ASAP member from Kenya reported that it is extremely difficult for her to live in a constant state of anxiety now that she has lost her job because of the delay in adjudicating her work permit renewal. She feels constant distress as a student trying to graduate from college without the ability to apply for jobs, and she does not know what will happen to her when she is no longer eligible for financial aid and unable to work. She noted her desire to provide support to industries that are short of workers. She describes it as extremely mentally and emotionally painful to see so many job openings that she cannot apply for because she no longer has a valid work permit.

32. Delays in processing renewal applications also have prevented ASAP members from contributing to their communities. For example, another member is a health care worker from Syria. Her employer indicated to her that she would be terminated due to the delay in processing her renewal application and that, as a result, she would no longer be able to provide medical care to her patients during the pandemic. She reported that work authorization allows her to support her mother and her community, but that without her job she could be forced into poverty.

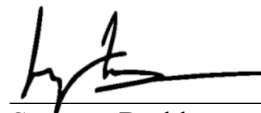
33. Renewal delays have limited members' ability to advance in their careers and lives. One ASAP member, a 23-year-old who had just begun a job as a software engineer with AirBnB, expressed frustration at the way the renewal delays prevented him from being able to advance in his career. His employer will not offer him a full-time position with benefits until his renewal application has been approved. He now works two jobs, from 9am to 10pm each day, to save for

when his automatic extension will soon expire. Even after his renewal work permit is finally approved, he worries about having to explain the gap in employment to future employers.

34. Another ASAP member spoke about how he and his wife, who have one daughter and are expecting a child, recently invested their entire savings into buying a house. He is the only source of income for his family, but the delay in adjudicating his renewal application will soon result in him losing the ability to work. He is now worried about losing their house because they cannot afford their mortgage payments as they wait for their work permit renewal applications to be processed.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: November 09, 2021  
Chicago, Illinois



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Swapna Reddy  
Co-Executive Director  
Asylum Seeker Advocacy Project

# Exhibit H



**DECLARATION OF AIDIN CASTILLO OF CENTRO LEGAL DE LA RAZA**

I, Aidin Castillo, declare under penalty of perjury and in accord with 28 U.S.C. § 1746 as follows:

1. I am the Directing Attorney of the Immigrants' Rights practice at Centro Legal de la Raza (Centro Legal). Centro Legal is located at 3400 East 12th Street, Oakland, California 94601.

2. Centro Legal is a non-profit legal services agency that protects and advances the rights of low-income individuals through bilingual legal representation, education, and advocacy. By combining quality legal services with know-your-rights education and youth development programming, Centro Legal ensures access to justice for thousands of individuals throughout Northern and Central California. Centro Legal's Immigrants' Rights practice is the Bay Area's largest non-profit immigration removal defense program, comprised of 34 staff – 16 attorneys, one Board of Immigration Appeals accredited representative, 16 immigration advocates and support staff, and a grants manager. As Directing Attorney, I manage an immigration budget of over \$3 million, determine the strategic direction and programmatic priorities of the immigration practice to encourage growth and development based on the changing needs of the community, and engage in local, regional, and statewide advocacy to expand legal representation for detained and non-detained immigrants facing deportation. I have more than a decade of experience as an immigration attorney, including two years in my current role and over five years as an attorney at Centro Legal.

3. Centro Legal currently has more than 2,000 open asylum cases. A significant part of our representation in our clients' asylum cases is the submission of applications for category (c)(8) employment authorization when our clients become eligible for an initial employment authorization document (EAD) or must renew their EAD when they are set to expire.

4. I have provided this declaration based upon my personal knowledge and my review of case files and other records (such as client database reports and data compilations). These records are the types that are generated in our ordinary course of business and on which I customarily would rely in performing my job.

5. Between January 1, 2020, and October 19, 2021, we filed applications to renew Employment Authorization Documents (EADs) for at least 124 asylum applicants. As of October 19, 2021, at least 105 of these EAD renewal applications remain pending with U.S. Citizenship and Immigration Services (USCIS).

6. As of October 31, 2021, at least 16 of our clients for whom we filed applications to renew their EADs are asylum applicants whom USCIS previously determined were authorized to work pursuant to 8 C.F.R. § 274a.12(c)(8), who received an automatic 180-day extension, and whose applications have been pending with USCIS for at least 180 days. Eight of these applications have been pending for 240 days or longer. We have at least four clients whose EAD renewal applications have been pending with USCIS since they were filed in December 2020, nearly one year ago.

7. USCIS did not issue a Request for Evidence for any of these 16 clients.

8. Based on a review of our case records, USCIS received applications from four of our asylum applicant clients to renew their EADs on October 5, 2020. USCIS did not issue Requests for Evidence for any of these applications and adjudicated them on May 24, June 7, June 11, and August 31, 2021, respectively. I have been unable to identify any differences in the applications that would have caused some to be adjudicated weeks or months after others.

9. As of November 2, 2021, the 180-day automatic extension of their work authorization has expired for at least eight of our asylum applicant clients. As of November 2,

2021, the 180-day extension of their work authorization will expire in 30 days or less for at least nine additional clients. None of these clients received Requests for Evidence regarding their EAD renewal applications from USCIS.

10. In my experience, USCIS previously adjudicated asylum applicants' EAD renewal applications within 180 days. It was not until relatively recently that USCIS began suddenly taking much longer to process EAD renewal applications, and we saw the estimated case processing times increase rapidly. Around May 2021, the estimated case processing time for an asylum applicant's EAD renewal application was six to nine months, according to USCIS. By July 2021, USCIS increased the estimated case processing time to eight to eleven months. At that point, we already had many clients whose EAD renewal applications had been filed nine months earlier and whose 180-day extension of their work authorization had already lapsed.

11. Our office represents an unaccompanied child who filed an application for an EAD renewal with USCIS more than ten months ago. To date, USCIS has not adjudicated her EAD renewal application. She was terminated from her employment in June 2021, after her employer requested the annual review of her eligibility to work and learned that her EAD had expired. Our client now relies on a family member to provide financial assistance to cover her basic needs. She has accumulated credit card debt, and her credit score has dropped significantly. She owes her family member for six months of rent, and does not know how she will be able to pay her family member back. In the fall of 2021, she attempted to renew her California driver's license and was unable to because her EAD is expired. As a result, she no longer has any valid form of government-issued identification.

12. Our office represents a victim of domestic violence who waited nearly a year for USCIS to adjudicate her EAD renewal application. Our client, the sole provider for her five

minor children including two infants, filed an EAD renewal application in September 2020. USCIS did not grant her application until September 2021. At no time did USCIS issue a Request for Evidence. During our client's year-long wait to obtain work authorization, she continued to live with her partner, who was physically and sexually abusive, because she was unable to support her family without his income. She knew she should not work without authorization and she did not want to negatively impact her asylum claim. When our client's abusive partner began withholding financial support, she relied instead on local food banks to feed herself and her children, asking friends for rides to the food bank, or, when no friends were available to assist, traveling on foot. She also obtained assistance from a local social services agency to help pay her portion of the rent. Now that our client has obtained authorization to work again, she is planning on filing a domestic violence restraining order against her partner to protect herself and her children from his abuse.


13. In my experience, asylum applicants suffer harm particular to their immigration category when gaps in their work authorization result from delays in USCIS adjudication. The vast majority of our clients who are asylum applicants fled their home countries with virtually no possessions and few savings. They arrive in the United States in much more precarious financial situations than applicants for work authorization in other categories. As a result, asylum applicants are particularly vulnerable to domestic violence and labor exploitation, including trafficking. This vulnerability is exacerbated when asylum applicants lose work authorization and are faced with an impossible choice: either work without authorization in situations in which they are easily taken advantage of by their employers, or forego any income altogether.

14. Additionally, during the COVID-19 pandemic, many of our clients' individual hearings have been rescheduled by the Executive Office for Immigration Review for dates as far

in the future as the year 2025. Our clients depend on authorization to work as they wait for years, for reasons beyond their control, for their asylum claims to be adjudicated.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 2nd day of November, 2021, in Oakland, California.



Aidin Castillo

Aidin Castillo

# Exhibit I



Declaration of Jenna Gilbert, Esq. on behalf of Human Rights First

I, Jenna Gilbert, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I submit this declaration to provide a few examples of the many ways in which people seeking asylum in the United States are being harmed by the U.S. government's failure to timely process applications to renew employment authorization documents ("EADs").
2. Human Rights First is a non-profit, non-governmental organization established in 1978 that works to ensure the United States' leadership on human rights globally, and compliance domestically with its human rights commitments. With offices in New York, Los Angeles, and Washington, D.C., Human Rights First operates one of the largest programs for pro bono legal representation of refugees in the nation. Human Rights First has worked in partnership with volunteer lawyers at leading law firms to provide legal representation and social work services, without charge, to thousands of indigent asylum applicants over the last forty years.
3. At Human Rights First I serve as Director of Refugee Representation, overseeing Human Rights First's pro bono legal representation program. I am an attorney licensed to practice law in the state of California. I have been a practicing immigration attorney for eleven years. Previously, I served as managing attorney of the Los Angeles office of Human Rights First from 2017 to 2021, leading the Los Angeles team, and from 2013 to 2017 I was a staff attorney in Human Rights First's New York then Los Angeles offices.
4. Before joining Human Rights First, I worked as an associate attorney at a Los Angeles immigration law firm and as a public interest fellow at Asylum Access Ecuador.
5. I received my Bachelor of Arts from the University of San Diego and my Juris Doctorate from Loyola Law School, Los Angeles.



6. Work authorization in the United States provides asylum seekers with the stability and autonomy necessary to support themselves and their families while their asylum applications remain pending before U.S. Citizenship and Immigration Services (USCIS) or the Executive Office for Immigration Review (EOIR). Applications for asylum often remain pending for several years, so asylum seekers regularly seek initial and then subsequent renewal of their work authorization throughout that process. Without permission to work, asylum seekers are forced to rely on the charitable support of friends, family, or their local communities. Without work authorization, many asylum seekers become homeless, live in overcrowded or unsafe conditions, and lack basic necessities like food and clothing.<sup>1</sup>
7. The importance of employment authorization for asylum seekers extends far beyond the realm of work. Without employment authorization, asylum seekers cannot obtain a social security number or purchase health insurance under the Affordable Care Act. In most states, asylum seekers do not qualify for state-run Medicaid. Often, without work authorization asylum seekers cannot apply for state-issued identification cards or driver's licenses, further limiting their access to transportation, banking, or other private support services. Lack of income also hinders opportunities to find and retain competent legal counsel, particularly given that asylum seekers do not have access to government-funded counsel, non-profit organizations lack the capacity to meet the demand for legal services, and private immigration attorneys charge large fees for representation.<sup>2</sup>

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<sup>1</sup> See Human Rights First, "Callous and Calculated: Longer Work Authorization Bar Endangers Lives of Asylum Seekers and Their Families" (Apr. 2019), [https://www.humanrightsfirst.org/sites/default/files/Work\\_Authorization.pdf](https://www.humanrightsfirst.org/sites/default/files/Work_Authorization.pdf).

<sup>2</sup> *Id.*



8. Many Human Rights First clients currently experience significant delays in the processing of their applications to renew their EADs. Despite the automatic 180-day extension granted to asylum seekers if they file to renew an EAD prior to its expiration, USCIS is failing to process many of our clients' applications for EAD renewal within the 180-day extension period, leading to the expiration of their work authorization.<sup>3</sup> The loss of work authorization resulting from USCIS adjudication and processing delays is catastrophic for our clients. Many lose their jobs, their ability to pay rent or support their children and families, and lose their driver's licenses or state identification documents, whose validity is frequently tied to that of the EAD. All this leads to significant stress and deterioration of our clients' mental health.
9. For Isabel,<sup>4</sup> a domestic violence survivor from Guatemala, USCIS's delay in processing the renewal of her EAD caused Isabel to lose her job of two-and-a-half years as a forklift driver, as well as her driver's license. She and her children are experiencing significant psychological distress as a result. Isabel is the primary caregiver for her two young daughters, ages ten and thirteen, and supports other family members who depend on her.
10. As of November 2021, Isabel has been without work authorization for two months. Because she lost her job, the OSHA and employer certification Isabel obtained to operate a forklift has also lapsed. Without income, Isabel does not have enough money to pay rent for her apartment next month. She and her daughters are extremely anxious about their survival. Isabel told Human Rights First that she is experiencing physical pain, difficulty sleeping, gastrointestinal issues, and migraines that worsened after her EAD

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<sup>3</sup> U.S. Citizenship and Immigration Services, "Automatic Employment Document Authorization (EAD) Extension," (February 1, 2017), <https://www.uscis.gov/working-in-the-united-states/information-for-employers-and-employees/automatic-employment-authorization-document-ead-extension>.

<sup>4</sup> Pseudonyms are used in this declaration to protect the privacy of our clients.



expired. One of her daughters is so anxious about her mother's job loss that the girl is suffering body aches and has been pulling out her hair. Isabel had to take her daughter to the local emergency room for care. Isabel is also without a driver's license because the validity of her driver's license was connected to the now-expired EAD.

11. Isabel filed her EAD renewal request in January 2021, three months prior to her work authorization's expiration date. USCIS took two months to even acknowledge receipt of the application. The government delayed processing Isabel's EAD application, even with advocacy by Isabel's lawyers, who repeatedly contacted USCIS and the USCIS Ombudsman to request that USCIS provide case updates and process Isabel's case. Her attorneys have also made a constituent casework request to her congressional representative. Despite these efforts to resolve the application, in September 2021 USCIS responded that Isabel's EAD renewal application is considered within the current nine and a half month processing timeframe for such applications.<sup>5</sup>

12. Samuel, a Ugandan asylum seeker and sole provider for his wife and their three children who remain stranded in Uganda, lost two jobs as a certified nursing assistant and his driver's license because it took USCIS nearly 17 months to approve his EAD renewal application. Samuel had applied to renew his EAD in April 2020, but the automatic six-month EAD extension period expired in November 2020, leaving him without employment authorization or any form of valid identification. Without proof of employment authorization, Samuel left his nursing jobs. I represent Samuel and submitted repeated case inquiries to USCIS, multiple case assistance requests to the

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<sup>5</sup> U.S. Citizenship and Immigration Services, "Check Case Processing Times" (*last accessed* Nov. 4, 2021) <https://egov.uscis.gov/processing-times/> (indicating that Employment Authorization Applications, I-765, at the Potomac Service Center can take up to nine-and-a-half months to process).



USCIS Ombudsman, and a constituent casework request to his congressional representative, but USCIS did not approve the EAD renewal until August 2021, after I wrote a letter to the agency informing them of my intent to file a writ of mandamus in federal district court to compel adjudication of the application.

13. USCIS's delay in processing the EAD renewal application for Hisham, a Syrian asylum seeker and the sole provider to his family and then pregnant wife, caused his bank to threaten shutting down his account. Recently married, Hisham and his wife bought a house and were expecting their first child when the COVID-19 pandemic hit. Hisham's job as a telecommunications specialist required frequent travel. Out of concern to shield his pregnant wife from the coronavirus, he traveled by car rather than airplane, to his work sites. But the loss of his EAD threatened his driver's license. Hisham applied to renew his EAD in October 2019, at the earliest time USCIS rules allowed, but by Fall 2020, Hisham's existing EAD expired and the renewal application remained unprocessed, despite Hisham's diligent follow-up both with USCIS and with the USCIS Ombudsman's office. The bank notified Hisham that due to banking rules affecting Syrian nationals in particular, it would be shutting down his account because his EAD was expired. USCIS did not send Hisham his renewed EAD until December 2020, fourteen months after applying for the renewal.
14. Graciela, a Guatemalan asylum seeker, will imminently lose her job due to USCIS delay in processing her EAD renewal application. Graciela is a single mother and primary caregiver for her thirteen-year-old daughter and provides the primary financial support to other family members. Without stable income, Graciela told Human Rights First that she is afraid she will not be able to pay rent or afford food, and that her family will be

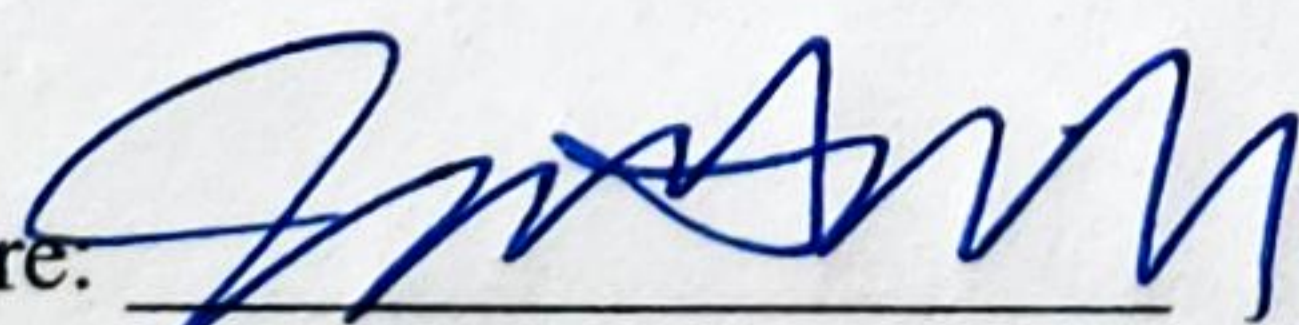


evicted. She also no longer has valid identification because her EAD served as her primary form of identification. USCIS has been processing Graciela's EAD renewal request for nine-and-a-half months. Graciela's attorneys filed case assistance requests with USCIS and the USCIS Ombudsman on multiple occasions but were informed that Graciela's pending application had not yet exceeded normal processing times.

15. Rosa, an asylum seeker from Honduras with three children ages twenty-two, twenty, and eighteen, lost her job in the summer of 2021 at a deli because of USCIS delays in processing the renewal of her EAD. Because the government took more than six and a half months to process and grant the EAD renewal, the automatic 180-day extension of Rosa's EAD had expired in early June 2021. As a result, Rosa was without work authorization for over a month and was forced to leave her job during the COVID-19 pandemic. Rosa's pro bono attorneys contacted USCIS and the USCIS Ombudsman who, in one instance, responded that USCIS was unable to locate Rosa's application at all.
16. These clients are some of the many asylum seekers who have been harmed by USCIS delays in processing EAD renewal applications. Their livelihoods, ability to work and drive, and their mental health have been severely affected by the instability generated through excessive delays in processing their work authorization renewal applications.

I declare under penalty of perjury under the laws of the United States and California that the foregoing is true and correct.

Executed on: November 10, 2021, in Los Angeles, California, United States.

Signature:   
Jenna Gilbert



## Exhibit J

**DECLARATION OF RACHEL SHERIDAN OF THE TAHIRIH JUSTICE CENTER**

I, Rachel Sheridan, declare under penalty of perjury and in accord with 28 U.S.C. § 1746 as follows:

1. I am Litigation Counsel at the Tahirih Justice Center (Tahirih). Tahirih has offices located in the greater Washington, DC area; Baltimore, Maryland; Atlanta, Georgia; Houston, Texas; and San Francisco, California.

2. Tahirih is a national nonprofit organization that serves women, girls, and other immigrant survivors fleeing gender-based violence such as rape, domestic violence, female genital mutilation/cutting, forced marriage, and human trafficking. Tahirih has served more than 30,000 survivors of gender-based violence and their families since its inception in 1997. Organization-wide, we currently represent 516 clients with pending asylum applications as of the date of this declaration. Our interdisciplinary, trauma-informed model of service combines free legal services and social services case management with bridge-building policy advocacy and research-based training and education. Our programs efficiently and effectively leverage donated professional services from a vast network of attorneys, medical professionals, and other experts to serve as many immigrant survivors as possible. Through administrative advocacy, legislative campaigns, and outreach, Tahirih aims to increase the efficiency and fairness of the asylum system.

3. I currently serve Tahirih as Litigation Counsel, in which I support Tahirih's legal advocates with appeals and provide advice on the shifting legal landscape and on agency delays and other issues our advocates encounter. From September 2018 through mid-2021, I served as a Staff Attorney at Tahirih, directly representing affirmative and defensive asylum applicants in our San Francisco Bay Area office. Before my employment with Tahirih, I provided pro bono



representation to numerous asylum applicants over a span of several years while working as a litigation associate at private law firms.

4. I have provided this declaration based upon my personal knowledge, my review of case files and other records, and my conversations with the legal and social services advocates who directly represent Tahirih's clients.

5. In my experience, asylum applicants suffer particularly serious harm when gaps in their work authorization result from delays in USCIS adjudication. Because we assist immigrant survivors of violence, most of our clients have experienced significant trauma. They are working to stabilize their day-to-day lives, develop a sense of safety and well-being, and recover from trauma as they pursue justice in the legal system. At the same time, they experience post-traumatic stress disorder, depression, anxiety, and other mental health challenges at far higher rates than the general population. Setbacks in meeting their basic life needs such as employment stability, steady income, and valid identification have serious consequences. Many of our clients do not have family in the United States who can house them or provide financial support in the face of adversity.

6. Many of our clients are survivors of domestic violence, who have overcome myriad forms of serious abuse, including exertion of power, control and domination in the form of economic and financial abuse. Abusive partners prevent survivors from taking and holding jobs, earning and keeping their own money, and understanding and managing their own income and finances. For these survivors, the loss of a job—or the threat thereof when employment reauthorization is delayed—triggers the trauma of the abusive relationship, including feelings of loss of control and self-determination. For many survivors, job loss comprises a realization of one of the primary fears of a survivor who leaves her abusive relationship: that she will be

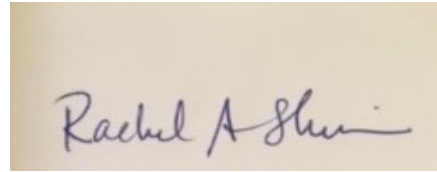
unable to support her family. Loss of employment also results in separation from communities of support, resulting in isolation, which is another common form of domestic violence. In all these ways, the employment instability resulting from excessive delays in reauthorization works particular harm on asylum seekers.

7. Job loss is further linked to loss of medical care, including mental health care. With the loss of income or the loss of medical insurance or both, many survivors forego medical and mental health care because they are cost-prohibitive. Trauma is highly correlated with chronic illness and other negative health outcomes, and the loss of medical care increases stress and harms health and well-being. Loss of access to mental health care and other trauma-informed care decreases resiliency even as a survivor's stress spikes because of lost income, food instability, and unstable housing. The loss of a job often therefore exacerbates a survivor's mental health challenges. Such adversities further impact a survivor's ability to focus on preparation of the legal case.

8. Tahirih client L.S., whose asylum application is based on a forced abortion in her home country, filed her EAD renewal in January 2021. Her initial EAD expired shortly thereafter. Her automatic 180-day employment authorization extension expired in July 2021, but USCIS still has not adjudicated her renewal application. Her attorney filed a service request with USCIS, but USCIS has not responded. Because of the delay in receiving her renewal, she lost her job and was unable to renew her driver's license without a valid EAD. She has been unable to pay rent and afford other basic necessities. She has sought financial and material assistance from organizations because she has no family or support system to rely on. She has been suffering from stress and anxiety as a result.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 8th day of November, 2021, in Palo Alto, California.

A rectangular image showing a handwritten signature in blue ink on a light-colored background. The signature reads "Rachel A. Sheridan" in a cursive script.

Rachel Sheridan

# Exhibit K

### **DECLARATION OF CHERI ATTIX**

I, Cheri Attix, declare under penalty of perjury and in accord with 28 U.S.C. § 1746 as follows:

1. I am an attorney admitted to practice law in the state of California. I am admitted to practice before the California Supreme Court, the U.S. District Court for the Southern District of California, and the U.S. Federal Court of Appeals for the Ninth Circuit. I graduated from California Western School of Law in 1996. My business address is 2221 Camino del Rio S, Suite 201, San Diego, California 92108.

2. I am a solo practitioner whose primary area of practice is asylum. Since 1997, I have represented asylum applicants at all levels of the adjudication process, from the USCIS asylum office to the Ninth Circuit. I have served as liaison to the USCIS Los Angeles Asylum Office for the San Diego Chapter of the American Immigration Lawyers Association. I have also served on the AILA national asylum committee.

3. Since December 2020, I have filed eleven applications to renew Employment Authorization Documents (EADs) for my asylum applicant clients. All of these applications were filed with the USCIS Potomac Service Center. None of these applications have yet been adjudicated. Of these cases, seven have so far taken longer than 180 days to adjudicate.

4. Of the eleven EAD renewal cases for asylum applicant clients that I have filed since December 2020, ten received an automatic 180-day extension. Of these, seven applications have been pending with USCIS for over 180 days. The oldest cases have been pending for eleven months. USCIS previously determined that these clients were authorized to work pursuant to 8 C.F.R. § 274a.12(c)(8). None of these applicants received a Request for Evidence from USCIS in response to their renewal application.

5. Of the ten who received 180-day extensions, four no longer have work authorization because the 180-day automatic extension of their EADs has expired. For another three, the 180-day extension of their EADs will expire in just over 30 days.


6. N.L. is on the verge of losing his job. He applied for his renewal three months before his current card expired, giving USCIS nine months to adjudicate. His six-month extension expired three weeks ago and he has been on leave trying to get USCIS to expedite his renewal, to no avail.

7. M.S. and O.E. are married asylum seekers. They are both self-employed. Their extensions expire in approximately six weeks. Because of the strict financial rules on citizens of their country, their bank has notified them that if they cannot produce valid EADs (the only document they are entitled to that proves their lawful immigration status) their bank accounts will have to be closed, making it extremely difficult to continue operating their businesses.

8. P.M. is a single mother whose renewal has been pending eleven months so far. Her extension expired five months ago, leaving her unable to work. She has been living off savings, which are about to run out. She suffers from severe back pain that she can't afford treatment for. She contracted COVID last year and still doesn't feel well. Her son, who is in his early teens has been acting out and blaming her for their predicament. Between the EAD renewal delay and the fact that her immigration court hearing has been pushed back at least six times in five years, she is very close to a nervous breakdown.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 29, 2021, in San Diego, California.



Cheri Attix

# Exhibit L



**DECLARATION OF MARIA ODOM OF KIDS IN NEED OF DEFENSE (KIND)**

I, Maria Odom, declare under penalty of perjury and in accord with 28 U.S.C. § 1746 as follows:

1. I am Senior Vice President, Legal Programs at Kids in Need of Defense (KIND).

KIND's headquarters is located at 1201 L St., NW, 2nd Floor, Washington, DC 20005.

2. I am an attorney licensed to practice law by the State of Georgia. In 2017, I became Vice President, and in 2021, Senior Vice President for Legal Programs (formerly named Legal Services) at KIND. Prior to joining KIND, I served as the U.S. Department of Homeland Security Citizenship and Immigration Services Ombudsman from September 2012 to January 2017. In September 2013, I was appointed as Chair of the U.S. Department of Homeland Security's Blue Campaign to Combat Human Trafficking. From December 2009 to September 2012, I served as Executive Director of the national legal services organization Catholic Legal Immigration Network, Inc. (CLINIC). Prior to that role, I was an immigration attorney in private practice for over a decade.

3. In my current role, I lead KIND's Legal Programs Team, comprising approximately 225 attorneys, social service professionals, and support staff across KIND's Headquarters and field offices, located throughout the country in Atlanta, GA; Baltimore, MD; Boston, MA; Houston, TX; Los Angeles, CA; New York, NY; Newark, NJ; San Francisco and Fresno, CA; Seattle, WA; and Washington, DC and Northern Virginia, with additional staff in El Paso, TX and San Diego, CA. These field offices serve children through a combination of direct representation and the recruiting, training, and mentoring of pro bono counsel.

4. KIND is the leading national organization advocating for the rights of unaccompanied migrant and refugee children in the United States. Since 2009, KIND has received referrals for more than 22,275 children from 78 countries, and has trained and mentored pro bono attorneys at more than 680 law firms, corporate legal departments, law schools, and bar associations. In 2020, 1,829 children were referred to KIND for legal services.

5. I have provided this declaration based upon my personal knowledge, discussion with my staff, and my review of case files and other records (such as reports and data compilations) prepared by staff for my review. These records are the types that are generated in our ordinary course of business and on which I customarily would rely in performing my job.

6. The principal forms of immigration relief our clients pursue are asylum (and the related forms of relief withholding of removal and protection under the Convention Against Torture) and Special Immigrant Juvenile Status (SIJS). Ninety-five percent of the cases completed by KIND or our pro bono partners result in legal relief for the clients. KIND's assistance includes pursuit of relief before U.S. Citizenship and Immigration Services (USCIS) and defense in immigration court removal proceedings. In addition, KIND staff and pro bono attorneys regularly file applications for employment authorization documents (EADs)—hundreds of initial applications and renewal applications per year—for eligible clients. (For purposes of this declaration, I use the term "client" to encompass both individuals who have engaged KIND to provide direct legal services, and those who have retained a pro bono attorney with whom KIND has a training and mentoring relationship.)

7. As of November 8, 2021, approximately 21 of our clients for whom we filed applications to renew their EADs in 2021 are asylum applicants whom U.S. Citizenship and Immigration Services (USCIS) previously determined were authorized to work pursuant to 8 C.F.R. § 274a.12(c)(8), who received an automatic 180-day extension, and whose renewal applications have been pending with USCIS for at least 180 days. At least two additional renewal applications filed since January 1, 2021 were pending for over 180 days when they were adjudicated.<sup>1</sup> Some additional number of cases that were filed in 2020 were adjudicated in 2021 after they had been pending for more than 180 days.

8. As of November 8, 2021, in addition to the 21 clients for whom the 180-day automatic extension of their work authorization may have expired, the 180-day extension of their work authorization may expire in 30 days or less for at least 11 more of our clients.

9. In my experience, asylum applicants who arrived in the United States as unaccompanied children are at particular risk when they lack a valid EAD or a social security number, which they can obtain only with an EAD. Children turning 18, particularly those who are forced out of foster care at that time, require employment authorization to be able to support themselves, or to acquire work or internship experience as an essential step toward becoming self-supporting. In many states, an EAD or social security number is required to obtain state identification documents, a driver's license, a bank account, or funding for higher education—all critical steps toward establishing a young person's future independence and stability. Even for

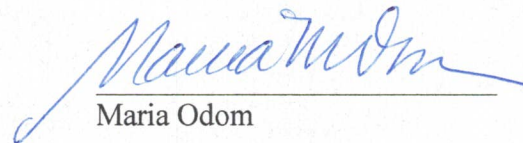
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<sup>1</sup> Due to the design of our data system and data entry practices, some additional § 274a.12(c)(8) renewal applications may have been coded as “uncategorized” EAD renewals. This declaration describes only those that were clearly recorded as paragraph (c)(8)-eligible.

children too young to work, an EAD or social security number may be necessary to access eligibility for certain health care programs<sup>2</sup> and vocational training programs.<sup>3</sup> And an EAD or social security number can also be necessary for children turning 18 to retain access to the extended foster-care benefits available in some states.<sup>4</sup>

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 11<sup>th</sup> day of November, 2021, in New York, New York.

  
Maria Odom

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<sup>2</sup> For example, asylum applicants may only purchase health insurance through the Affordable Care Act Marketplace once they have an EAD (or, for children under 14, have an initial application pending for over 180 days). See <https://www.healthcare.gov/immigrants/immigration-status/> (last visited Nov. 10, 2021).

<sup>3</sup> See, e.g., Cal. Dep't of Educ., Frequently Asked Questions: Work Permits, <https://www.cde.ca.gov/ci/ct/we/wpfaq.asp> (last visited Nov. 11, 2021) (explaining that educational work permit application requires a minor's social security number).

<sup>4</sup> See, e.g., Wash. State Dept. of Children, Youth & Families, Extended Foster Care, <https://bit.ly/3fee3g5> (last visited Nov. 8, 2021); Cal. Dept. of Social Servs., All County Letter No. 11-61 (Nov. 4, 2011), <https://bit.ly/3fgjZF8> (last visited Nov. 8, 2021).