UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

WENDY AMPARO OSORIO-MARTINEZ, individually and on behalf of her minor child, D.S. R.-O, CARMEN ALEYDA LOBO MEJIA, individually, on behalf of her minor child, A.D.M-L.; MARIA DELMI MARTINEZ NOLASCO, individually, on behalf of her minor child, J.E. L-M.; JETHZABEL MARITZA AGUILAR MANCIA, individually, on behalf of her minor child, V.G. R-A.; PLAINTIFFS, V. JEFFERSON BEAUREGARD SESSIONS, III; JOHN F. KELLY; THOMAS D. HOMAN; THOMAS DECKER, DIANE EDWARDS; U.S. DEPARTMENT OF HOMELAND SECURITY; and THE UNITED STATES OF AMERICA, DEFENDANTS.	CIVIL ACTION NO.

[PROPOSED] ORDER GRANTING PLAINTIFFS' EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER

AND NOW, upon consideration of Plaintiffs Emergency Motion for Temporary Restraining Order and accompanying Memorandum in support thereof, it appears to the satisfaction of the Court that this is a proper case for granting an order to show cause for a preliminary injunction and a temporary restraining order. Because Plaintiffs (i) have made a strong showing that children with Special Immigrant Juvenile status are given permission to remain in the country pending the outcome of their adjustment of status application; (ii)

irreparable harm would result if Plaintiffs or their minor children were removed from the United States; and (iii) the public interest greatly outweighs any potential interest Defendants may have in illegally removing abused, neglected, and/or abandoned children that Congress has sought to protect from such removal in enacting the SIJ provisions of the INA,

IT IS HEREBY ORDERED that:

Plaintiffs' Emergency Motion for Temporary Restraining Order is GRANTED, and:

1. Pending the hearing and determination of the order to show cause, the above-named defendants, and each of them, and their officers, agents, employees, representatives, and all persons acting in concert or participating with them, are TEMPORARILY RESTRAINED and ENJOINED from engaging in or performing, directly or indirectly, any and all of the following acts: removing any of the above captioned Plaintiffs and or their minor children from the United States and or transferring any to a location outside the Court's jurisdiction.

2. The Defendants shall respond by filing papers with the Clerk of Court, on or before _____ a.m. /p.m. on the ____ day of _____, 2017, contemporaneously serving copies on Plaintiffs' counsel, to SHOW CAUSE WHY A PRELIMINARY INJUNCTION SHOULD NOT ISSUE to enjoin Defendants and all other persons in active concert or participation with them, directly or indirectly, by use of any means or instrumentality, from removing any of the above captioned Plaintiffs from the United States and or transferring any to a location outside the Court's jurisdiction pending resolution of Plaintiffs' Complaint.

IT IS SO ORDERED, this ___ day of April, 2017.

_____

, U.S.D.J.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

WENDY AMPARO OSORIO-MARTINEZ, individually and on behalf of her minor child, D.S. R.-O, CARMEN ALEYDA LOBO MEJIA, individually, on behalf of her minor child, A.D.M-L.; MARIA DELMI MARTINEZ NOLASCO, individually, on behalf of her minor child, J.E. L-M.; JETHZABEL MARITZA AGUILAR MANCIA, individually, on behalf of her minor child, V.G. R-A.; PLAINTIFFS, V. JEFFERSON BEAUREGARD SESSIONS, III; JOHN F. KELLY; THOMAS D. HOMAN; THOMAS DECKER, DIANE EDWARDS; U.S. DEPARTMENT OF HOMELAND SECURITY; and THE UNITED STATES OF AMERICA, DEFENDANTS.	CIVIL ACTION NO.

PLAINTIFFS' EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER

Pursuant to Federal Rule of Civil Procedure 65(b)(1), Plaintiffs, Wendy Amparo Osorio-Martinez, Maria Delmi Martinez Nolasco, Jethzabel Maritza Aguilar Mancia, and Carmen Aleyda Lobo Mejia, individually and on behalf of their minor children, D.S. R-O., J.E.L-M., V.G.R-A., and A.D.M-L., respectively, hereby move the Court for a Temporary Restraining Order enjoining Defendants from removing Plaintiffs and their minor children from the United States. Plaintiffs—all mothers of minor children who have been granted Special Juvenile Status pursuant to 8 U.S.C §§ 1101(a)(27)(J) and 1255(a)—seek injunctive,

declaratory, and monetary relief from the policies, practices, and regulations promulgated and followed by the Defendants with respect to the detention and removal of abused, neglected, and/or abandoned children that have been granted and/or applied for Special Immigrant Juvenile ("SIJ") status.[1]

As Plaintiffs demonstrate in the attached Memorandum of Points and Authorities Supporting Plaintiffs' Motion for Temporary Restraining Order, Plaintiffs are likely to succeed on the merits of their claims. "SIJS-based parolees" are given "permission to remain in the country pending the outcome of their adjustment of status application...," *Garcia v. Holder*, 659 F.3d 1261, 1271 (9th Cir. 2011). Furthermore, and separate from the instant litigation, Plaintiffs are seeking to enforce the *Perez-Olano* Settlement Agreement, by and between Defendants and the *Perez-Olano* class, of which Plaintiffs' minor children are members. The Settlement Agreement states in relevant part, "Once a juvenile initiates this alternate dispute resolution process, the removal action shall be stayed and he or she shall not be removed from the United States unless and until the matter has been resolved in favor of [the Government]." *Perez-Olano Settlement Agreement*, *Perez-Olano v. Holder*, No. 05-cv-3604, at ¶ (C.D. Cal Dec. 15, 2010).

Whereas if Plaintiffs are afforded the relief sought here, their minor children are reasonably likely to become legal permanent residents of the United States, if Plaintiffs are denied such relief, in addition to the grave harm they face in being removed to their countries of origin, their minor children will be stripped of the statutory rights and benefits that Defendants have conferred upon them, by means contrary to the United States Constitution and applicable federal law and regulations. As the Supreme Court acknowledged in *Nken v. Holder*, "[o]f course there is a public interest in preventing aliens from being wrongfully removed, particularly to

[1] A copy of Plaintiffs' Complaint is attached as Exhibit 1 to Plaintiffs' Memorandum in Support of Motion for Temporary Restraining Order.

countries where they are likely to face substantial harm." 556 U.S. 418, 436 (2009). Because no illegitimate desire of the Defendants to wrongfully remove persons from the United States could overcome such a public interest, Plaintiffs' Emergency Motion for Temporary Restraining Order should be GRANTED.

Dated: April 17, 2017

Respectfully submitted,

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

WENDY AMPARO OSORIO-MARTINEZ, individually and on behalf of her minor child, D.S. R.-O, CARMEN ALEYDA LOBO MEJIA, individually, on behalf of her minor child, A.D.M-L.; MARIA DELMI MARTINEZ NOLASCO, individually, on behalf of her minor child, J.E. L-M.; JETHZABEL MARITZA AGUILAR MANCIA, individually, on behalf of her minor child, V.G. R-A.; PLAINTIFFS V. JEFFERSON BEAUREGARD SESSIONS, III; JOHN F. KELLY; THOMAS D. HOMAN; THOMAS DECKER, DIANE EDWARDS; U.S. DEPARTMENT OF HOMELAND SECURITY; and THE UNITED STATES OF AMERICA, DEFENDANTS.	CIVIL ACTION NO.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER

Plaintiffs are mothers with minor children who are Special Immigrant Juveniles ("SIJ") with pending applications for legal permanent residence in the United States. Plaintiffs' children range in age from three- to sixteen-years-old. All are currently detained at Berks County Residential Center in Leesport, Pennsylvania.

Because, *inter alia*, children with SIJ status are given "permission to remain in the country pending the outcome of their adjustment of status application...," *Garcia v. Holder*, 659 F.3d 1261, 1271 (9th Cir. 2011), but Defendants have repeatedly refused to recognize such a

principle with respect to Plaintiffs, their children, and SIJ-beneficiaries generally, Plaintiffs respectfully request that this Court temporarily stay their removal, and that of their children, pending disposition of their complaint seeking injunctive, declaratory, and monetary relief from the policies, practices, and regulations promulgated and followed by the Defendants with respect to the detention and removal of abused, neglected, and/or abandoned children that have been granted and/or applied for Special Immigrant Juvenile ("SIJ") status. *See* Exhibit 1.

Plaintiffs are further entitled to the relief sought here because Plaintiffs are seeking to enforce the terms of the Settlement Agreement reached in *Perez-Olano*, by and between Defendants and the *Perez-Olano* class, of which Plaintiffs' minor children are members. That Settlement Agreement provides for an alternate dispute resolution mechanism to enforce its terms, which Plaintiffs have invoked, and provides:

> **Once a juvenile initiates this alternate dispute resolution process, the removal action shall be stayed and he or she shall not be removed from the United States unless and until the matter has been resolved in favor of [the Government].**

Perez-Olano Settlement Agreement, *Perez-Olano v. Holder*, No. 05-cv-3604, at ¶ (C.D. Cal Dec. 15, 2010) (attached hereto as Exhibit 2).

Upon information and belief, the Government intends to effectuate Plaintiffs' removal and that of their children as soon as it is possible to do so. Because the Government has repeatedly expressed to Plaintiffs their position that one's status as a Special Immigrant Juvenile has no bearing on Defendants' ability to remove such a person from the United States, no attempt was made to meet and confer with Defendants in advance of filing the instant motion. It can safely be assumed that the Government would oppose any effort to deprive it the satisfaction of removing Plaintiffs and their minor children.

If Plaintiffs are afforded the relief sought here, they are likely to succeed in their efforts to enjoin defendants from removing their minor children, all of whom are reasonably likely to become legal permanent residents of the United States pursuant to the protections and benefits that Congress conferred upon them. On the other hand, if Plaintiffs and/or their minor children are removed, in addition to the grave harm they would face in being removed to their countries of origin, their minor children will be stripped of the statutory rights and benefits that Defendants have conferred upon them, by means contrary to the United States Constitution and applicable federal law and regulations.

The public interest here greatly outweighs any potential interest Defendants may have in illegally removing abused, neglected, and/or abandoned children that Congress has sought to protect from such removal in enacting the SIJ provisions of the INA. As the Supreme Court acknowledged in *Nken v. Holder*, "[o]f course there is a public interest in preventing aliens from being wrongfully removed, particularly to countries where they are likely to face substantial harm." 556 U.S. 418, 436 (2009). For these reasons and as set forth below, Plaintiffs' Emergency Motion for Stay of Removal should be GRANTED.

FACTUAL BACKGROUND

Three-year-old D.S. R-O. and his mother Wendy entered the United States in October 2015.[2] They sought protection from persecution in Honduras—specifically, significant

[2] Plaintiffs, Wendy Amparo Osorio-Martinez, Maria Delmi Martinez Nolasco, Jethzabel Maritza Aguilar Mancia, and Carmen Lobo Mejia, as well as their minor children, are all similarly situated. Thus, for the sake of avoiding redundancy, only the factual background related to Wendy Amparo Osorio-Martinez and D.S. R-O. is set forth herein. The factual backgrounds with respect to Plaintiffs Maria Delmi Martinez Nolasco, Jethzabel Maritza Aguilar Mancia, and Carmen Lobo Mejia are set forth extensively in Plaintiffs' Complaint, which Plaintiffs hereby incorporate by reference. However, for the convenience of the Court, Plaintiffs have attached the USCIS, I-797 Notices of Action (granting SIJ status) for all above minor captioned children as Appendix A.

childhood trauma, as well as adult trauma stemming from sexual violence. Moreover, Wendy's life had been threatened by the wife of her son's father, whose family is associated with the Los Cachiros, a notorious transnational criminal organization.

Nevertheless, after Wendy and D.S. R.-O. entered the United States by crossing the border, they were apprehended and detained by Customs and Border Protection agents, who, after a cursory interview with Wendy, determined that Wendy and then one-year-old D.S R.-O did not have a credible fear of persecution and ordered that Wendy and D.S. R.-O. be removed from the United States pursuant to 8 U.S.C. § 1225(b)(1)(B)(iii), colloquially referred to by Defendants as "expedited removal."

After that order was reviewed and upheld by an immigration judge, the family was transferred to Berks Family Residential Center, in Leesport, Pennsylvania, where Defendants sought to detain Wendy and then one-year-old D.S. R.-O while it effectuated their removal to Honduras. Shortly thereafter, Wendy and D.S. R-O. filed habeas petitions in the Eastern District of Pennsylvania seeking judicial review of their expedited removal orders, but those claims were dismissed on jurisdictional grounds. *Castro v. United States Dep't of Homeland Sec.*, 163 F. Supp. 3d 157 (E.D. Pa. 2016).

Wendy and now two-year-old D.S. R.-O, appealed that decision to the Third Circuit Court of Appeals, which granted them stays of removal while it considered their claims. *Castro v. United States Dep't of Homeland Sec.*, 835 F.3d 422 (3d Cir. 2016). Ultimately, the Third Circuit affirmed the District Court's ruling that it did not have jurisdiction to consider Wendy and D.S. R-O.'s habeas claims, but stayed the issuance of its mandate, allowing Wendy and D.S. R-O. to seek certiorari at the Supreme Court of the United States. *See* Order of the U.S. Court of Appeals for the Third Circuit, Case No. 16-1339, dated November 2, 2016. On April

17, 2017, the Supreme Court of the United States declined to grant Wendy and now three-year-old D.S. R-O.'s petition for certiorari.

All the while Defendants detained Wendy and D.S R-O. at Berks County Residential Center—the place where D.S R-O. has spent nearly half of his life, learning to walk and talk. On August 24, 2016, D.S. R-O, petitioned USCIS for status as a Special Immigrant pursuant to 8 U.S.C. § 1101(a)(27)(J). *See* Exhibit 3.

On October 3, 2016, D.S. R-O.'s petition was approved. *Id.* He has since filed an application for Adjustment of Status with the USCIS. That application is pending. *See Id.* Defendants have since provided D.S. R-O. with an Employment Authorization Card. *See* Exhibit 4.

On December 1, 2016, Plaintiffs requested that ICE join its motion to rescind and reopen their removal proceedings pursuant to paragraph 29 of the *Perez-Olano* Settlement Agreement. *See* Exhibit 5. In a letter dated, February 14, 2017, ICE rejected Plaintiffs' request for relief. Therein, ICE "acknowledge[d] that the referenced minors fall within the class of juveniles identified in the [Perez-Olano] Settlement Agreement." *See* Exhibit 6. However, ICE declined to grant the relief requested on grounds that paragraph 29 of the Settlement Agreement is inapplicable to persons subject to expedited removal.

On or about February 28, 2017, counsel for Plaintiffs wrote to the Government, setting forth the facts above and requesting that the Government meet and confer regarding, *inter alia*, "the [Government's] unfounded denial of a request … to rescind and reopen the final orders of expedited removal issued to the [SIJ] children." Exhibit 7 at 2. Specifically, Plaintiffs provided notice that "[t]he Government is in noncompliance with the *Perez-Olano* Settlement Agreement," invoking the alternate dispute resolution process described in paragraph 43 of the

Perez-Olano Settlement Agreement. As Plaintiffs explained in their letter, once such process is invoked, "removal action[s] shall be stayed and [plaintiffs] shall not be removed from the United States unless and until the matter has been resolved in favor of [the Government]."

In a letter dated March 6, 2017, the Government acknowledged Plaintiffs' claim that the Government was in violation of the *Perez-Olano* Settlement Agreement, but declined Plaintiffs' request to meet and confer. Exhibit 8. In so doing, the Government wrote:

> Finally, you write that you believe the "Government is in noncompliance with the Perez Olano Settlement Agreement," specifically paragraph 29. But as you know the Government views that settlement as applying only to removal proceedings pursuant to 8 U.S.C. § 1229a. Indeed, paragraph 29, by its own terms makes this clear by providing that, if certain criteria under that paragraph are satisfied, "ICE shall join *motions to reopen removal proceedings* filed by juveniles granted SIJ status." Perez Olano Settlement at ¶ 29 (emphasis added). That phrase alone indicates the agreement contemplated only *removal* proceedings, as opposed to the *expedited removal* proceedings at issue in your clients' case.

As Plaintiffs explained in their letter above and for the reasons set forth below, the Government's position is unfounded and Plaintiffs' Emergency Motion for Stay of Removal should be granted.

LEGAL STANDARD

The Supreme Court in *Nken v. Holder*, 556 U.S. 418, 436 (2009), held that traditional stay factors govern a court's authority to stay an alien's order of removal. The four factors to consider when determining whether a stay should be issued are the following: "(1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies." *Id.* at 436 (quoting *Hilton v. Braunskill*, 481 U. S. 770, 776 (1987)).

A temporary injunction may issue even before a complaint is filed—"or any other formality attendant upon a full-blown trial"—so long as the movant is entitled to relief. *See, e.g.*,

Star Creations Inv. Co. v. Alan Amron Dev., Inc., No. CIV. A. 95-4328, 1995 WL 495126, at *9 (E.D. Pa. Aug. 18, 1995) ("A temporary injunction is issued to protect the rights of any person moving for it upon his making a showing that he is entitled to it"); *Nat'l Org. For Reform of Marijuana Laws (NORML) v. Mullen*, 608 F. Supp. 945, 950 (N.D. Cal. 1985) ("Owing to the peculiar function of the preliminary injunction, it is not necessary that the pleadings be perfected, or even that a complaint be filed, before the order issues." (citing *Studebaker Corp. v. Gittlin,* 360 F.2d 692, 694 (2d Cir.1966)).

ARGUMENT

I. Plaintiffs Are Likely to Succeed on the Merits of the Claims Set Forth in Their Class Action Complaint and/or In Enforcing the *Perez-Olano* Settlement Agreement.

A. SIJ-Beneficiaries Are Entitled to Relief from Expedited Removal as a Matter of Law

Children with SIJ status represent "are a narrow class of juvenile aliens who must meet heightened eligibility requirements to apply" and are afforded "particular benefits" once SIJ status is granted. *Garcia v. Holder*, 659 F.3d 1261, 1270 (9th Cir. 2011). "These include the permission to remain in the country pending the outcome of their adjustment of status application, employment authorization, [and] exemption from certain inadmissibility grounds applicable to other aliens . . . ." *Id.* at 1271.

Defendants are prohibited from executing expedited removal orders with respect to SIJ-beneficiaries because SIJ-beneficiaries no longer qualify for expedited removal. Importantly, SIJ-beneficiaries are "deemed, for purposes of [8 U.S.C. § 1255(a)], to have been paroled in the United States." 8 U.S.C. § 1255(h)(1). Further, "in determining [an] alien's admissibility as an immigrant" following a grant of SIJ Status, numerous provisions of 8 U.S.C. § 1182(a) "shall not apply," including paragraphs (6)(A) ("Aliens present without admission or parole"), (6)(B) ("Failure to attend removal proceeding"), (6)(C) ("Misrepresentation"), (6)(D)

("Stowaways"), and (7)(A) ("Documentation requirements" for "Immigrants"). 8 U.S.C. § 1255(h)(2).

Executing a prior expedited removal order *after* these statutory rights attach upon a grant of SIJ Status would violate the Immigration and Nationality Act and implementing regulations, as well as the Administrative Procedure Act and the United States Constitution. To begin, expedited removal cannot be applied to aliens who have been "admitted or paroled into the United States." 8 U.S.C. § 1225(b)(1)(iii)(II); *see also* 8 C.F.R. § 1235.3(b)(6) ("[A]lien will be given a reasonable opportunity to establish to the satisfaction of the examining immigration officers that he or she was admitted or paroled in the United States following inspection at a point-of-entry"). People granted SIJ status, however, are "deemed paroled" into the United States under § 1255(h)(1). Further, an expedited removal order can only be issued based on two particular grounds of inadmissibility: paragraphs (6)(C) ("Misrepresentation") or (7) ("Documentation requirements") of § 1182(a). *See* 8 U.S.C. § 1225(b)(1)(A)(i); *see also* 8 C.F.R. § 1235.3(b)(3) ("In the expedited removal process, the Service may not charge an alien with any additional grounds of inadmissibility other than [8 U.S.C. § 1182(a)(6)(C) or (a)(7)]."). Those grounds for inadmissibility "shall not apply" to people granted SIJ Status under § 1255(h)(2).

Any attempt to minimize the impact of a grant of SIJ Status are unavailing. Among the benefits provided by SIJ Status is relief from removal while applying for adjustment of status. In general, "[t]he purpose of parole is to permit a non-citizen to enter the United States temporarily while investigation of eligibility for admission takes place." *Succar v. Ashcroft*, 394 F.3d 8, 15 (1st Cir. 2005); *accord Zheng*, 422 F.3d at 120 (holding regulation invalid "insofar as it render[ed] parolees ineligible to apply for adjustment of status"). This is because, "in enacting

Section 1255(a) in 1960, Congress expressed an intent that eligible aliens be able to adjust status without having to leave the United States." *Succar*, 394 F.3d at 22.

Moreover, the Ninth Circuit held in *Garcia v. Holder*, 659 F.3d 1261, that, unlike persons granted parole under 8 U.S.C. § 1182(d)(5), persons granted SIJ status qualify as being "admitted in any status" for the purposes of determining eligibility for cancellation of removal under 8 U.S.C. § 1229b(a)(2). 659 F.3d at 1270. The court explained that "SIJS-parolees are a narrow class of juvenile aliens who must meet heightened eligibility requirements to apply to be classified as a Special Immigrant Juvenile, and SIJS-based parole affords particular benefits." *Id.* "These include the permission to remain in the country pending the outcome of their adjustment of status application, employment authorization, [and] exemption from certain inadmissibility grounds applicable to other aliens." *Id.* at 1271 (collecting underlying legislation). The court concluded that "[t]hese special eligibility requirements and benefits show a congressional intent to assist a limited group of abused children to remain safely in the country with a means to apply for [lawful permanent resident] status," and such children "should not be wrenched away without adequate process." *Id.* Because Congress "exten[ded] certain protections to . . . SIJS parolees," they have "strong claims to remain in this country." *Id.*; *see also Zheng v. Pogash*, 416 F. Supp. 2d 550, 553 (S.D. Tex. 2006) (explaining that SIJ Status "allows alien minors determined to be abused, neglected or abandoned to stay in the United States and apply for a permanent visa"); *F.L. v. Thompson*, 293 F. Supp. 2d 86, 89 (D.D.C. 2003) ("If he obtains a dependency order from the state court, plaintiff will apply for an SIJ visa, which would protect him from deportation.").

Moreover, although the category of visas for people granted SIJ status are subject to numerical quotas, Special Immigrant Juveniles are *entitled* by statute to receive those visas as they become available. *See* 8 U.S.C. § 1153(b)(4) ("Visas shall be made available . . . to

qualified special immigrants described in section 1101(a)(27) . . . ."). As then-Judge Alito explained, "[t]he language of 8 U.S.C. § 1153(b)(4) makes clear that the Attorney General is required to grant preference visas to those who fall within certain numerical limits and qualify as 'special immigrants' under § 1101(a)(27)." *Soltane v. U.S. Dep't of Justice*, 381 F.3d 143, 147 (3d Cir. 2004). The award of a special immigrant visa is thus non-discretionary. *See id.*

In light of these statutory rights that attached upon USCIS's decision to grant SIJ status, the Government could not institute expedited removal proceedings against any of the above captioned minor children today. Reading these statutes together also compels the conclusion that the Government cannot execute the prior expedited removal order today. As Plaintiffs allege in their Complaint, doing so would violate Plaintiffs' due process rights, as "[m]inimum due process rights attach to statutory rights." *Dia v. Ashcroft*, 353 F.3d 228, 238 (3d Cir. 2003)."

Executing expedited removal orders applicable to SIJ-beneficiaries would also violate the implementing regulations of the INA. Among others, executing the orders at this stage would violate the regulation requiring that immigrants subjected to expedited removal have an opportunity to demonstrate they have been paroled, *see* 8 C.F.R. § 1235.3(b)(6), and the regulation limiting expedited removal to certain grounds for inadmissibility, none of which apply to people granted SIJ Status, *see* 8 C.F.R. § 1235.3(b)(3).

Execution at this stage would also violate regulations limiting the circumstances and manner in which SIJ status can be revoked. At an absolute minimum, USCIS must establish appropriate grounds for revoking SIJ status, such as that the underlying juvenile court order did not contain the required findings under § 1101(a)(27)(J), and give the SIJ-beneficiary notice and an opportunity to be heard by issuing a "service motion." *See* 8 C.F.R. § 103.5(a)(5)(ii); *In re V-*

A-S-G-, 2016 WL 359134, at *2 n.1 (U.S.C.I.S. A.A.O. Jan. 15, 2016) (concluding that Director of USCIS "erred in issuing a NOIR, rather than a service motion pursuant to the regulation at 8 C.F.R. § 103.5(a)(5)(ii)" in revoking a grant of SIJ status for insufficient findings in juvenile court order); *cf. Betancur v. Roark*, No. CIV.A. 10-11131-RWZ, 2012 WL 4862774, at *9 (D. Mass. Oct. 15, 2012) ("USCIS cannot revoke a visa without issuing a valid notice."). Neither requirement has been satisfied here. A violation of such regulations that "protect[] fundamental statutory or constitutional rights" also violates due process. *Leslie v. Att'y Gen. of U.S.*, 611 F.3d 171, 180 (3d Cir. 2010); *see also F.L.B. v. Lynch*, No. C14-1026 TSZ, 2016 WL 4533608, at *1 (W.D. Wash. May 12, 2016).

Because of the statutory rights and benefits that attach upon the grant of SIJ status, above captioned SIJ-beneficiaries are entitled to continued relief from removal, unless and until statutorily permissible grounds for removability are established in statutorily (and constitutionally) permissible removal proceedings.

B. Plaintiffs Are Likely to Succeed in Enforcing the *Perez-Olano* Settlement Agreement

On December 15, 2010, the Central District of California approved a comprehensive class-wide settlement, by and between the Government and class members of the *Perez-Olano* litigation. The Settlement Agreement set out "nationwide policy governing the SIJ application process," and "supersede[d] all practices, policies, procedures, and Federal regulations to the extent they are inconsistent." Settlement Agreement at ¶ II.1. The Settlement Agreement confers specified protections upon a nationwide class comprising "all aliens … who, on or after May 13, 2005, apply or applied for SIJ status or SIJ-based adjustment of status based upon their alleged SIJ eligibility." Settlement Agreement, Dkt. 159-1, at 4 ("Settlement"). As Defendants acknowledge, Plaintiffs are *Perez-Olano* class members. *See* Exhibit 7 ("… the

referenced minors fall within the class of juveniles identified in the [Perez-Olano Settlement Agreement."); *see also* Settlement Agreement at ¶ I.3 ("Class member" or "class members" applies to all aliens, including, but not limited to, SIJ applicants, who, on or after May 13, 2005, apply or applied for SIJ status or SIJ-based adjustment of status based upon their alleged SIJ eligibility").

Paragraph twenty-nine of the Settlement Agreement states:

> "Defendant ICE shall join motions to reopen removal proceedings filed by juveniles granted SIJ status when the following criteria are met: the juvenile (i) request such joinder within 60 days of being notified by USCIS that it has granted him or her SIJ status; and (ii) is not in admissible under INA § 212, 8 U.S.C. § 1182, or removable under INA § 237, 8 U.S.C. § 1227, on grounds that disqualify him or her from adjustment of status, or, if inadmissible, such grounds of inadmissibility have been waived or are waivable."

Within sixty days of each being granted SIJ status, Plaintiffs requested that ICE join in their respective motions to rescind and reopen their removal proceedings. In a letter dated, February 14, 2017, ICE rejected Plaintiffs' request for relief on grounds that the relief afforded by paragraph 29 of the Settlement Agreement is inapplicable to class members subject to expedited removal. For the reasons that follow, the Government's novel interpretation of the Settlement Agreement is unfounded and its denial of Plaintiffs' request to rescind and reopen their final orders of expedited removal is noncompliant.

A settlement is essentially a contract, *Rufo v. Inmates of Suffolk County Jail*, 502 U.S. 367, 378; 112 S. Ct. 748; 116 L. Ed. 2d 867 (1992), and is therefore generally construed according to rules apposite to contracts. *Jeff D. v. Andrus*, 899 F.2d 753, 759 (9th Cir. 1989). The Settlement is also an order of the Court, and it is therefore enforced in accordance with principles apposite to consent decrees. *See Buckhannon Board & Care Home v. West Virginia*

Dep't of Health and Human Resources, 532 U.S. 598, 604 n.7; 121 S. Ct. 1835; 149 L. Ed. 2d 855 (2001); *Rufo, supra*, 502 U.S. at 378 (settlement "an agreement that the parties desire and expect will be reflected in, and be enforceable as, a judicial decree that is subject to the rules generally applicable to other judgments and decrees.").

Whether considered as a contract or consent decree, a court's task is the same. *City of Las Vegas v. Clark County*, 755 F.2d 697, 702 (9th Cir. 1985) ("A consent decree, which has attributes of a contract and a judicial act, is construed with reference to ordinary contract principles."). Foremost, the Court should construe the agreement "according to the plain meaning of its terms." *Nodine v. Shiley Inc.*, 240 F.3d 1149, 1154 (9th Cir. 2001); *Vaillette v. Fireman's Fund Ins. Co.*, 18 Cal.App.4th 680, 686; 22 Cal. Rptr. 2d 807 (1993) ("words of the document are to be given their plain meaning and understood in their common sense; the parties' expressed objective intent, not their unexpressed subjective intent, governs." (citations omitted)); *see also United States v. Armour & Co.*, 402 U.S. 673, 682; 91 S. Ct. 1752; 29 L. Ed. 2d 256 (1971) (settlement's meaning "must be discerned within its four corners, … not by reference to what might satisfy the purposes of one of the parties to it."); *County of San Diego v. Ace Property & Cas. Ins. Co.*, 37 Cal. 4th 406, 415; 33 Cal. Rptr. 3d 583 (2005) ("If contractual language is clear and explicit, it governs." (internal quotation marks omitted)).

Applying the foregoing to the case at bar, Defendants are manifestly in breach of the Settlement Agreement. First, nothing in the text of the Settlement Agreement suggests that either the Government or the *Perez-Olano* class members intended to limit application of paragraph 29 to only children in removal proceedings pursuant to 8 U.S.C. § 1229a. As a general matter and as noted above, the Settlement Agreement applies broadly to all SIJ

beneficiaries, and, as the Government concedes, the SIJ-beneficiaries at issue here are within the class members to which it is applicable.

Furthermore, the text of paragraph 29 includes two removal-based restrictions, neither of which pertain to expedited removal or the SIJ-beneficiaries at issue here. *Expressio unius est exclusio alterius*, a familiar cannon of statutory and contract interpretation, states: when one or more things of a class are expressly mentioned others of the same class are excluded. Had the Parties intended to further restrict the applicability of paragraph 29 to children in expedited removal proceedings, they would have done so explicitly—it is not as if expedited removal was anything foreign to Defendants when they were negotiating the Settlement Agreement. Moreover, consistent with Plaintiffs' arguments, *supra*, § I, the Government's position would allow it to make an end-run around the Settlement Agreement and facilitate its ability to unilaterally deprive otherwise-qualified minors of Congressionally prescribed benefits without due process of law under circumstances neither provided for by statute nor inferable from Congressional intent.

II. Plaintiffs Would Suffer Irreparable Injury Were an Injunction Not Granted

If they are returned to their countries of origin, the potential harms to Plaintiffs far outweigh any harm to the government resulting from a stay of removal. Given the extreme and irreparable harm that Plaintiffs would likely face if they were returned to their home countries, the balance of hardships weighs heavily in their favor. Because Plaintiffs also demonstrate a likelihood of success on the merits of this case, *see supra* Sections I & II, this Court should stay their removal to allow full briefing and argument on this matter of life and death. *See Nken v. Holder*, 556 U.S. 418, 436 (2009).

For example, with respect to Wendy and three-year-old D.S. R-O., conditions in Honduras reinforce that they had good reason to fear for their safety. When an individual

challenges the authority of a gang in Honduras, he and his family members are often targeted for retaliation by the gang. *See* High Comm'r for Refugees, Guidance Note on Refugee Claims Relating to Victims of Organized Gangs 2 (2010)[3] ("Refusals to succumb to a gang's demands and/or any actions that challenge or thwart the gang are perceived as acts of disrespect, and thus often trigger a violent and/or punitive response. [O]nce an individual or family has been targeted for retaliation, the gravity of the threat does not diminish over time.").

Further, reports make clear that Honduran authorities—the government and the police— are unable to provide protection to those targeted by gangs. *See* United States Conf. of Catholic Bishops, Mission to Central America: The Flight of Unaccompanied Children 8 (Nov. 2013)[4] ("[G]angs and other criminal elements are active in many communities and schools, and the government is unable to curb their influence because of corruption, lack of political will, or lack of resources. Law enforcement personnel, low-paid and low-skilled, are compromised by these criminal elements."); Geoffrey Ramsey, *Honduras deploys controversial military police*, The Pan-American Post (Oct. 15, 2013, 9:14 AM),[5] ("One of the strongest arguments for military involvement in policing presented by advocates of this strategy is the unreliability of the National Police. Honduran police are notoriously corrupt . . . The problem [] is that the Honduran army is not immune from criminal infiltration either."); Edward Fox, *Zetas trained by Honduran ex-soldiers*, InsightCrime (Mar. 15, 2012),[6] (describing the arrest of two former Honduran

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[3] http://www.refworld.org/pdfid/4bb21fa02.pdf

[4] http://www.usccb.org/about/migration-policy/upload/Mission-To-Central-America-FINAL-2.Pdf

[5] http://www.thepanamericanpost.com/2013/10/honduras-deploys-controversial-military.html

[6] http://www.insightcrime.org/news-briefs/zetas-trained-by-honduran-ex-soldiers

soldiers accused of providing training to the Mexican drug cartel, which has expanded its reach into Honduras). Gangs in Honduras also retaliate against individuals or families who report them to the police/authorities or who express opposition to them. *See* Jason Buch, *For Mother from Honduras, a Difficult Decision*, San Antonio Express News (May 19, 2015, 11:51 AM)[7] ("[Honduras's] criminal groups operate with great impunity . . . and speaking out against the gangs [is] dangerous.").

In sum, Plaintiffs and their minor children clearly face irreparable harm if removed from the United States. Moreover, if Plaintiffs are denied such relief, in addition to the grave harm they and their children face in being removed to their countries of origin, their minor children will be stripped of the statutory rights and benefits that Defendants have conferred upon them, by means contrary to the United States Constitution and applicable federal law and regulations.

III. There is no Cognizable Harm to the Government

The Government recognizes that Plaintiffs' children are Special Immigrant Juveniles. By law, that status authorizes them to apply for adjustment to lawful permanent resident, and they must remain in the United States to apply for, and during the adjudication of, their applications. *See* 8 U.S.C. § 1255(a) (requiring that noncitizen be paroled or inspected and admitted before status can be adjusted). Thus, the Government suffers no cognizable harm from an injunction that precludes Plaintiffs' removal when the Immigration and Nationality Act itself precludes it until their applications for adjustment of status are properly adjudicated.

[7] http://www.expressnews.com/news/local/article/For-mother-from-Honduras-a-difficult-decision-6271658.php

IV. Public Interest Greatly Outweighs the Meager Potential for Harm

Ensuring Petitioners a meaningful opportunity to pursue their claims, on behalf of their minor children and those similarly situated, and that they not be removed to a place where they face grave persecution or death, is consistent with the public interest. *See Nken*, 556 U.S. at 436. Indeed, "as a practical matter," if a plaintiff demonstrates both a likelihood of success on the merits and irreparable injury, it almost always will be the case that the public interest will favor the plaintiff." *AT&T v. Winback & Conserve Program*, 42 F.3d 1421, 1427 n.8 (3d Cir. 1994). Here, Plaintiffs do just that.

CONCLUSION

In light of Plaintiffs' likelihood of success on the merits, and the grave and irreparable harm that they likely will suffer if returned to Honduras, and the remaining stay factors, Plaintiffs respectfully request that this Court issue an Order staying their removal while their claims are adjudicated.

Dated: April 17, 2017

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Michael Joseph Edelman, hereby certify that on April 17, 2017, a true and correct copy of the foregoing Emergency Motion For Temporary Restraining Order was served v upon the following:

The United States Attorney General Office of the Attorney General 950 Pennsylvania Ave., NW, Washington, D.C. 20520 *via Certified Mail* JOHN F. KELLY, Secretary of Homeland Security, Washington, D.C. 20528; *via Certified Mail* THOMAS HOMEN, Director, U.S. Immigration & Customs Enforcement, 500 12th Street, S.W. Washington, D.C. 20536-5009; *via Certified Mail*	THOMAS DECKER, Field Office Director, Philadelphia ICE Field Office, 1600 Callowhill Street, Philadelphia, PA 19130; *via Certified Mail* DIANE EDWARDS, Executive Director, Berks County Residential Center, 1040 Berks Road, Leesport, PA 19533 *via Certified Mail* Office of the US Attorneys 615 Chestnut Street, Suite 1250 Philadelphia, PA 19106 Via Hand Delivery

Michael Joseph Edelman

EXHIBIT 1

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

WENDY AMPARO OSORIO-MARTINEZ, individually, on behalf of her minor child, D.S. R.-O, and all others similarly situated; CARMEN ALEYDA LOBO MEJIA, individually, on behalf of her minor child, A.D.M-L., and all others similarly situated; MARIA DELMI MARTINEZ NOLASCO, individually, on behalf of her minor child, J.E. L-M., and all others similarly situated; JETHZABEL MARITZA AGUILAR MANCIA, individually, on behalf of her minor child, V.G. R-A., and all others similarly situated; PLAINTIFFS, V. JEFFERSON BEAUREGARD SESSIONS, III; JOHN F. KELLY; THOMAS D. HOMAN; THOMAS DECKER, DIANE EDWARDS; U.S. DEPARTMENT OF HOMELAND SECURITY; and THE UNITED STATES OF AMERICA, DEFENDANTS.	CIVIL ACTION NO. **CLASS ACTION**

CLASS ACTION COMPLAINT
FOR DECLARATORY, INJUNCTIVE, AND MONETARY RELIEF

1. Abused, neglected, or abandoned children who also lack authorization under immigration law to reside in the United States raise complex immigration and child welfare concerns.

2. In 1990, Congress created an avenue for these children to remain in the United States legally and permanently: Special Immigrant Juvenile ("SIJ") status, 8 U.S.C §§

1101(a)(27)(J) & 1255(a); *see also* History of SIJ Status, USCIS[1] ("Special Immigrant Juvenile status allows a child to apply for a green card (that is, lawful permanent residence) **while remaining in the United States**") (emphasis added).

3. Any child or youth under the age of twenty-one who was born in a foreign country; lives without legal authorization in the United States; has experienced abuse, neglect, or abandonment; and meets other specified eligibility criteria may be eligible for SIJ status.

4. As part of his or her application for SIJ status, a child must demonstrate, *inter alia*, that an administrative or judicial proceeding has resulted in a determination that it would not be in his or her best interest to be returned to the child's or the parent's previous country of nationality or country of last habitual residence.

5. Children with SIJ status are "deemed, for purposes of [8 U.S.C. § 1255(a)], to have been paroled in the United States," and are entitled to apply to become legal permanent residents of the United States.

6. At the end of fiscal year 2016, United States Citizenship and Immigration Services ("USCIS") reported that it had received 19,475 applications for SIJ status—15,101 of which were approved and only 594 of which were denied, terminated, or withdrawn.[2]

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[1] https://www.uscis.gov/green-card/special-immigrant-juveniles/history-sij-status

[2] https://www.uscis.gov/tools/reports-studies/immigration-forms-data/data-set-form-i-360-petition-special-immigrant-juveniles

7. During the first quarter of 2017, USCIS received another 5,377 applications—4436 of which were approved and only 193 of which were denied terminated, or withdrawn. At last count, 8,674 applications were still awaiting a decision. *Id.*

8. This is an action for declaratory, injunctive, and mandamus relief against certain policies, practices, and regulations promulgated and followed by the Defendants related to their implementation of the SIJ provisions of the Immigration and Nationality Act.

9. In defiance of common sense, clear Congressional intent, applicable case law, and even a mere scintilla of human decency, Defendants, without justification and or authorization, continue to illegally and indefinitely detain SIJ children up to and until the point at which Defendants can ship the kids back "home"—places Defendants previously determined would not be in the children's best interest to be returned to.

10. Plaintiffs seek to enjoin Defendants from continuing these abhorrent, illegal practices, both as to them and all others similarly situated.

PARTIES

11. Plaintiff Wendy Amparo Osorio-Martinez is the mother of D.S R-O., a three-year-old special immigrant juvenile visa recipient with a pending application for legal permanent residence. Both D.S. R-O and Ms. Osorio-Martinez are natives and citizens of Honduras. Three-year old D.S. R-O. and Ms. Osorio-Martinez have been in immigrant detention since October 2015 and have been detained by Defendants at Berks County Residential Center ("BCRC") in Leesport, Pennsylvania since approximately November 2015.

12. Plaintiff Carmen Aleyda Lobo Mejia is the mother of A.D.M-L., a four-year-old special immigration juvenile visa recipient with a pending application for legal permanent residence. Both A.D.M-L. and Ms. Lobo Mejia are natives and citizens of Honduras. Four year old A.D.M-L. and Ms. Lobo Mejia have been held in immigrant detention since October 23, 2015 and have been detained by Defendants at BCRC since approximately November 19, 2015.

13. Plaintiff Maria Delmi Martinez Nolasco is the mother of J.E.L-M., a seven-year-old special immigration juvenile visa recipient with a pending application for legal permanent residence. Both J.E.L-M. and Ms. Martinez Nolasco are natives and citizens of El Salvador. Seven year old A.D.M-L. and Ms. Martinez Nolasco have been held in immigrant detention since September 5, 2015 and have been detained by Defendants at BCRC since approximately October 31, 2015.

14. Plaintiff Jethzabel Maritza Aguilar Mancia is the mother of V.G.R-A., a sixteen-year-old special immigrant juvenile visa recipient with a pending application for legal permanent residence. Both V.G.R-A. and Ms. Aguilar Mancia are natives and citizens of El Salvador. Sixteen-year-old V.G.R-A. and Ms. Aguilar Mancia have been held in immigrant detention since October 15, 2015 and have been detained by Defendants at BCRC since approximately November 7, 2015.

15. Defendant John F. Kelly is named in his official capacity as Secretary of Homeland Security. He oversees U.S. Customs and Border Patrol, U.S. Immigration and Customs Enforcement, and U.S. Citizenship and Immigration Services. He is responsible for implementing and enforcing the INA, including by overseeing the issuance and execution of

expedited removal orders, and the detention of families under the INA. He is a legal custodian of the Plaintiffs.

16. Defendant Jefferson B. Sessions, III is named in his official capacity as Attorney General of the United States. He is responsible for the government's interpretation of the INA, including the laws governing expedited removal orders and immigration detention. He is a legal custodian of the Plaintiffs.

17. Defendant Thomas D. Homan is named in his official capacity as Acting Director of ICE. Mr. Homan has direct oversight of ICE programs and operations to arrest, detain, and remove non-citizens from the United States. He is a legal custodian of the Plaintiffs.

18. Defendant Thomas Decker is named in his official capacity as the Field Office Director for ICE's Philadelphia District. He is responsible for the enforcement of immigration laws in the Philadelphia area of responsibility and for the custody of all immigrants detained by ICE at BCRC. He is a legal custodian of the Plaintiffs.

19. Defendant Diane Edwards is named in her official capacity as Executive Director of the Berks County Residential Center. She is legally responsible for the administration of the facility, and acts in a warden-like capacity. She is a legal custodian of the Plaintiffs.

20. Defendant the United States of America includes all government agencies and departments responsible for the implementation of the INA and detention and/or removal of non-citizen immigrants.

21. Defendant U.S. Department of Homeland Security ("DHS") is a federal cabinet agency responsible for implementing and enforcing the Immigration and Nationality Act. DHS is

a Department of the Executive Branch of the United States Government, and is an agency within the meaning of 5 U.S.C. § 552(f). The U.S. Immigration and Customs Enforcement is an Operational and Support Component agency within DHS. The U.S. Immigration and Customs Enforcement is responsible for detaining and/or removing non-citizen immigrants.

JURISDICTION AND VENUE

22. Jurisdiction is conferred upon this Court by Federal Question Jurisdiction, 28 U.S.C. § 1331, because this action arises under the U.S. Constitution; the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 et seq.; the Administrative Procedure Act ("APA"), 5 U.S.C. § 701 et seq; and the Foreign Affairs Reform and Restructuring Act ("FARRA") of 1998, 8 U.S.C. § 1231.

23. This Court further has jurisdiction under the Declaratory Judgment Act, 28 U.S.C. §§ 2201-2202, because the remedies afforded by the Act are particularly suited for attacking and correcting illegal policies, practices, and rules that harm large numbers of persons. Plaintiffs ask the Court to declare the rights and legal relations of the parties to the instant controversy.

24. This Court further has Mandamus Jurisdiction, 28 U.S.C. § 1361, because Plaintiffs seek to compel federal officers, employees, and/or agencies, all and/or any of whom have gone far beyond any rational exercise of discretion, to perform non-discretionary duties owed to Plaintiffs, all of whom have a clear right to relief.

25. This Court further has jurisdiction under the federal habeas corpus statute, 28 U.S.C. § 2241. All Plaintiffs are detained at BCRC at the direction of Defendants. All Plaintiffs are therefore "in custody" for the purposes of Section 2241.

26. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(2), as a substantial part of the events giving rise to this claim occurred in this District.

27. Venue is also proper pursuant to 28 U.S.C. § 2241(d) because Plaintiffs are detained at the BCRC in Leesport, Pennsylvania; Defendant Diane Edwards is located in Leesport, Pennsylvania; and Defendant Thomas Decker conducts ICE business from Philadelphia, Pennsylvania.

28. The Court may grant relief pursuant to 28 U.S.C. §§ 1361, 2201-2202, and 2241, and the APA, 5 U.S.C. § 706.

CLASS ALLEGATIONS

29. Plaintiffs bring their claims, below, as a Federal Rule of Civil Procedure 23 class action, on their own behalf and on behalf of a class for which Plaintiffs seek certification.

30. Pending any modifications necessitated by discovery, Plaintiffs preliminarily define this class as: current and future persons with or applying for SIJ status in or potentially subject to expedited removal proceedings and/or subject to a final order of expedited removal.

31. This action is properly brought as a class action for any and all of the following reasons:

a. Plaintiffs' claims concern Defendants' policies, practices, and regulations applicable to all class members. That is, Plaintiffs allege Defendants have acted or refused to act on grounds that apply generally to all class members, such that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole.

b. Prosecuting separate actions by individual class members would create a risk of inconsistent or varying adjudications with respect to individual class members that would establish incompatible standards of conduct for Defendants.

c. Adjudications with respect to individual class members that, as a practical matter, would be dispositive of the interests of the other members not parties to the individual adjudications and or would substantially impair or impede their ability to protect their interests.

d. Questions of law or fact common to class members predominate over any questions affecting only individual members; as such a class action is superior to other available methods for fairly and efficiently adjudicating the controversy.

32. Plaintiffs do not know the exact size of the class since that information is within control of Defendants. However, upon information and belief, Plaintiffs allege that the number of class members could potentially be thousands.[3] Membership in this class is readily ascertainable from Defendants' records.

[3] To date, the Government has limited application of expedited removal to inadmissible noncitizens apprehended within 14 days of their arrival and within 100 miles of an international land border. *See* Designating Aliens For Expedited Removal, 69 Fed. Reg. 48877, 48880 (2004). However, pursuant to Executive Order 13767 § 11(c), the Secretary of Homeland Security has been instructed "to apply expedited removal to the fullest extent of the law." *See* Border Security and Immigration Enforcement Improvements, 82 Fed. Reg. 8793 (2017). The relevant section of the Executive Order states in full: "Pursuant to section 235(b)(1)(A)(iii)(I) of the INA, the Secretary shall take appropriate action to apply, in his sole and unreviewable discretion, the provisions of section 235(b)(1)(A)(i) and (ii) of the INA to the aliens designated under section 235(b)(1)(A)(iii)(II)." *Id.* at 8796. If the Secretary expands expedited removal to the full extent

33. The representative Plaintiffs will fairly and adequately protect the interests of the class as a whole because all class members are or could be subject to the same illegal conduct of the Defendants such that the interests of the absent class members are coincident with, and not antagonistic to, those of Plaintiffs, who will litigate the claims fully.

34. The representative Plaintiffs are represented by counsel experienced in immigration-related and class litigation.

LEGAL BACKGROUND

35. In 1990, Congress enacted special protections for abused, abandoned, and neglected children. Under 8 U.S.C. § 1255(h)(1), immigrants who meet the definition of an SIJ under 8 U.S.C. § 1101(a)(27)(J) are "deemed, for purposes of [8 U.S.C. § 1255(a)], to have been paroled in the United States," and are entitled to apply for an adjustment of status to that of an immigrant lawfully admitted for permanent residence.

36. In 2008, Congress amended the SIJ provisions in the INA to broaden their applicability. *See* William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, P.L. 110-457 ["TVPRA"].

37. In a section entitled "Permanent Protection for Certain At-Risk Children," the TVPRA amended the definition of Special Immigrant Juvenile under 8 U.S.C. § 1101(a)(27)(J). That section now applies to an immigrant: (a) who is "present in the United States"; (b) who "has

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provided by statute, as the Executive Order 13767 § 11(c) now instructs, immigration officers would be authorized to order removed any noncitizen apprehended anywhere in the United States who is inadmissible under either 8 U.S.C. § 1182(a)(6)(C) or § 1182(a)(7), and who entered without inspection less than two years prior to the date of the expedited removal proceedings.

been declared dependent on a juvenile court located in the United States or whom such a court has ... placed under the custody of . . . an individual . . . appointed by a State or juvenile court located in the United States"; (c) "whose reunification with 1 or both ... parents is not viable due to abuse, neglect, abandonment"; and (d) "for whom it has been determined in ... judicial proceedings that it would not be in the alien's best interest to be returned to the alien's . . . previous country of nationality."

38. Immigrants seeking protection as Special Immigrant Juveniles thus follow a two-step process to obtain SIJ Status. First, the immigrant must obtain a predicate order from a juvenile court. Second, the immigrant must file an I-360 Petition with U.S. Citizenship and Immigration Services.

39. The TVPRA clarified that certain grounds for inadmissibility into the United States do not apply to Special Immigrant Juveniles. The TVPRA amended 8 U.S.C. § 1255(h)(2) to provide that "in determining the alien's admissibility as an immigrant," "paragraphs (4), (5)(A), (6)(A), (6)(C), (6)(D), (7)(A), and (9)(B) of [8 U.S.C. § 1182(a)] shall not apply."

40. Because the law makes the child eligible for SIJ status "whose reunification with one or both of the immigrant's parents is not viable," the child whose reunification with one parent is viable but not with the other on account of abuse, neglect, or abandonment may apply for SIJ status, and the parent with whom reunification remains viable may be named the managing conservator.

FACTS SPECIFIC TO PLAINTIFFS

Wendy Amparo Osorio-Martinez and Her Minor Child, Three-Year-Old D.S. R-O.

41. Three-year-old D.S. R-O. and his mother Wendy entered the United States in October 2015.

42. They sought protection from persecution in Honduras—specifically, significant childhood trauma, as well as adult trauma stemming from sexual violence. Moreover, Wendy's life has been threatened by the wife of her son's father, whose family is associated with the Los Cachiros, a notorious transnational criminal organization.

43. Conditions in Honduras reinforce that D.S. R-O. and his mom had good reason to fear for their safety. When an individual challenges the authority of a gang in Honduras, he and his family members are often targeted for retaliation by the gang.[4]

44. Further, reports make clear that Honduran authorities—the government and the police—are unable to provide protection to those targeted by gangs.[5]

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[4] *See* High Comm'r for Refugees, Guidance Note on Refugee Claims Relating to Victims of Organized Gangs 2 (2010), *available at* http://www.refworld.org/pdfid/4bb21fa02.pdf ("Refusals to succumb to a gang's demands and/or any actions that challenge or thwart the gang are perceived as acts of disrespect, and thus often trigger a violent and/or punitive response. [O]nce an individual or family has been targeted for retaliation, the gravity of the threat does not diminish over time.").

[5] *See* United States Conf. of Catholic Bishops, Mission to Central America: The Flight of Unaccompanied Children 8 (Nov. 2013), *available at* http://www.usccb.org/about/migration-policy/upload/Mission-To-Central-America-FINAL-2.Pdf ("[G]angs and other criminal elements are active in many communities and schools, and the government is unable to curb their influence because of corruption, lack of political will, or lack of resources. Law enforcement personnel, low-paid and low-skilled, are compromised by these criminal elements."); Geoffrey Ramsey, *Honduras deploys controversial military police*, The Pan-American Post (Oct. 15, 2013, 9:14 AM), http://www.thepanamericanpost.com/2013/10/honduras-deploys-controversial-

45. Gangs in Honduras also retaliate against individuals or families who report them to the police/authorities or who express opposition to them.[6]

46. Understandably terrified for her life and the life of her then one-year-old son, and unable to gain protection from the police or her family, Wendy and D.S. R-O. fled Honduras to seek protection in the United States.

47. After Wendy and D.S. R.-O. entered the United States by crossing the border, they were apprehended and detained by Customs and Border Protection agents, first at Karnes County Residential Center in Karnes City, Texas, and, then, since November 2015, at Berks Family Residential Center, in Leesport, Pennsylvania, where they remain detained.

48. At the time of their apprehension, Wendy and D.S. R-O. were put into "expedited removal" proceedings under 8 U.S.C. § 1225(b). Both requested asylum based on, *inter alia*, the reasons stated above, but an asylum officer denied their request. This determination was later affirmed by an immigration judge, and Petitioners are now subject to final expedited removal orders. *See* 8 U.S.C. § 1225(b)(1)(B)(iii)(III).

49. Wendy and D.S. R-O. filed habeas petitions in the Eastern District of Pennsylvania seeking judicial review of their expedited removal orders, but those claims were dismissed on jurisdictional grounds.

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military.html (describing the arrest of two former Honduran soldiers accused of providing training to the Mexican drug cartel, which has expanded its reach into Honduras).

[6] *See* Jason Buch, *For Mother from Honduras, a Difficult Decision*, San Antonio Express News (May 19, 2015, 11:51 AM), http://www.expressnews.com/news/local/article/For-mother-from-Honduras-a-difficult-decision-6271658.php ("[Honduras's] criminal groups operate with great impunity . . . and speaking out against the gangs [is] dangerous.").

50. Petitioners then appealed to the Third Circuit Court of Appeals, which granted them stays of removal while it considered their claims, but eventually affirmed the District Court's ruling that it did not have jurisdiction.

51. All the while, Defendants detained Wendy and D.S R-O. at Berks County Residential Center—the place where D.S R-O. has spent nearly half of his life, learning to walk and talk.

52. During their year-and-a-half in detention,[7] Wendy and D.S. R-O. received Custody Review Decisions every sixty to ninety days. Each of these cursory Custody Review Decisions was categorically denied by ICE, in which ICE put forth the same boilerplate language. There was nothing written on any form which would indicate that ICE had taken into account Mother's or Child's individual facts and circumstances before categorically denying their release from detention. To the contrary, given that ICE issued several decisions before the

[7] Most asylum seekers in prolonged detention will experience severe mental health disorders – including suicidal ideation and self-harm, posttraumatic stress disorder, depression, and anxiety. *See, e.g.*, A. Keller, et al., *Mental health of detained asylum seekers*, The Lancet, Vol. 362, 1721-23 (2003) ("Nearly all the detainees [held in Pennsylvania, New York, and New Jersey] in our study had clinically significant symptoms of anxiety, depression, or posttraumatic stress disorder, which worsened with time in detention and improved on release."); Robjant, K., et al., *Mental health implications of detaining asylum seekers: systematic review*, British Journal of Psychiatry ,194, 306-312 (2009) ("Anxiety, depression and posttraumatic stress disorder were commonly reported, as were self-harm and suicidal ideation. Time in detention was positively associated with severity of distress."); Steel, Z., et al. *Impact of immigration detention and temporary protection on the mental health of refugees*, British Journal of Psychiatry, Vol. 188, 58-64 (2006) ("Longer detention was associated with more severe mental disturbance"), *see also* Human Rights First, Long-Term Detention of Mothers and Children In Pennsylvania (2016).

During Petitioners' detention, Wendy was evaluated by Dr. Jaswinder K. Legha, a licensed medical doctor and medical consultant for the psychiatric wards at Bellevue Hospital on September 16-17, 2016. Dr. Legha diagnosed Mother with Post-Traumatic Stress Disorder ("PTSD") and depression. As stated in Dr. Legha's report: "[Wendy] continues to suffer from psychological symptoms related to her prior trauma. This includes symptoms of PTSD as well as depression. She reports feeling sad and hopeless."

deadline for Petitioners to submit supporting documentation, it seems certain they did not consider any individual facts related to Petitioners.

53. In none of Defendants' perfunctory "custody reviews," did the Defendants ever allege or show that three-year-old D.S. R-O. and his mom are a flight risk, or likely to commit a crime—their prolonged and indefinite detention bears no reasonable relationship to any possible justification for detaining them.

54. On August 24, 2016, D.S. R-O, petitioned USCIS for status as a Special Immigrant pursuant to 8 U.S.C. § 1101(a)(27)(J).

55. On October 3, 2016, D.S. R-O.'s Petition was approved. He has since filed an application for Adjustment of Status with the USCIS. That application is pending.

56. On December 1, 2016, D.S. R-O. requested that ICE join its motion to rescind and reopen his removal proceedings pursuant to paragraph 29 of the *Perez-Olano* Settlement Agreement.

57. In a letter dated, February 14, 2017, ICE rejected D.S. R-O.'s request for relief.

58. Therein, ICE "acknowledge[d] that the referenced minors [D.S. R.-O] fall within the class of juveniles identified in the [*Perez-Olano*] Settlement Agreement."

59. However, ICE declined to grant the relief requested on grounds that paragraph 29 of the Settlement Agreement is inapplicable to persons subject to expedited removal.

60. On or about February 28, 2017, counsel for D.S. R-O. wrote to the Government, setting forth the facts above and requesting that the Government meet and confer regarding, *inter*

alia, "the [Government's] unfounded denial of a request … to rescind and reopen the final orders of expedited removal issued to the [SIJ] children."

61. Specifically, D.S. R-O. provided notice that "[t]he Government is in noncompliance with the *Perez-Olano* Settlement Agreement," invoking the alternate dispute resolution process described in paragraph 43 of the *Perez-Olano* Settlement Agreement.

62. D.S. R-O. explained in his letter, that once such process is invoked, "removal action[s] shall be stayed and [D.S. R-O.] shall not be removed from the United States unless and until the matter has been resolved in favor of [the Government]."

63. In a letter dated March 6, 2017, the Government acknowledged Plaintiffs' claim that the Government was in violation of the *Perez-Olano* Settlement Agreement, but declined Plaintiffs' request to meet and confer.

64. In so doing, the Government wrote: "Finally, you write that you believe the "Government is in noncompliance with the Perez Olano Settlement Agreement," specifically paragraph 29. But as you know the Government views that settlement as applying only to removal proceedings pursuant to 8 U.S.C. § 1229a. Indeed, paragraph 29, by its own terms makes this clear by providing that, if certain criteria under that paragraph are satisfied, "ICE shall join *motions to reopen removal proceedings* filed by juveniles granted SIJ status." Perez Olano Settlement at ¶ 29 (emphasis added). That phrase alone indicates the agreement contemplated only *removal* proceedings, as opposed to the *expedited removal* proceedings at issue in your clients' case."

Carmen Lobo Mejia and Her Minor Child, Four-Year-Old, A.D.M-L.

65. Four-year-old ADML and his mother Carmen entered the United States in October 2015.

66. They sought protection from persecution in Honduras—specifically, very extensive abuse, including, but not limited to, threats of violence by a known gang member who, after being reported to the police by Carmen, was left free to pursue Carmen throughout Honduras until she fled with her son.

67. Conditions in Honduras reinforce that A.D.M-L. and his mom had good reason to fear for their safety. When an individual challenges the authority of a gang in Honduras, he and his family members are often targeted for retaliation by the gang.

68. Further, reports make clear that Honduran authorities—the government and the police—are unable to provide protection to those targeted by gangs.

69. Gangs in Honduras also retaliate against individuals or families who report them to the police/authorities or who express opposition to them.

70. Understandably terrified for her life and the life of her then four-year-old son, and unable to gain protection from the police or her family, Carmen and A.D.M-L. fled Honduras to seek protection in the United States.

71. After Carmen and A.D.M-L. entered the United States by crossing the border, they were apprehended and detained by Customs and Border Protection agents, first at Karnes County Residential Center in Karnes City, Texas, and, then, since November 2015, at Berks Family Residential Center, in Leesport, Pennsylvania, where they remain detained.

72. At the time of their apprehension, Carmen and A.D.M-L. were put into "expedited removal" proceedings under 8 U.S.C. § 1225(b). Both requested asylum based on, *inter alia*, the reasons stated above, but an asylum officer denied their request. This determination was later affirmed by an immigration judge, and Petitioners are now subject to final expedited removal orders. *See* 8 U.S.C. § 1225(b)(1)(B)(iii)(III).

73. Carmen and A.D.M-L. filed habeas petitions in the Eastern District of Pennsylvania seeking judicial review of their expedited removal orders, but those claims were dismissed on jurisdictional grounds.

74. Petitioners then appealed to the Third Circuit Court of Appeals, which granted them stays of removal while it considered their claims, but eventually affirmed the District Court's ruling that it did not have jurisdiction.

75. All the while, Defendants detained Carmen and A.D.M-L. at Berks County Residential Center.

76. During their year-and-a-half in detention, Carmen and A.D.M-L. received Custody Review Decisions every sixty to ninety days. Each of these cursory Custody Review Decisions was categorically denied by ICE, in which ICE put forth the same boilerplate language. There was nothing written on any form which would indicate that ICE had taken into account Mother's or Child's individual facts and circumstances before categorically denying their release from detention. To the contrary, given that ICE issued several decisions before the deadline for Petitioners to submit supporting documentation, it seems certain they did not consider any individual facts related to Petitioners.

77. Notices of upcoming Custody Reviews told Carmen and A.D.M-L. that "[i]n order to be eligible for release, you must demonstrate to the satisfaction of the Deciding Official that your release will not pose a danger to the community or to the safety of other persons or property or a flight risk." And each Notice purported to set a date by which Carmen and A.D.M-L. could submit documentation in support of their release; however, in certain instances, the "Deciding Official" would render a decision *well* in advance of the deadline.

78. For example, sometime, presumably, in January 2017,[8] the "Deciding Official" issued a Notice of Family Residential Center File Custody Review that purported to give Carmen and A.D.M-L. until January 16, 2017 to submit documentation supporting their release. *Id.* at 28. That Notice was served on Carmen and A.D.M-L. on January 9, 2017—only one day before the "Deciding Official" reached her determination that Carmen and A.D.M-L.'s custody status should not be changed.

79. The Custody Review Results, served upon Carmen and A.D.M-L. on January 12, 2017, gave no reason for Petitioners' continued detention. Rather, like every other Custody Review Results they ever received, Carmen and A.D.M-L. were told only that the "Deciding Official" had "determined that [Carmen and A.D.M-L.'s] custody status should not be changed at this time."

80. On October 25, 2016, A.D.M-L. Petitioned U.S. Citizenship and Immigration Services for status as a Special Immigrant pursuant to 8 U.S.C. § 1101(a)(27)(J), commonly

[8] The exact date upon which this Custody Review Notice was issued is unascertainable because the "Deciding Official" apparently decided not to sign or date the Notice before serving it on Petitioners.

known as Special Immigrant Juvenile Status ("SIJS"), which, if approved, would allow A.D.M-L. to apply for lawful permanent residence in the United States.

81. On November 28, 2016, A.D.M-L.'s Petition was Approved, providing him an avenue to file an adjustment of status application to secure lawful permanent residence in the United States. On December 30, 2016, A.D.M-L. filed an application for Adjustment of Status with the USCIS. That application is currently pending.

82. On or about December 2016, A.D.M-L. requested that ICE join its motion to rescind and reopen his removal proceedings pursuant to paragraph 29 of the Perez-Olano Settlement Agreement..

83. In a letter dated, February 14, 2017, ICE rejected A.D.M-L.'s request for relief.

84. Therein, ICE "acknowledge[d] that the referenced minors [A.D.M-L.] fall within the class of juveniles identified in the [Perez-Olano] Settlement Agreement."

85. However, ICE declined to grant the relief requested on grounds that paragraph 29 of the Settlement Agreement is inapplicable to persons subject to expedited removal.

86. On or about February 28, 2017, counsel for A.D.M-L. wrote to the Government, setting forth the facts above and requesting that the Government meet and confer regarding, inter alia, "the [Government's] unfounded denial of a request … to rescind and reopen the final orders of expedited removal issued to the [SIJ] children."

87. Specifically, A.D.M-L. provided notice that "[t]he Government is in noncompliance with the *Perez-Olano* Settlement Agreement," invoking the alternate dispute resolution process described in paragraph 43 of the *Perez-Olano* Settlement Agreement.

88. A.D.M-L. explained in his letter, that once such process is invoked, "removal action[s] shall be stayed and [A.D.M-L.] shall not be removed from the United States unless and until the matter has been resolved in favor of [the Government]."

89. In a letter dated March 6, 2017, the Government acknowledged Plaintiffs' claim that the Government was in violation of the Perez-Olano Settlement Agreement, but declined Plaintiffs' request to meet and confer.

90. In so doing, the Government wrote: "Finally, you write that you believe the "Government is in noncompliance with the Perez Olano Settlement Agreement," specifically paragraph 29. But as you know the Government views that settlement as applying only to removal proceedings pursuant to 8 U.S.C. § 1229a. Indeed, paragraph 29, by its own terms makes this clear by providing that, if certain criteria under that paragraph are satisfied, "ICE shall join motions to reopen removal proceedings filed by juveniles granted SIJ status." Perez Olano Settlement at ¶ 29 (emphasis added). That phrase alone indicates the agreement contemplated only removal proceedings, as opposed to the expedited removal proceedings at issue in your clients' case."

Maria Delmi Martinez Nolasco and Her Minor Child, J.E. L-M.

91. Seven-year-old J.E. L.-M. and his mom Maria entered the United States in September 2015.

92. They sought protection from persecution in El Salvador—specifically, threats of physical and sexual abuse at the hands of the MS gang.

93. Understandably terrified for her life and the life of her then seven-year-old son, and unable to gain protection from the police or her family, J.E. L.-M. and his mom fled El Salvador to seek protection in the United States.

94. In September 2015, Maria and J.E. L.-M. entered the United States by crossing the border. After Maria and J.E. L.-M. were apprehended by Customs and Border Protection agents, they were detained at the South Texas Family Residential Center in Dilley, Texas.

95. On or about October 31, 2015, Maria and J.E. L.-M. were transferred, this time to BCRC, in Leesport, Pennsylvania, where they remain detained.

96. At the time of their apprehension, Maria and J.E. L.-M. were put into "expedited removal" proceedings under 8 U.S.C. § 1225(b). Both requested asylum based on, *inter alia*, the reasons stated above, but an asylum officer denied their request. This determination was later affirmed by an immigration judge, and Maria and J.E. L.-M. are now subject to final expedited removal orders. *See* 8 U.S.C. § 1225(b)(1)(B)(iii)(III).

97. Maria and J.E. L.-M. filed habeas petitions in the Eastern District of Pennsylvania seeking judicial review of their expedited removal orders, but those claims were dismissed on jurisdictional grounds.

98. Maria and J.E. L.-M. then appealed to the Third Circuit Court of Appeals, which granted them stays of removal while it considered their claims, but eventually affirmed the District Court's ruling that it did not have jurisdiction.

99. All the while, Defendants detained Maria and J.E. L.-M. at BCRC.

100. During their year-and-a-half in detention, Maria and J.E. L.-M. received Custody Review Decisions every sixty to ninety days. Each of these cursory Custody Review Decisions was categorically denied by ICE, in which ICE put forth the same boilerplate language. There was nothing written on any form which would indicate that ICE had taken into account Maria and J.E. L.-M.'s individual facts and circumstances before categorically denying their release from detention. To the contrary, given that ICE issued several decisions before the deadline for Petitioners to submit supporting documentation, it seems certain they did not consider any individual facts related to Petitioners.

101. On May 27, 2016, J.E. L.-M. Petitioned U.S. Citizenship and Immigration Services for status as a Special Immigrant pursuant to 8 U.S.C. § 1101(a)(27)(J), commonly known as Special Immigrant Juvenile Status ("SIJS"), which, if approved, would allow J.E. L.-M. to apply for lawful permanent residence in the United States.

102. On November 9, 2016, J.E. L.-M.'s Petition was Approved, providing J.E. L.-M. an avenue to file an adjustment of status application to secure lawful permanent residence in the United States. J.E. L.-M. has since filed an application for Adjustment of Status with the USCIS. That application is currently pending.

103. On or about December 2015, J.E. L.-M. requested that ICE join its motion to rescind and reopen his removal proceedings pursuant to paragraph 29 of the Perez-Olano Settlement Agreement.

104. In a letter dated, February 14, 2017, ICE rejected J.E. L.-M.'s request for relief.

105. Therein, ICE "acknowledge[d] that the referenced minors [J.E. L.-M.] fall within the class of juveniles identified in the [Perez-Olano] Settlement Agreement."

106. However, ICE declined to grant the relief requested on grounds that paragraph 29 of the Settlement Agreement is inapplicable to persons subject to expedited removal.

107. On or about February 28, 2017, counsel for J.E. L.-M. wrote to the Government, setting forth the facts above and requesting that the Government meet and confer regarding, inter alia, "the [Government's] unfounded denial of a request ... to rescind and reopen the final orders of expedited removal issued to the [SIJ] children."

108. Specifically, J.E. L.-M. provided notice that "[t]he Government is in noncompliance with the *Perez-Olano* Settlement Agreement," invoking the alternate dispute resolution process described in paragraph 43 of the *Perez-Olano* Settlement Agreement.

109. J.E. L.-M. explained in his letter, that once such process is invoked, "removal action[s] shall be stayed and [J.E. L.-M.] shall not be removed from the United States unless and until the matter has been resolved in favor of [the Government]."

110. In a letter dated March 6, 2017, the Government acknowledged Plaintiffs' claim that the Government was in violation of the Perez-Olano Settlement Agreement, but declined Plaintiffs' request to meet and confer.

111. In so doing, the Government wrote: "Finally, you write that you believe the "Government is in noncompliance with the Perez Olano Settlement Agreement," specifically paragraph 29. But as you know the Government views that settlement as applying only to removal proceedings pursuant to 8 U.S.C. § 1229a. Indeed, paragraph 29, by its own terms

makes this clear by providing that, if certain criteria under that paragraph are satisfied, "ICE shall join motions to reopen removal proceedings filed by juveniles granted SIJ status." *Perez-Olano* Settlement at ¶ 29 (emphasis added). That phrase alone indicates the agreement contemplated only removal proceedings, as opposed to the expedited removal proceedings at issue in your clients' case."

Jethzabel Maritza Aguilar Mancia and Her Minor Child, V.G. R-A.

112. Sixteen-year-old V.G. R.-A. and his mother Jethzabel entered the United States in or around October 2015.

113. They sought protection from persecution in El Salvador—specifically, threats from gang members, including death threats against Jethzabel and her son. Gang members menaced her for reporting a robbery to the police and tried to recruit V.G. R.-A., demanding Jethzabel turn him over to them or be killed. V.G. R.-A. was told there were gang members waiting for him in front of his school. He escaped through a back entrance of the school, and ran home. Two of V.G. R.-A.'s friends had been killed in gang violence. If they stayed in El Salvador, V.G. R.-A.'s only options were to join the gang and risk death by a rival gang, or refuse and risk his and his mother's lives.

114. Conditions in El Salvador reinforce that V.G. R.-A. and his mom had good reason to fear for their safety. When an individual challenges the authority of a gang in El Salvador, he and his family members are often targeted for retaliation by the gang.

115. Further, reports make clear that Salvadoran authorities—the government and the police—are unable to provide protection to those targeted by gangs.

116. Understandably terrified for her life and the life of her then 14-year-old son, and unable to gain protection from the police or her family, Jethzabel and V.G. R.-A. fled El Salvador to seek protection in the United States.

117. After Jethzabel and V.G. R.-A. entered the United States by crossing the border, they were apprehended and detained by Customs and Border Protection agents, first at Karnes County Residential Center in Karnes City, Texas, and, then, since November 2015, at Berks Family Residential Center, in Leesport, Pennsylvania, where they remain detained.

118. At the time of their apprehension, Jethzabel and V.G. R.-A. were put into "expedited removal" proceedings under 8 U.S.C. § 1225(b). Both requested asylum based on, inter alia, the reasons stated above, but an asylum officer denied their request. This determination was later affirmed by an immigration judge, and Petitioners are now subject to final expedited removal orders. See 8 U.S.C. § 1225(b)(1)(B)(iii)(III).

119. Jethzabel and V.G. R.-A. filed habeas petitions in the Eastern District of Pennsylvania seeking judicial review of their expedited removal orders, but those claims were dismissed on jurisdictional grounds.

120. Petitioners then appealed to the Third Circuit Court of Appeals, which granted them stays of removal while it considered their claims, but eventually affirmed the District Court's ruling that it did not have jurisdiction.

121. All the while, Defendants detained Jethzabel and V.G. R.-A. at Berks County Residential Center—the place where V.G. R.-A. has spent nearly the entirety of his adolescence so far, away from peers his own age.

122. During their year and a half in detention,[9] Jethzabel and V.G. R.-A. received Custody Review Decisions every 60 to 90 days. Each of these cursory Custody Review Decisions was categorically denied by ICE, in which ICE put forth the same boilerplate language. There was nothing written on any form which would indicate that ICE had taken into account Mother's or Child's individual facts and circumstances before categorically denying their release from detention. To the contrary, given that ICE issued several decisions before the deadline for Petitioners to submit supporting documentation, it seems certain they did not consider any individual facts related to Petitioners.

123. In none of Defendants' perfunctory "custody reviews" did the Defendants ever allege or show that V.G. R.-A. and his mom are a flight risk, or likely to commit a crime. Their prolonged and indefinite detention bears no reasonable relationship to any possible justification for detaining them.

124. On or about August 24, 2016, V.G. R.-A. petitioned USCIS for status as a Special Immigrant pursuant to 8 U.S.C. § 1101(a)(27)(J).

125. On or about December 2016, V.G. R.-A. requested that ICE join its motion to rescind and reopen his removal proceedings pursuant to paragraph 29 of the *Perez-Olano* Settlement Agreement.

126. In a letter dated February 14, 2017, ICE rejected V.G. R.-A.'s request for relief.

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[9] During Petitioners' detention, V.G. R.-A. was evaluated by Layla Ware de Luria, LCSW. The evaluation, dated April 20, 2016, observed that V.G. R.-A.'s continuing detention was contributing to "significant impairment in socialization" and "daily feelings of hopelessness," and noted the increased risk of suicide attempts.

127. Therein, ICE "acknowledge[d] that the referenced minors [V.G. R.-A.] fall within the class of juveniles identified in the [*Perez-Olano*] Settlement Agreement." .

128. However, ICE declined to grant the relief requested on grounds that paragraph 29 of the Settlement Agreement is inapplicable to persons subject to expedited removal.

129. On or about February 28, 2017, counsel for V.G. R.-A. wrote to the Government, setting forth the facts above and requesting that the Government meet and confer regarding, *inter alia*, "the [Government's] unfounded denial of a request … to rescind and reopen the final orders of expedited removal issued to the [SIJ] children."

130. Specifically, V.G. R.-A. provided notice that "[t]he Government is in noncompliance with the *Perez-Olano* Settlement Agreement," invoking the alternate dispute resolution process described in paragraph 43 of the *Perez-Olano* Settlement Agreement.

131. V.G. R.-A. explained in his letter, that once such process is invoked, "removal action[s] shall be stayed and [V.G. R.-A.] shall not be removed from the United States unless and until the matter has been resolved in favor of [the Government]."

132. In a letter dated March 6, 2017, the Government acknowledged Plaintiffs' claim that the Government was in violation of the *Perez-Olano* Settlement Agreement, but declined Plaintiffs' request to meet and confer.

133. In so doing, the Government wrote: "Finally, you write that you believe the "Government is in noncompliance with the Perez Olano Settlement Agreement," specifically paragraph 29. But as you know the Government views that settlement as applying only to removal proceedings pursuant to 8 U.S.C. § 1229a. Indeed, paragraph 29, by its own terms

makes this clear by providing that, if certain criteria under that paragraph are satisfied, "ICE shall join *motions to reopen removal proceedings* filed by juveniles granted SIJ status." Perez Olano Settlement at ¶ 29 (emphasis added). That phrase alone indicates the agreement contemplated only *removal* proceedings, as opposed to the *expedited removal* proceedings at issue in your clients' case.

COUNT ONE
VIOLATION OF IMMIGRATION AND NATIONALITY ACT AND IMPLEMENTING REGULATIONS

134. The foregoing allegations are restated and incorporated by reference herein.

135. As a result of Defendants' decision to grant Plaintiffs' I-360 applications for SIJ status, they are "deemed, for purposes of [8 U.S.C. § 1255(a)], to have been paroled in the United States." 8 U.S.C. § 1255(h)(1). Further, 8 U.S.C. § 1182(a)(6)(A), (6)(C), and (7)(A) "shall not apply" to Plaintiffs in determining their admissibility. 8 U.S.C. § 1255(h)(2)(A).

136. Only aliens "who ha[ve] not been admitted or paroled into the United States" can be subject to expedited removal under 8 U.S.C. § 1225(b)(1)(A). *See* 8 U.S.C. § 1225(b)(1)(A)(iii)(II).

137. Moreover, Section 1225 only permits expedited removal based on a determination that an alien "is inadmissible under [8 U.S.C. § 1182(a)(6)(C) or 1182(a)(7)]." *See* 8 U.S.C. § 1225(b)(1)(A)(i).

138. Defendants' execution of expedited removal orders issued to SIJ- beneficiaries, which, after Defendants' decision to grant SIJ status, would be based on inapplicable grounds, would violate the INA.

139. DHS regulations limit the circumstances and manner in which SIJ Status can be revoked. DHS must establish appropriate grounds for revoking SIJ Status, and must give the juvenile notice and an opportunity to be heard before revoking his or her SIJ Status. *See, e.g.*, 8 C.F.R. § 103(a)(5)(ii).

140. Executing a removal order would effectively revoke SIJ status granted to Plaintiffs without an opportunity to be heard, violating DHS regulations.

COUNT TWO
VIOLATION OF EQUAL PROTECTION

141. The foregoing allegations are restated and incorporated by reference herein.

142. The Due Process Clause of the Fifth Amendment prohibits the federal government from denying equal protection of the laws.

143. The policies, practices, and regulations promulgated and followed by the Defendants related to their implementation of the SIJ provisions of the Immigration and Nationality Act target individuals for discriminatory treatment based on their country of origin, religion, and/or nationality, without lawful justification.

144. The policies, practices, and regulations promulgated and followed by the Defendants related to their implementation of the SIJ provisions of the Immigration and Nationality Act are motivated by animus and a desire to harm a particular group.

145. The discriminatory terms and application of Defendants policies, practices, and regulations promulgated and followed by the Defendants related to their implementation of the

SIJ provisions of the Immigration and Nationality Act are arbitrary and cannot be sufficiently justified by federal interests.

146. Defendants' violation causes ongoing harm to Plaintiffs and all those similarly situated.

COUNT THREE
VIOLATION OF PROCEDURAL DUE PROCESS

147. The foregoing allegations are restated and incorporated by reference herein.

148. The Due Process Clause of the Fifth Amendment prohibits the federal government from depriving individuals of their liberty interests without due process of law.

149. Where Congress has granted statutory rights and authorized procedures applicable to arriving and present non-citizens, minimum due process rights attach to those statutory rights.

150. The policies, practices, and regulations promulgated and followed by the Defendants related to their implementation of the SIJ provisions of the Immigration and Nationality Act conflict with the statutory rights and procedures directed by Congress.

151. Defendants removal of Plaintiffs and those similarly situated would violate the procedural due process guarantees of the Fifth Amendment.

152. Defendants' violation causes ongoing harm to Plaintiffs and those similarly situated.

COUNT FOUR
IMMIGRATION AND NATIONALITY ACT — DISCRIMINATORY VISA PROCEDURES

153. The foregoing allegations are restated and incorporated by reference herein.

154. The Immigration and Nationality Act, 8 U.S.C. § 1152(a)(1)(A), prohibits discrimination in the issuance of immigrant visas on the basis of race, nationality, place of birth, or place of residence.

155. The policies, practices, and regulations promulgated and followed by the Defendants related to their implementation of the SIJ provisions of the Immigration and Nationality Act discriminate on the basis of race, nationality, place of birth, and/or place of residence in the issuance of visas, in violation of the Immigration and Nationality Act.

156. Defendants' violation causes ongoing harm to Plaintiffs and those similarly situated.

COUNT FIVE
FOREIGN AFFAIRS REFORM AND RESTRUCTURING ACT—
DENIAL OF CONVENTION AGAINST TORTURE RELIEF

157. The foregoing allegations are restated and incorporated by reference herein.

158. The Foreign Affairs Reform and Restructuring Act of 1998, 8 U.S.C. § 1231, implements the United Nations Convention Against Torture, which the United States ratified in 1994. Pub. L. 105-277, div. G, subdiv. B, title XXII, § 2242. Under the Convention Against Torture, the United States may not involuntarily return any person to a country where there are substantial grounds for believing the person would be in danger of being subjected to torture.

159. The policies, practices, and regulations promulgated and followed by the Defendants related to their implementation of the SIJ provisions of the Immigration and Nationality Act would violate the Convention Against Torture in that Defendants have already

determined that it would not be in Plaintiffs best interest to be returned to their country of prior residence.

160. Defendants' violation causes ongoing harm to Plaintiffs and those similarly situated.

COUNT SIX
PROCEDURAL VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT

161. The foregoing allegations are restated and incorporated by reference herein.

162. The Administrative Procedure Act, 5 U.S.C. §§ 553 and 706(2)(D), requires that federal agencies conduct formal rule making before engaging in action that impacts substantive rights.

163. The policies, practices, and regulations promulgated and followed by the Defendants related to their implementation of the SIJ provisions of the Immigration and Nationality Act have changed the substantive criteria by which individuals may enter the United States. Federal agencies did not follow the procedures required by the Administrative Procedure Act before taking action impacting these substantive rights.

164. Through their actions above, Defendants have violated the Administrative Procedure Act.

165. Defendants' violation causes ongoing harm to Plaintiffs and those similarly situated.

COUNT SEVEN
SUBSTANTIVE VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT

166. The foregoing allegations are restated and incorporated by reference herein.

167. The Administrative Procedure Act, 5 U.S.C. § 706(2), prohibits federal agency action that is arbitrary, unconstitutional, and contrary to statute.

168. The policies, practices, and regulations promulgated and followed by the Defendants related to their implementation of the SIJ provisions of the Immigration and Nationality Act constitute unconstitutional and unlawful action, as alleged herein, in violation of the Administrative Procedure Act.

169. In implementing Defendants' policies, practices, and regulations promulgated and followed by the Defendants related to their implementation of the SIJ provisions of the Immigration and Nationality Act, federal agencies have applied provisions arbitrarily, in violation of the Administrative Procedure Act.

COUNT EIGHT
BIVENS ACTION—FALSE IMPRISONMENT

170. The foregoing allegations are restated and incorporated by reference herein.

171. Plaintiffs have a constitutionally protected right under the Fifth Amendment to be free of unreasonable and/or illegal detention.

172. In detaining and continuing to detain Plaintiffs, Defendants violated Plaintiffs' constitutionally protected right under the Fifth Amendment to be free of unreasonable and/or illegal detention.

173. Plaintiffs lack a statutory cause of action and/or available statutory causes of action do not provide for monetary compensation against Defendants.

174. No "special factors" suggest that the Court should decline to provide the judicial cause of action and remedy.

175. No appropriate immunity can be raised by Defendants.

DEMAND FOR JURY TRIAL

Plaintiffs demand a jury trial on all claims so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request the following:

1. Declare that Plaintiffs have been paroled into the United States and are exempt from expedited removal because they have been granted Special Immigrant Juvenile status;

2. Declare that Defendants' execution of the expedited removal orders previously issued to Plaintiffs would violate the Constitution and laws of the United States;

3. Declare that Plaintiffs are entitled to remain in the United States pending the outcome of their applications for legal permanent residence;

4. Declare that Defendants' continued detention of Plaintiffs is unauthorized by and contrary to the Constitution and laws of the United States;

5. Issue a writ of habeas corpus or an injunction preventing Defendants from executing the expedited removal orders previously issued to Plaintiffs, or in the alternative, order a hearing for each in accordance with 8 U.S.C. § 1229a;

6. Issue a writ of habeas corpus ordering Defendants to release Plaintiffs immediately from immigration detention;

7. Grant Plaintiffs' reasonable attorney's fees, costs, and other disbursements pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412; and

8. Award such additional relief as the interests of justice may require.

Dated: April 17, 2017

Respectfully submitted,

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EXHIBIT 2

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

LUIS JAVIER PEREZ-OLANO, CASA LIBRE YOUTH SHELTER, FREDDY GARRIDO-MARTINEZ, MANUEL GOMEZ, YAN JUN LI, LUIS MIGUEL MORALES, MICHAEL YUBAN OBANDO, MAEJEAN ROBINSON, LUCIA UREY, Plaintiffs, - vs - ERIC H. HOLDER, JR., United States Attorney General, JANET NAPOLITANO, Secretary of United States Department of Homeland Security, and OFFICE OF REFUGEE RESETTLEMENT, Defendants.	Case No. CV 05-3604 SETTLEMENT AGREEMENT

PREAMBLE

This Settlement Agreement ("Agreement") is entered into by all Plaintiffs and Defendants in this class action lawsuit (collectively, "the Parties"). Plaintiffs Luis Javier Perez-Olano, Freddy Garrido-Martinez, Manuel Gomez, Yan Jun Li, Luis Miguel Morales, Michael Yuban Obando, Maejean Robinson, and Lucia Urey, are or were juvenile aliens ("juveniles") seeking status and adjustment of status as special immigrant juveniles ("SIJ") under §§ 101(a)(27)(J) and 245 of the Immigration and Nationality Act ("INA"), 8 U.S.C. §§ 1101(a)(27)(J) and 1255. Defendants are the Attorney General of the United States, the Secretary of Homeland Security, both of whom are being sued in their respective official capacities, and the Office of Refugee Resettlement ("ORR"), an agency in the United States Department of Health and Human Services ("HHS").

WHEREAS Plaintiffs filed this lawsuit challenging, *inter alia*, several of Defendants' policies, practices, and regulations regarding SIJ status and SIJ-based adjustment of status pursuant to 8 U.S.C. §§ 1101(a)(27)(J) and 1255; and

WHEREAS the District Court certified this case as a class action on behalf of (i) juveniles whose requests for specific consent to state court jurisdiction Defendant Department of Homeland Security ("DHS") denied or failed to decide prior to the juveniles' attaining 18 years of age ("Specific Consent Subclass"); and (ii) juveniles whose petitions for SIJ status Defendant DHS denied or revoked pursuant to 8 C.F.R. §§ 204.11(c)(1) or (5), or 205.1(a)(3)(iv)(A), (C), or (D) ("Age-Out Subclass"); but declined to certify a class on behalf of (iii) juveniles undergoing removal proceedings whose applications for SIJ-based adjustment of status Defendant DHS refused to adjudicate pursuant to 8 C.F.R. §§ 245.2(a)(1) and 1245.2(a)(1)(i), and 8 C.F.R. § 1003.2(c)(2) or 1003.23(b)(1) ("Removal Proceedings Subclass"); and

WHEREAS the District Court enjoined Defendants from requiring that juveniles in actual or constructive custody to obtain Defendants' specific consent prior to invoking the jurisdiction of state juvenile courts except where such courts determine or alter custody status or placement; and

WHEREAS the District Court upheld the facial validity of 8 C.F.R. §§ 204.11(c)(1), (5), and 205.1(a)(3)(iv)(A), (C), or (D), but reserved for trial whether Defendants unreasonably delayed the adjudication of SIJ applications subject to those regulations; and

WHEREAS the District Court sustained the facial validity of 8 C.F.R. §§ 245.2(a)(1), 1245.2(a)(1)(i), 1003.2(c)(2), and 1003.23(b)(1), but reserved for trial whether Defendants abused their discretion in applying those regulations to juveniles seeking SIJ status including plaintiff Freddy Garrido Martinez; and

WHEREAS the Parties have filed an appeal and cross-appeal with the United States Court of Appeals for the Ninth Circuit ("Ninth Circuit"), and such appeals remain pending and their outcome uncertain; and

WHEREAS a trial in this case would be complex, lengthy and costly to all parties concerned, and the decision of the District Court may be subject to appeal by the losing Party with the final outcome uncertain; and

WHEREAS Congress has enacted the Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 ("TVPRA 2008"), Pub. L. 110-457, 122 Stat. 5044 (2008), on December 23, 2008, and § 235(d) of the TVPRA 2008 amended the eligibility requirements for SIJ status at 8 U.S.C. § 1101(a)(27)(J) and amended the eligibility requirements for adjustment of status at 8 U.S.C. § 1255(h); and

WHEREAS § 235(d) of the TVPRA 2008 (1) transferred the authority over specific consent from DHS to HHS; and (2) extended the eligibility for SIJ status to all aliens who were under 21 years of age at the time they filed a completed application with USCIS; and

WHEREAS HHS, as of March 23, 2009, has assumed full authority over the specific consent determinations for the purposes of SIJ status under 8 U.S.C. § 1101(a)(27)(J), has issued public guidance clarifying that "specific consent" is only required if an SIJ petitioner seeks a juvenile court order determining or altering his or her custody status or placement, and has established a process for requesting specific consent and reconsideration of denials of specific consent; and

WHEREAS the Parties have conducted discussions and arm's length negotiations with respect to a compromise and settlement of this case, with a view to settling the issues in dispute and achieving the most effective relief possible consistent with the interests of the Parties; and

WHEREAS the Parties have (1) concluded that the terms and conditions of this Settlement are fair, reasonable, and in the best interests of the Named Plaintiffs and all Class Members; and (2) agreed to the dismissal of the Action with prejudice, and to seek dissolution of the Court's permanent injunction Order of January 8, 2008, *Perez-Olano v. Gonzalez*, 248 F.R.D. 248 (C.D. Cal. 2008), after considering the substantial benefits that the Parties will receive from settlement of the Action; and

NOW, THEREFORE, in full settlement of this action and in consideration of the promises and undertakings set forth herein and other consideration, the sufficiency of which is hereby acknowledged, it is hereby AGREED, by and among the parties to this Settlement,

through their respective attorneys, subject to the approval of the Court pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, in consideration of the benefits flowing to the Parties hereto from the Settlement, that the claims as against the parties shall be compromised, settled, forever released, barred and dismissed with prejudice, upon and subject to the following terms and conditions:

I. DEFINITIONS

As used throughout this Settlement the following definitions shall apply:

1. "Adjustment of status" refers to adjustment of status of SIJs pursuant to INA § 245(h), 8 U.S.C. § 1255(h), as amended by the TVPRA 2008.

2. "Alien" has the same meaning as that term is defined at INA § 101(a)(3), 8 U.S.C. § 1101(a)(3).

3. "Class member" or "class members" applies to all aliens, including, but not limited to, SIJ applicants, who, on or after May 13, 2005, apply or applied for SIJ status or SIJ-based adjustment of status based upon their alleged SIJ eligibility.

4. "Defendants" are Eric H. Holder, Jr., United States Attorney General; Janet Napolitano, Secretary of Homeland Security; and ORR, and their agents, employees, contractors and successors in office.

5. "Dependency order" means an order issued by a State juvenile court located within the United States, declaring a juvenile to be dependent on that juvenile court or legally committing to, or placing the juvenile under the custody of, an agency or department of a State, or an individual or entity appointed by a State or juvenile court located in the United States.

6. "Effective date" is the date upon which the Agreement enters into effect, in accordance with paragraph 36.

7. "Specific consent" refers to HHS's consent to permit a juvenile in HHS custody to invoke a State court's jurisdiction to determine or alter the custody status or placement of the juvenile. If a juvenile in HHS custody wishes to have a state court, not HHS, decide to move

him or her out of HHS custody and into a state-funded foster care home or other placement, the juvenile must first receive "specific consent" from HHS to go before the state court. However, if the juvenile wishes to go to state court only to be declared dependent in order to make an application for SIJ status (i.e., receive an "SIJ-predicate order"), the child does not need HHS' consent.

8. "Juvenile" (including "juveniles") means any alien who is eligible to apply for a dependency order or SIJ predicate order in a State court as determined by the law of the State in which the alien is domiciled.

9. "Party" or "Parties" applies to Defendants and Plaintiffs.

10. "Plaintiff" or "Plaintiffs" applies to the named Plaintiffs and all class members as defined herein.

11. "SIJ applicant" means any juvenile who applies for SIJ status under INA § 101(a)(27)(J), 8 U.S.C. § 1101(a)(27)(J), or SIJ-based adjustment of status.

12. "SIJ predicate orders" means orders issued by a State court, or in the case of administrative proceedings, an administrative agency, (i) declaring a juvenile dependent on a juvenile court located in the United States or legally committing a juvenile to, or placing a juvenile under the custody of, an agency or department of a State, or an individual or entity appointed by a State or juvenile court located in the United States; and (ii) finding that the juvenile's reunification with one or both of the juvenile's parents is not viable due to abuse, neglect, abandonment, or a similar basis found under State law; and (iii) determining in administrative or judicial proceedings that it would not be in the juvenile's best interest to be returned to the juvenile's or the juvenile's parent's previous country of nationality or country of last habitual residence.

II. TERMS OF SETTLEMENT

13. This Agreement sets out nationwide policy governing the SIJ application process, including access to State juvenile courts, and shall supersede all practices, policies, procedures,

and Federal regulations to the extent they are inconsistent with this Agreement. Except as provided herein, this Agreement shall supersede the nationwide permanent injunction issued by the United States District Court for the Central District of California in this case on January 8, 2008, once the Court approves this Agreement and this Agreement becomes effective in accordance with all of the terms of paragraph 36.

14. USCIS shall not revoke or rescind an approved SIJ classification or SIJ-based adjustment of status issued pursuant to the injunction of January 8, 2008. This paragraph does not limit Defendants' ability to revoke or rescind SIJ classification or SIJ-based adjustment of status for reasons unrelated to the terms of the injunction of January 8, 2008.

15. For juveniles in HHS custody, obtaining SIJ status and SIJ-based adjustment of status may involve three components:

(a) The juvenile must obtain HHS's specific consent, but only if the juvenile seeks a juvenile court order determining or altering the juvenile's custody status or placement;

(b) The juvenile must obtain an SIJ predicate order.

(c) Lastly, the juvenile must apply for SIJ status and SIJ-based adjustment of status by filing a Form I-360 and Form I-485, with appropriate filing fees or a request for a fee waiver in accordance with the Immigration and Nationality Act, 8 U.S.C. §§ 1101, *et seq.*, applicable regulations, and the instructions on the forms.

16. For juveniles not in HHS custody, obtaining SIJ status and SIJ-based adjustment of status shall involve a two-step process.

(a) First, the juvenile must obtain an SIJ predicate order.

(b) Second, the juvenile must apply for SIJ status and SIJ-based adjustment of status.

17. Defendants shall not require SIJ applicants to obtain specific consent from HHS or any other federal agency or officer before an SIJ applicant may invoke the jurisdiction of a State juvenile court. However, if the SIJ applicant seeks a change in custody status or placement, the SIJ applicant must obtain specific consent from HHS, through the Director of ORR ("the

Director") before a State juvenile court may determine or alter the juvenile's custody status or placement. Nothing herein shall preclude a state court from issuing SIJ predicate orders prior to HHS's granting specific consent to the State court's exercising jurisdiction to change custody status or placement.

18. Within two business days following receipt of a request for specific consent, HHS will acknowledge receipt of the request via e-mail, facsimile, or telephone to the juvenile and/or his or her representative.

19. In determining whether to grant specific consent, the Director shall comply with the TVPRA 2008 section 235(c)(2), Pub. L. 110-457.

20. The Director shall make efforts to adjudicate requests for specific consent within 30 days of receipt. The Director will also make particular efforts to adjudicate requests marked "URGENT" when an applicant indicates there are special circumstances requiring expedited processing. If the Director denies the request, he or she will transmit to the juvenile and, if the juvenile is represented, to his or her legal representative the decision in writing, together with the evidence it relied on in reaching its decision.

21. A juvenile denied specific consent may appeal by filing a petition for administrative review with the Assistant Secretary for Children and Families, postmarked no later than 30 days after receipt of the Director's denial. An applicant may supplement the administrative record with additional evidence.

22. The Assistant Secretary for Children and Families will consider the administrative record, including all evidence provided by the juvenile or the juvenile's legal representative. Within fifteen business days from the date of receiving the request, the Assistant Secretary will send his or her decision on the petition to the juvenile and, if the juvenile is represented, to the juvenile's legal representative. This decision would be a final administrative decision.

23. Defendant USCIS shall not deny a class member's application for SIJ classification or SIJ-based adjustment of status on account of age or dependency status, if, at the time the class

member files or filed a complete application for SIJ classification, he or she was under 21 years of age or was the subject of a valid dependency order that was subsequently terminated based on age. Defendant USCIS shall not deny a class member's application for SIJ classification or SIJ-based adjustment of status on account of ineligibility for long-term foster care as this is no longer a statutory requirement.

24. Defendant USCIS shall not revoke a class member's SIJ classification on account of age or dependency status, if, at the time the class member files or filed a complete application for such status, he or she was under 21 years of age or was the subject of a valid dependency order that was subsequently terminated based on age. Defendant USCIS shall not revoke a class member's application for SIJ classification or SIJ-based adjustment of status on account of ineligibility for long-term foster care as this is no longer a statutory requirement.

25. Nothing in this Agreement shall be construed to waive any obligation or authority USCIS and HHS may have under the APA to promulgate valid and effective regulations at a date following the effective date of this Agreement (see paragraph 36).

26. Juveniles who file applications for SIJ classification and SIJ-based adjustment of status may file along with their applications for adjustment of status Form I-765 (Application for Employment Authorization), with a fee or fee waiver request.

27. Defendant USCIS shall, upon request and without fee, readjudicate the SIJ applications and, where applicable, SIJ-based adjustment of status applications of Lucia Urey, A 95469152, Maejean Robinson, A 95945493, and Freddy Garrido-Martinez, A 77609544, in accordance with the standards set out in this Agreement and the TVPRA 2008 and shall not deny their applications for SIJ status or SIJ-based adjustment of status on account of their current ages.

28. Upon request, defendant USCIS shall re-adjudicate applications for SIJ status and/or SIJ-based adjustment of status of individuals whose applications for such benefits were denied or revoked on or after May 13, 2005, for reasons inconsistent with this Agreement or § 235(d)(6) of

the TVPRA 2008. Class members who believe they are eligible for readjudication under this paragraph should file a Motion to Reopen with USCIS on Form I-290B, Notice of Appeal or Motion, with the appropriate fee or fee waiver request in accordance with the filing instructions in the attachment to this Agreement. Readjudication will be with respect to age eligibility, as addressed in paragraphs 23 and 24, and with respect to specific consent, as addressed in paragraphs 15 through 23. Defendant USCIS shall, within 90 days of the effective date of this Agreement, post a copy of the notice regarding this paragraph on Defendant USCIS's website and email a copy of the same notice to the USCIS list of non-governmental and community-based organizations.

29. Defendant ICE shall join motions to reopen removal proceedings filed by juveniles granted SIJ status when the following criteria are met: the juvenile (i) requests such joinder within 60 days of being notified by USCIS that it has granted him or her SIJ status; and (ii) is not inadmissible under INA § 212, 8 U.S.C. § 1182, or removable under INA § 237, 8 U.S.C. § 1227, on grounds that disqualify him or her from adjustment of status, or, if inadmissible, such grounds of inadmissibility have been waived or are waivable. Such joinder shall be without prejudice to ICE's right to contest any claim advanced by the alien regarding eligibility for adjustment of status. USCIS notification via U.S. mail shall establish a rebuttable presumption that the juvenile has been informed of a grant of SIJ status, which may be rebutted by the juvenile or his or her representative with evidence showing that (i) he or she failed to receive such notice or (ii) the failure to request such joinder was through no fault of the juvenile.

30. ICE shall join a motion to reopen removal proceedings against Plaintiff Freddy Garrido-Martinez. ICE's joinder shall be without prejudice to ICE's right to contest any claim advanced by Plaintiff Freddy Garrido-Martinez or his eligibility for SIJ-based adjustment of status.

31. In the event that immigration judges terminate the removal proceedings for Plaintiff Freddy Garrido-Martinez, USCIS shall, upon request and without fee, adjudicate his I-485

adjustment of status application.

VII. STATISTICS AND PUBLIC LIAISONS

32. Defendant. USCIS will compile. and make available to the public via the Internet. annual reports disclosing the number of Form I-360s. Petitions for Amerasian. Widow(er) or Special Immigrant. seeking SIJ status received. approved. and denied during the year. and the number pending at the end of the year. USCIS shall also provide notice to Plaintiffs' counsel that the reports have been disseminated to the public as provided above.

33. Within 30 days of the effective date of this Agreement. Defendants shall designate points of contact ("POC") within USCIS. ICE. and HHS to respond to inquiries from juveniles and their counsel regarding compliance with this Agreement. Defendants shall instruct such POCs to provide complainants with contact information for existing offices. e.g.. Office of Civil Rights and Civil Liberties. with authority over noncompliance with this Agreement or violations of SIJ practices. policies. or procedures. Defendants shall also provide notice to Plaintiffs' counsel that the POCs have been appointed as provided above.

VIII. DISPOSITION OF CLASS ACTION. DISSOLUTION OF INJUNCTION. AND SUNSET CLAUSE

34. Upon the District Court's approval of this Agreement. the Parties will. within ten calendar days jointly move to dismiss this action. with prejudice. and dissolve the nationwide permanent injunction entered by the District Court: and (ii) withdraw their respective appeals from the District Court's January 8. 2008 order that are before the Ninth Circuit.

35. Plaintiffs' Counsel and Defendants' Counsel agree to cooperate fully with one another in seeking Court approval of the Agreement and to promptly agree upon and execute all such other documentation as may be reasonably required to obtain final approval by the Court of the Settlement.

36. The Effective Date of this Agreement shall be the date when the last of the following three conditions has been satisfied:

(a) approval by the Court of this Agreement:

(b) entry by the Court of an order dissolving the nationwide permanent injunction entered by the District Court on January 8, 2008, and dismissing this action with prejudice; and

(c) withdrawal of both Parties' appeals that are pending before the Ninth Circuit.

37. On the Effective Date, the Named Plaintiffs, the Class, and the Class Members, on behalf of themselves, their heirs, executors, administrators, representatives, attorneys, successors, assigns, agents, affiliates, and partners, and any persons they represent ("Releasing Parties"), shall be deemed to have, and by operation of the Final Judgment shall to the extent provided herein, fully, finally, and forever release, relinquish, and discharge the Released Parties of and from any and all the Settled Claims, and the Releasing Parties shall forever be barred and enjoined from bringing or prosecuting any of the Settled Claims against any of the Releasing Parties.

38. This Agreement, whether or not executed, and any proceedings taken pursuant to it:

a. Shall not be offered or received against any party as evidence of, or construed as or deemed to be evidence of, any presumption, concession, or admission by any of the parties of the truth in any fact or the validity of any claim that had been or could have been asserted in the action or in any litigation, or the deficiency of any defense that has been or could have been asserted in the action, or any liability, negligence, fault, or wrongdoing of the Defendants; or any admission by the Defendants of any violations of, or failure to comply with, the Constitution, laws or regulations; and

b. Shall not be offered or received against the Defendants as evidence of a presumption, concession, or admission of any liability, negligence, fault, wrongdoing, or in any way referred to for any other reason as against the parties to this Agreement, in any other civil, criminal, or administrative action or proceeding, other than in proceedings to enforce this Agreement; provided, however, that if this Agreement is approved by the Court, Defendants may refer

to it and rely upon it to effectuate the liability protection granted them hereunder.

39. The Agreement shall be deemed null and void if the Court does not approve the Agreement.

40. This Agreement shall be superseded by subsequent statutory amendments regarding specific consent, or age requirements for SIJ status or SIJ-based adjustment of status.

41. This Settlement Agreement and all of its terms shall end six years following the effective date of this Agreement ("Termination Date").

IX. NOTICE AND DISPUTE RESOLUTION

42. All written communications required by this Agreement shall be transmitted by U.S. mail and electronic mail ("e-mail") to the undersigned counsel for Defendants and Plaintiffs at the addresses listed below. All counsel shall be informed promptly in the event that any substitution is to be made in counsel or representatives designated to receive notification under this Agreement, and the name and contact information for substitute counsel or designated representative shall be promptly provided.

43. In the event of alleged noncompliance with this Agreement, on an individual or class-wide basis, Defendants and the complaining class member(s) shall exchange written correspondence addressing the alleged noncompliance ("Notice of Noncompliance"). The responding party shall send a written response within a reasonable period of time (not to exceed seven days). Within thirty days of receipt of Notice of Noncompliance, counsel for the Parties shall meet and confer in a good faith effort to resolve their dispute informally. In the event that the dispute cannot be resolved, the Parties shall request the appointment of a Circuit Mediator for the Ninth Circuit to mediate the dispute. If the Ninth Circuit Mediator is not available to mediate the dispute, the Parties shall request that Magistrate Judge Zarefsky; or a Magistrate Judge from the United States Court for the Central District of California, who is designated by Judge Dean D. Pregerson; or, if Judge Dean D. Pregerson declines to designate a Magistrate Judge, the Parties shall request that a Magistrate Judge from the United States District Court for the Central

District of California, who is mutually agreeable to the Parties, be appointed to mediate the dispute. If the dispute cannot be resolved through mediation, the complaining class member(s) may move to enforce the Agreement on a class-wide basis in the Central District of California, or on an individual basis before the Central District of California. Once a juvenile initiates this alternate dispute resolution ("ADR") process, the removal action shall be stayed and he or she shall not be removed from the United States unless and until the matter has been resolved in favor of Defendants. The parties further agree to expedite the ADR process, *i.e.*, complete ADR within 21 days absent unforeseeable circumstances or emergency situations. Nevertheless, the parties shall promptly exhaust the administrative procedures provided herein before any defendant or class member(s) may seek judicial review by the Central District of California.

The Notice of Noncompliance shall be served on Plaintiffs addressed to:

Center for Human Rights & Constitutional Law
Peter A. Schey
Carlos Holguín
256 South Occidental Boulevard
Los Angeles, CA 90057
pschey@centerforhumanrights.org
crholguin@centerforhumanrights.org

And Defendants addressed to:

Melissa Leibman
David Kline
Joshua E. Braunstein
Office of Immigration Litigation
Civil Division
U.S. Department of Justice
P.O. Box 868, Ben Franklin Station
Washington, DC 20044
Melissa.Leibman@usdoj.gov
Joshua.Braunstein@usdoj.gov
David.Kline@usdoj.gov

X. NOTICE TO CLASS MEMBERS

44. The Parties acknowledge that Rule 23(e) of the Federal Rules of Civil Procedure requires that the Court direct notice to the Specific Consent Subclass and Age-Out Subclass and that it approve this Agreement before the claims of the certified subclasses may be dismissed

with prejudice pursuant to this Agreement.

45. Within 30 days after the parties sign this Agreement, the Parties will jointly move the Court to approve and direct notice to the subclasses, schedule a fairness hearing, and approve the Agreement.

46. Within 45 days of the Court approval and direction of Notice, Defendants shall inform the public about the existence of this Agreement via the Defendants' websites. The parties shall pursue such other public dissemination of information regarding this Agreement as they may independently deem appropriate.

47. Within 30 days of the Effective date of this Agreement, Defendants shall distribute to ORR facilities receiving federal funds to provide shelter and services to juveniles detained by reason of their immigration status, all USCIS field offices and suboffices, and all ICE field office directors and special agents in charge, copies of this Settlement Agreement. If Defendants forward to their offices, employees, or agents any memorandum or instructions to implement this agreement, they will within two business days forward copies to Plaintiffs' counsel.

48. Within 30 days of the Effective date of this Agreement, Defendants shall provide at any facility funded by DHS or HHS for the purpose of providing care for juveniles (i) a list of free legal services available and (ii) notice that abused, abandoned, or neglected juveniles may apply for SIJ status, including the information set forth in Exhibit A attached.

XI. ATTORNEYS' FEES AND COSTS

49. Plaintiffs may attempt to negotiate, request, seek, or solicit attorney's fees and/or litigation costs in this action pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412, or any other provision independent of this Agreement upon execution of the same. Any application for fees and/or costs shall be filed no later than 30 days after the District Court approves this settlement agreement. Notwithstanding Plaintiffs' efforts to procure EAJA fees and/or costs, Defendants do not relinquish or waive any right or opportunity to challenge, oppose, or defend, in whole or in part, against Plaintiffs' efforts to obtain such fees and/or costs.

XII. ADMISSION OF LIABILITY

50. This Agreement does not constitute and shall not be construed or viewed as an admission of any wrongdoing or liability by any Party.

XIII. MODIFICATION OF AGREEMENT

51. This Agreement constitutes the entire agreement among the Parties as to all claims raised by Plaintiffs in this action, and supersedes all prior agreements, representations, warranties, statements, promises, covenants, and understandings, whether oral or written, express or implied, with respect to the subject matter thereof.

52. This Agreement is an integrated agreement at the time of authorization and modification and may not be altered, amended, or modified except in writing executed by Plaintiffs and Defendants.

53. If, prior to the Termination Date, Defendants USCIS and HHS issue regulations implementing the TVPRA 2008, the Parties agree to meet and confer about the possibility of terminating this Agreement prior to the Termination Date. However, the termination clause remains in full force and effect unless the parties reach a written agreement that provides for early termination this Agreement.

XIV. MUTUAL EXCLUSIVITY OF PROVISIONS

54. If any provision of this Agreement is declared invalid, illegal, or unenforceable in any respect, the remaining provisions shall remain in full force and effect, unaffected and unimpaired.

XV. MULTIPLE COUNTERPARTS

55. This Agreement may be executed in a number of identical counterparts, all of which shall constitute one agreement, and such execution may be evidenced by signatures delivered by facsimile transmission.

XVI. TITLES AND HEADINGS

56. Titles and headings to Articles and Sections herein are inserted for convenience and reference only and are not intended to be part of, or to affect the meaning or interpretation of, this Agreement.

XVII.REPRESENTATIONS AND WARRANTY

57. Counsel for the Parties, on behalf of themselves and their clients, represent that they know of nothing in this Agreement that exceeds the legal authority of the Parties or is in violation of any law. Defendants' counsel represent and warrant that they are fully authorized and empowered to enter into this Settlement on behalf of the Secretary of Homeland Security, the Secretary of the Department of Health and Human Services, the Attorney General, and the United States Department of Justice, and acknowledge that Plaintiffs enter into this Agreement in reliance on such representation. Plaintiffs' counsel represent and warrant that they are fully authorized and empowered to enter into this Agreement on behalf of Plaintiffs, and acknowledge that Defendants enter into this Agreement in reliance on such representation. The undersigned, by their signatures on behalf of Plaintiffs and Defendants, warrant that upon execution of this Agreement in their representative capacities, their principals, agents, assignees, employees, successors, and those working for or on behalf of Defendants and Plaintiffs shall be fully and unequivocally bound hereunder to the full extent authorized by law.

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Date:

By: By:

Peter A. Schey Carlos R. Holguin

Center for Human Rights & Constitutional Law
256 South Occidental Boulevard
Los Angeles, CA 90057
(213) 388-8693

Counsel for Plaintiffs

Date: 5/4/10

By:
Melissa Leibman
Joshua E. Braunstein
David J. Kline
Office of Immigration Litigation
U.S. Department of Justice
P.O. Box 868, Ben Franklin Station
Washington, DC 20044
Tel: (202) 305-7016

Counsel for Defendants

EXHIBIT 3

Department of Homeland Security
U.S. Citizenship and Immigration Services

I-797, Notice of Action

THE UNITED STATES OF AMERICA

RECEIPT NUMBER MSC-16-915-31018		**CASE TYPE** I360 PETITION FOR AMERASIAN, WIDOWER, OR SPECIAL IMMIGRANT
RECEIPT DATE August 24, 2016	**PRIORITY DATE** August 23, 2016	**PETITIONER** A208 674 193 [redacted]
NOTICE DATE October 3, 2016	**PAGE** 1 of 1	**BENEFICIARY** A208 674 193 [redacted]

BRIDGET CAMBRIA
CAMBRIA AND KLINE PC
123 N 3RD STREET
READING PA 19601

Notice Type: Approval Notice
Section: Special Immigrant-Juvenile

The above petition has been approved.

The petition indicates that the person for whom you are petitioning is in the United States and will apply for adjustment of status. The information submitted with the petition shows that the person for whom you are petitioning is not eligible to file an adjustment of status application at this time.

Additional information about eligibility for adjustment of status may be obtained from the local USCIS office serving the area where the person for whom you are petitioning lives.

Until the person for whom you are petitioning files an adjustment application, or applies for an immigrant visa, this approved petition will be stored in this office. If the person for whom you are petitioning becomes eligible to adjust status based on this petition, he or she should submit a copy of this notice with Form I-485, Application for Permanent Residence to the local office.

If the person for whom you are petitioning decides to apply for an immigrant visa outside the United States based on this petition, the petitioner should file Form I-824, Application for Action on an Approved Application or Petition, to request that we send the petition to the Department of State National Visa Center (NVC).

The NVC processes all approved immigrant visa petitions that require consular action. The NVC also determines which consular post is the appropriate consulate to complete visa processing. It will then forward the approved petition to that consulate.

The approval of this visa petition does not in itself grant any immigration status and does not guarantee that the alien beneficiary will subsequently be found to be eligible for a visa, for admission to the United States, or for an extension, change, or adjustment of status.

Please read the back of this form carefully for more information.

THIS FORM IS NOT A VISA AND MAY NOT BE USED IN PLACE OF A VISA.

NOTICE: Although this application/petition has been approved, USCIS and the U.S. Department of Homeland Security reserve the right to verify the information submitted in this application, petition and/or supporting documentation to ensure conformity with applicable laws, rules, regulations, and other authorities. Methods used for verifying information may include, but are not limited to, the review of public information and records, contact by correspondence, the internet, or telephone, and site inspections of businesses and residences. Information obtained during the course of verification will be used to determine whether revocation, rescission, and/or removal proceedings are appropriate. Applicants, petitioners, and representatives of record will be provided an opportunity to address derogatory information before any formal proceeding is initiated.

Please see the additional information on the back. You will be notified separately about any other cases you filed.

NATIONAL BENEFITS CENTER
USCIS, DHS
P.O. BOX #648004
LEE'S SUMMIT MO 64064
Customer Service Telephone: (800) 375-5283

EXHIBIT 4

UNITED STATES OF AMERICA

EMPLOYMENT AUTHORIZATION CARD

Signature Waived

Surname

R[redacted] O[redacted]

Given Name

D[redacted] S

USCIS#

[redacted]

Category

C09

Card#

[redacted]

Country of Birth

Honduras

Terms and Conditions

None

Date of Birth

[redacted] DEC 2013

Sex

M

Valid From: 01/20/17

Card Expires: 01/19/18

NOT VALID FOR REENTRY TO U.S.

EXHIBIT 5

December 1, 2016

Department of Homeland Security
Immigration and Customs Enforcement
Attn.: Assistant Field Office Director Joshua Reid
3400 Concord Road
York, PA 17402

U.S. Immigration and Customs Enforcement
ELD/OPLA
Attn: Jon Kaplan, Associate Legal Advisor
500 12th Street, S.W., Rm 9129
Washington, D.C. 20024

Re: D.S.R.-O. (A# 208 674 193)

REQUEST/MOTION FOR ICE TO REOPEN REMOVAL PROCEEDINGS FOR SIJS BENEFICIARY PURSUANT TO THE *PEREZ OLANO* SETTLEMENT

Dear Officers,

Please accept this email as a formal request for ICE to Reopen the final order of removal in the above referenced matter.

D.R.-O is the beneficiary of an approved I-360 Petition based on his qualifying for Special Immigrant Juvenile Status (SIJS). See Approval Notice Attached with a Notice of Approval date of October 3, 2016.

The Perez Olano Settlement applies to all juveniles, "including, but not limited to, SIJ applicants, who, on or after May 13, 2005, apply or applied for SIJ status or SIJ-based adjustment of status based upon their alleged SIJ eligibility." Under the federal immigration law known as SIJS, minors who cannot be reunified with one or both of their parents because

of abuse, neglect, or abandonment may qualify for lawful permanent resident (LPR) status. See Perez Olano Settlement Attached.

"Under the Settlement Agreement...ICE must join in motions to reopen removal proceedings filed by minors who have been granted SIJ status by USCIS , provided that two criteria are met. The minors: 1) must request joinder with *60 days* of USCIS' approval of their SIJS Petitions; and 20 must not be inadmissible under INA §212 or removable under INA §237 on grounds that disqualify them from adjustment of status, or they must qualify for a waiver." Id. (footnotes omitted).

[redacted] satisfies these requirements. As a result, ICE must join our request to reopen his order of removal.

Paragraph 29 does not provide an exception to compliance for children who have received removal orders under section 235, nor limit the mandate that ICE 'shall join motions to reopen removal proceedings' to motions submitted to EOIR. ICE must join in that motion. Furthermore, ICE has authority to rescind CBP's order of expedited removal by issuing a superseding NTA. ICE's failure to do so directly violate the intention and language of the Perez Olano Settlement.

Mr. Ken Padilla, Director of Field Operations with ICE, directed the Office of Chief Counsel to join in requests for termination when a child respondent has obtained special immigrant juvenile status, unless there are concerns that the respondent is a danger to the community.

The Perez Olano Settlement further provides that once a juvenile initiates this alternate dispute resolution process to request compliance under the Settlement, any removal action *shall be stayed* and he or she shall not be removed from the United States unless and until the matter has been resolved in favor of the Defendants. Id.

ICE's intention to execute a removal order against this child conflicts directly with a decision, and legal benefit, that was conferred upon this child by the Director of the Department of Homeland Security. USCIS granted this child's application for special immigrant juvenile status.

As you are also aware, an adjustment of status application has been filed and is pending for Diego.

USCIS has original jurisdiction in this case. Therefore, adjustment of status with USCIS is appropriate. However, ICE must rescind the removal order and reopen proceedings against

[redacted] upon request. The appropriate mechanism is the issuance of an NTA. Then upon adjustment of status, an immigration judge may terminate proceedings.

As a matter of law, this child was granted parole status upon approval of the I-360. In this case, Diego was paroled on October 3, 2016. Further, under INA §212(a)(6)(A), the grounds of inadmissibility upon which almost all expedited removal orders are based, do not apply to Special Immigrant Juveniles. See INA §245(h)(2)(A)(2009).

Please be advised that notice was provided to Class Counsel on or about November 22, 2016. We are additionally submitting this letter to ICE to facilitate reopening as required under the settlement. See Attached Letter from the Center for Human Rights and Constitutional Law.

Wherefore, [redacted], age 3, respectfully requests that you, by operation of the Perez Olano settlement, a consent decree, rescind the order of removal, and, should you require, accordingly issue an Notice to Appear.

Thank you for your consideration in this matter. We look forward to discussing further, should there be any questions or concerns. Our office number is (484) 926-2014 or you may contact me by cell directly at (610) 451-1792.

Respectfully,

/s/ Bridget Cambria, Esq.
Bridget Cambria, Esq.

/s/ Jacquelyn M. Kline, Esq.
Jacquelyn M. Kline, Esq.

/s/ Carol Anne Donohoe, Esq.
Carol Anne Donohoe, Esq.

EXHIBIT 6

Office of Enforcement and Removal Operations

Department of Homeland Security
3400 Concord Road
York, PA 17402

U.S. Immigration and Customs Enforcement

February 14, 2017

Cambria & Kline
Attorneys At Law
Attention: Bridget Cambria, Esq.
123 North 3rd Street
Reading, PA 19601

Re: Request/Motion to Reopen Orders of Removal for Residents at the Berks Family Residential Center who are Seeking or have been Granted Special Immigrant Juvenile (SIJ) Status

Dear Ms. Cambria:

U.S. Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO), is in receipt of your requests to rescind and reopen the final Expedited Removal orders that were issued to (1) Diego Rivera-Osorio (A208 674 193); (2) Victor Rivera Aguilar (A208 554 091); (3) Joshua Lopez-Martinez (A208 449 511); and, (4) Angel Martinez Lobo (A208 674 832). In support of your request, you cite to the settlement agreement in *Perez-Olano v. Holder*, 05-3604 (C.D. Cal.) (Settlement Agreement), insofar as these minors are the beneficiaries of approved SIJ petitions. For the reasons noted below, your requests are denied.

ICE acknowledges that the referenced minors fall within the class of juveniles identified in the Settlement Agreement, since they applied for and were ultimately granted SIJ status on or after May 13, 2005. *See* Paragraph 3 of the *Perez-Olano* Settlement Agreement. Notwithstanding, ICE is under no legal obligation to "rescind" and "reopen" the minor's expedited removal orders, which were issued pursuant to § 235 of the Immigration and Nationality Act (INA), since the application of paragraph 29 of the Settlement Agreement extends solely to those minors who were placed in removal proceedings pursuant to INA § 240. The preamble to the Settlement Agreement specifically references juveniles in "removal proceedings" and poignantly cites to 8 C.F.R. §§ 1003.2(c)(2) and 1003.23(b)(1), as the authority for the reopening of cases initiated under INA § 240 proceedings by the Board of Immigration Appeals (Board) and the Immigration Court, respectively.

You contend that since Paragraph 29 of the Settlement Agreement does not carve out an exception for individuals with expedited removal orders, ICE is under an obligation to join in the motion to reopen. Your assertion is neither supported by the terms of the agreement or the law. As previously noted, the Settlement Agreement specifically references the reopening of removal proceedings by the Board or the Immigration Court, neither of which have the jurisdiction to reopen expedited removal proceedings. Additionally, Paragraphs 30 and 31 of the Settlement Agreement provides further insight as to the type of removal proceeding contemplated under the Agreement given its reference to the reopening of Perez-Olano Plaintiffs' cases who were subject to INA § 240 removal proceedings, and the Immigration Judge's reopening and termination of Plaintiffs' removal proceedings. More importantly, neither INA

§ 235 or its implementing regulations at 8 C.F.R. § 235.1 et. al, which govern the expedited removal process, provide for the reopening of an expedited removal order. Therefore, any decision by ICE to vacate the minors previously issued expedited removal orders would solely be considered as a matter of prosecutorial discretion, which ICE has declined to exercise in the instant cases.

Your reference to prior guidance provided by the Director of Field Legal Operations to the ICE Chief Counsel Offices regarding the exercise of prosecutorial discretion for beneficiaries of approved SIJ petitions is also inapplicable to your present requests to rescind and reopen, as his guidance related solely to juveniles in removal proceedings under INA § 240 and was considered on a case-by-case basis.

Notably, Diego, Victor, Joshua and Angel are not eligible for any immediate forms of relief based on their approved SIJ petitions. A review of the Department of State's (DOS) Visa Bulletin for January of 2017 reflects that the current visa availability for "Certain Special Immigrants" from El Salvador and Honduras, which includes those with approved SIJ petitions, is June 15, 2015. Insofar as the minors' priority dates fall well outside the Visa Bulletin's current visa availability date, they remain ineligible to adjust status to that of lawful permanent resident. It is not known how long it will take before visas will become available, which renders the minors near future eligibility to apply (not to mention be approved) for adjustment of status speculative at best.

Accordingly, your request to rescind and reopen their expedited removal orders is denied.

Your request to stay the minors' removal is also denied. There is no current obligation under the *Perez-Olano* Settlement Agreement that requires ICE to stay the minor's removal until resolution of the alternate dispute resolution (ADR) process. Rather, the terms of paragraph 43 of the settlement agreement make clear that the ADR process that may trigger a stay of removal cannot be initiated until after the thirty-day period to meet and confer. Moreover, each of the minors at issue are subject to final orders of expedited removal, which have been found lawful by the Third Circuit in *Castro v. U.S. Department of Homeland Security*, Civ. No.16-1339 (3d Cir. 2016), but whose execution is presently stayed pending disposition of a petition for certiorari before the U.S. Supreme Court.

As your requests to rescind and reopen the removal orders of Diego, Victor, Joshua and Angel are denied, along with your requests to stay their removal, the applications you submitted to stay the removal of their parents are also denied.

You further submitted requests to rescind and reopen the removal orders that were issued to Cesia Valladares Cruz (A208 681 790) and Daylin Martinez Antune (A208 165 717), along with a request to stay the removal of Cesia's mother, Lesly Cruz Matamoros (A208 681 791). These requests are considered moot, as Cesia, Daylin and Lesly are no longer subject to final removal orders and have been released from custody.

If you have any further questions regarding this matter, please feel free to contact me.

Sincerely,

Michael Ramella
Acting Deputy Field Office Director

EXHIBIT 7

Pepper Hamilton LLP
Attorneys at Law

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Anthony Vale
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February 28, 2017

Erez Reuveni, Esquire
Senior Litigation Counsel
Office of Immigration Litigation
District Court Section
P.O. Box 868
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Washington, DC 20530
erez.r.reuveni@usdoj.gov

Re: Berks County Detention – Families with Special Immigrant Juveniles

Dear Mr. Reuveni:

I write on behalf of four families whom the Government is detaining at the Berks County Residential Center. I request a meeting to discuss their immediate release within the next seven days. These families, identified below and each consisting of a mother and her minor child, have been detained for nearly a year and a half. For three-year-old D.S. R-O., a year and a half equals nearly half of his life.

The Government has granted D.S. R.-O and three other children Special Immigrant Juvenile ("SIJ") status, providing a clear path for each child to live and work permanently in the United States. Indeed, just last month, three-year-old D.S. R-O. was issued his Employment Authorization Card, temporarily allowing him to be employed while his pending application for adjustment of status to Legal Permanent Resident (I-485) is considered. All other children are similarly situated.

An Emergency Petition for Habeas Corpus for each family has been pending since about February 13, 2017.[1] We have joined in the briefing on behalf of J.A. A.-S.'s Amended Emergency Petition for Habeas Corpus. *See J.A. A.-S. v. Johnson et al.*, No. 16-cv-06391-PD,

[1] *A.D. M.-L. v. Kelly et al.*, No. 17-cv-00678-PD (E.D. Pa. Feb. 13, 2017); *Martinez v. Attorney General*, No. 17-cv-00679-PD (E.D. Pa. Feb. 13, 2017); *Aguilar Mancia v. Attorney General*, No. 17-cv-00680 (E.D. Pa. Feb. 13, 2017); *J.e.l.m. et al v. Kelly*, No. 17-cv-00704, ¶¶ 32-35 (E.D. Pa. Feb. 15, 2017).

Doc. No. 28 (E.D. Pa. February 24, 2017). In the Joinder, we note that each of the four children is deemed to be paroled into the United States and given permission to remain in the country pending the outcome of his adjustment of status application. *Id.*

In addition to the Petition for Habeas Corpus, we draw your attention to the unfounded denial of a request by our co-counsel to rescind and reopen the final orders of expedited removal issued to the four children. Late last year, our co-counsel requested that U.S. Immigrations and Customs Enforcement ("ICE") join motions by the four children to rescind and reopen their removal proceedings, relying on paragraph 29 of the *Perez-Olano* Settlement Agreement.

In a letter dated February 14, 2017, ICE rejected this request for relief. ICE, however, "acknowledge[d] that the referenced minors fall within the class of juveniles identified in the [*Perez-Olano*] Settlement Agreement." ICE declined to grant the relief requested on grounds that paragraph 29 of the Settlement Agreement is inapplicable to persons subject to expedited removal. The Settlement Agreement does not say that, either expressly or by implication. Had the drafters of the Settlement Agreement meant to exclude children in expedited removal, it would have been easy to make that intention clear. In any event, ICE's position is irreconcilable with respect to both the text of the INA and Congress' intent in enacting the SIJ-provisions.

The Government is in noncompliance with the *Perez-Olano* Settlement Agreement. As a result, to the extent it has not done so already, each family intends to invoke the alternative dispute resolution process described in paragraph 43 of the Settlement Agreement. Once such process is invoked, "removal action[s] shall be stayed and [petitioners] shall not be removed from the United States unless and until the matter has been resolved in favor of [the Government]."

Because there is no justification for the continued detention of the children, we request a meeting to discuss their immediate release. Separating these four minor children, aged three, four, seven, and sixteen, from the care, supervision, and love of their mothers would serve the interests of no one, and we therefore request that the Government release each child along with his mother—thereby preserving each family unit, the remaining fabric of which, as shown below, has already weathered enough for a lifetime and should not be further tested absent the gravest of circumstances.

- ***A.D. M.-L. v. Kelly et al.*, No. 17-cv-00678-PD (E.D. Pa. Feb. 13, 2017):** Four-year-old A.D. M.-L. and his mother Carmen entered the United States in October 2015. They sought protection from persecution in Honduras. Since that time, the family

has been detained by the Government, primarily at Berks Family Residential Center, in Leesport, Pennsylvania. On October 25, 2016, A.D. M.-L. Petitioned USCIS for status as a Special Immigrant pursuant to 8 U.S.C. § 1101(a)(27)(J). On November 28, 2016, A.D. M.-L.'s Petition was approved. He has since filed an application for Adjustment of Status with the USCIS. That application is pending.

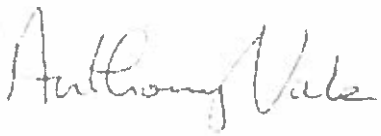
- ***Martinez v. Attorney General*, No. 17-cv-00679-PD (E.D. Pa. Feb. 13, 2017):** Three-year-old D.S. R-O. and his mother Wendy entered the United States in October 2015. They sought protection from persecution in Honduras Since that time, the family has been detained by the Government, primarily at Berks Family Residential Center, in Leesport, Pennsylvania. On August 24, 2016, D.S. R-O, petitioned USCIS for status as a Special Immigrant pursuant to 8 U.S.C. § 1101(a)(27)(J). On October 3, 2016, D.S. R-O.'s Petition was approved. He has since filed an application for Adjustment of Status with the USCIS. That application is pending.

- ***Aguilar Mancia v. Attorney General*, No. 17-cv-00680 (E.D. Pa. Feb. 13, 2017):** Sixteen-year-old V.G. R.-A. and his mother Jethzabel entered the United States in or about October 2015. They sought protection from persecution in El Salvador—specifically, persecution by MS-13, a vicious, international gang, in El Salvador,. Since that time, the family has been detained by the Government, primarily at Berks Family Residential Center, in Leesport, Pennsylvania. On August 22, 2016, V.G. R.-A, petitioned USCIS for status as a Special Immigrant pursuant to 8 U.S.C. § 1101(a)(27)(J). On October 13, 2016, V.G. R.-A.'s Petition was approved. He has since filed an application for Adjustment of Status with the USCIS. That application is pending.

- ***J.e.l.m. et al v. Kelly*, No. 17-cv-00704, ¶¶ 32-35 (E.D. Pa. Feb. 15, 2017):** Seven-year-old J. E. L.-M. and his mother Maria entered the United States in September 2015. They sought protection from persecution in El Salvador. Since that time, the family has been detained by the Government, primarily at Berks Family Residential Center, in Leesport, Pennsylvania. On May 27, 2016, J. E. L.-M. Petitioned USCIS for status as a Special Immigrant pursuant to 8 U.S.C. § 1101(a)(27)(J). On November 9, 2016, J. E. L.-M.'s Petition was approved. He has since filed an application for Adjustment of Status with the USCIS. That application is pending.

Thank you for your consideration of our request. We look forward to meeting with you to discuss how the above referenced injuries might be resolved amicably and expeditiously. Counsel is available at your convenience.

Yours sincerely,



Anthony Vale

AV/usd

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EXHIBIT 8

U.S. Department of Justice

Civil Division

(202) 307-4293

Washington, D.C. 20044

VIA EMAIL

March 6, 2017

Anthony Vale, Esquire
Of Counsel
Pepper Hamilton LLP
3000 Two Logan Square
Eighteenth & Arch Streets
Philadelphia, PA 19103-2799

Re: Minors Subject to Final Orders of Expedited Removal With SIJ Status

Dear Mr. Vale:

Thank you for your letter dated February 28, 2017 concerning four families presently detained at Berks County Residential Center, whose habeas petitions are currently pending as part of the consolidated proceedings before Judge Diamond in *J.A. A.-S et al v. Kelly, et al.*, 16-cv-6391-PD (E.D. Pa.). The Government on March 3, 2017 filed a renewed motion to dismiss addressing many of the issues you raise in your letter, with which I will presume some familiarity for purposes of this letter. I appreciate you reaching out to me regarding these issues and respond on behalf of my clients as follows:

First, each of the four families, including the children you reference, D.S. R.O., A.D. M.-L., V.G. R.-A., and J. E. L.-M., are subject to final orders of expedited removal under 8 U.S.C. § 1225(b)(1), which, pursuant to 8 U.S.C. § 1225(b)(1)(B)(iii)(IV), requires their mandatory detention until their expedited removal orders are executed. That statute provides that "[a]ny alien subject to the procedures under this clause [*i.e.*, expedited removal proceedings under section 1225(b)(1)] shall be detained pending a final determination of credible fear of persecution and, if found not to have such a fear, until removed."

As you also know, section 1225(b)(1) does not contain any exceptions that would entitle your clients to a bond hearing or release from custody as of right. The sole and exclusive means for release is also articulated by statute at 8 U.S.C. § 1182(d)(5)(A), which states that the Secretary of Homeland Security may "in his discretion parole into the United States temporarily under such conditions as he may prescribe only on a case-by-case basis for urgent humanitarian reasons or significant public benefit any alien applying for admission to the United States." 8 C.F.R. § 235.3(b)(2)(iii), which specifically governs aliens subject to expedited removal, similarly provides that:

> An alien whose inadmissibility is being considered under this section or who has been ordered removed pursuant to this section shall be detained pending determination and removal, except that parole of such alien, in accordance with section 212(d)(5) of the Act, may be permitted only when the Attorney General determines, in the exercise of discretion, that parole is required to meet a medical emergency or is necessary for a legitimate law enforcement objective.

The Secretary's exercise of his discretionary parole authority is not subject to judicial review, *see, e.g.*, 8 U.S.C. § 1252(a)(2)(B)(ii); *Ashish v. AG of the United States*, 490 F. App'x 486, 487 (3d Cir. 2013), and I am unaware of any other statutory or regulatory basis authorizing the release of your clients so long as they are subject to final orders of expedited removal.

Second, you write that "each of the four children is deemed to be paroled into the United States and given permission to remain in the country pending the outcome of his adjustment of status application." As you know from our recent court filing, we do not agree with this reading of the relevant statutory provisions. 8 U.S.C. § 1101(a)(27)(J) does provide that certain juveniles "present in the United States," whether lawfully or not, may apply for SIJ status if a state court determines that "reunification with 1 or both of the immigrant's parents is not viable due to abuse, neglect, abandonment, or a similar basis found under State law." And such aliens with SIJ classification may, under 8 U.S.C. § 1255(a), apply for lawful permanent resident ("LPR") status, so long as they are otherwise admissible. The Attorney General may then exercise his discretionary authority to both waive other inadmissibility grounds, *id.* at 1255(h)(2), and to grant LPR status at all, *id.* at 1255(a).

To that end, section 1255(a) provides:

> The status of an alien who was inspected and admitted or paroled into the United States ... may be adjusted by the Attorney General, in his discretion and under such regulations as he may prescribe, to that of an alien lawfully admitted for permanent residence if (1) the alien makes an application for such adjustment, (2) the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence, and (3) an immigrant visa is immediately available to him at the time his application is filed.

8 U.S.C. § 1255(a). However, the INA clarifies that "[n]othing in [section 1255(h)] or section 1101(a)(27)(J) of [8 U.S.C.] shall be construed as authorizing an alien to apply for admission or be admitted to the United States in order to obtain special immigrant status described in such section." 8 U.S.C. § 1255(h).

Moreover, section 1255(h)(1) does nothing more than establish a very limited exception to the INA's categorical bar to adjustment of status if an alien has not been "inspected and admitted or paroled into the United States," 8 U.S.C. § 1255(a), by stating that for the limited purpose of adjudicating an application to adjust status under section 1255(a), aliens classified as SIJs are to be "deemed, for purposes of subsection (a), to have been paroled into the United States." 8 U.S.C. § 1255(h). Thus, the plain language of 8 U.S.C. § 1255(h)(1) limits the applicability of the "paroled" designation solely to SIJs seeking to establish eligibility for adjustment of status,

eligibility which, as noted, normally requires that the alien was "inspected and admitted or paroled into the United States." 8 U.S.C. § 1255(a).

That your clients are "deemed paroled" for this limited purpose does not mean they were in fact "paroled" for purposes of 8 U.S.C. § 1182(d)(5), which, as noted, is a determination entrusted to the Secretary of Homeland Security's discretion. Although I understand that you rely on a Ninth Circuit decision *Garcia v. Holder*, 659 F.3d 1261, 1271 (9th Cir. 2011), to suggest otherwise, that decision is not binding Third Circuit authority, and in any event addressed the limited question of whether an alien's "deemed" paroled status in the section 1255(h) SIJ context qualified as "an admission in any status" for purposes of meeting the seven years continuous physical presence requirement under section 1229b (a)(2), which governs aliens with criminal convictions seeking cancellation of removal. *See* 8 U.S.C. § 1229b(a)(2). Indeed, the Court emphatically rejected Petitioners' argument here, noting that "[t]he plain language of § 1255(h) does not indicate that SIJS-parolees shall be considered paroled under § 1182(d)(5), nor that SIJS-parolees shall receive a parole card pursuant to § 1182(d)(5), as required by regulation." 659 F.3d at 1268.

As the *Garcia* court also explained, "there are instances where an alien is 'admitted,' for the purposes of § 1229b(a)(2) [the cancellation statute], without having been inspected and authorized to enter the United States at the border." *Id.* at 1267. But that section 1255(h) may in the Ninth Circuit operate to permit aliens with SIJ classification to argue they are entitled to cancellation of removal after being convicted of a crime does not suggest that aliens subject to final orders of expedited removal – *i.e.* aliens found inadmissible to the United States – can claim an entitlement to release from custody under section 1182(d)(5). In short, being deemed "paroled" for purposes of section 1255(a) does not constitute "parole[] under § 1182(d)(5)," *Garcia*, 659 F.3d at 1268, such that the fact that your clients possess SIJ classification does not render 8 U.S.C. §§ 1182(d)(5) or 1225(b)(1)(B)(iii)(IV) inoperative.

Finally, you write that you believe the "Government is in noncompliance with the Perez Olano Settlement Agreement," specifically paragraph 29. But as you know the Government views that settlement as applying only to removal proceedings pursuant to 8 U.S.C. § 1229a. Indeed, paragraph 29, by its own terms makes this clear by providing that, if certain criteria under that paragraph are satisfied, "ICE shall join *motions to reopen removal proceedings* filed by juveniles granted SIJ status." Perez Olano Settlement at ¶ 29 (emphasis added). That phrase alone indicates the agreement contemplated only *removal* proceedings, as opposed to the *expedited removal* proceedings at issue in your clients' case. Moreover, as you know, and as referenced in the Perez Olano settlement's preamble at page 2, "motions to reopen" are a regulatory term defined at 8 C.F.R. §§ 1003.2(c)(2) and 1003.23(b)(1). Section 1003.2 by its title refers specifically to proceedings before the *Board of Immigration Appeals*, which has no jurisdiction over expedited removal proceedings. *See* 8 U.S.C. § 1225(b)(1)(C). And Section 1003.23(b)(1) refers by its own terms to normal removal proceedings.

Were there any doubt on this score, the fact is that *expedited* removal proceedings are subject to an entirely different set of statutory and regulatory provisions, none of which permit motions to reopen before an immigration judge in that context. *See* 8 U.S.C. § 1225(b); 8 C.F.R. §§ 235.3; 1003.42; 1208.30. Indeed, the relevant regulatory provision governing the expedited

removal proceedings where credible fear is at issue – as was the case with your clients – explicitly provides that "[i]f the immigration judge concurs with the determination of the asylum officer that the alien does not have a credible fear of persecution or torture, the case shall be returned to the Service for removal of the alien" and "[t]he immigration judge's decision is final and may not be appealed." 8 C.F.R. § 1208(g)(2)(iv)(A). An immigration judge lacking jurisdiction over your clients' case cannot be moved to reopen such a case. Thus, the text and basic structure of the INA and its implementing regulations, and, separately, the plain terms of the Perez Olano agreement, both preclude reading paragraph 29 as you do.

In light of the foregoing, my clients must respectfully decline your invitation to meet to discuss these matters. Given the state of the law, my clients cannot take the actions you are requesting. Even so, please do not hesitate to contact me if other issues arise that you wish to address with the Department of Justice.

Best Regards,

/s/ *Erez Reuveni*
Erez Reuveni

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APPENDIX A

Department of Homeland Security
U.S. Citizenship and Immigration Services

I-797, Notice of Action

THE UNITED STATES OF AMERICA

RECEIPT NUMBER MSC-16-915-31018		**CASE TYPE** I360 PETITION FOR AMERASIAN, WIDOWER, OR SPECIAL IMMIGRANT
RECEIPT DATE August 24, 2016	**PRIORITY DATE** August 23, 2016	**PETITIONER** A208 674 193 [redacted]
NOTICE DATE October 3, 2016	**PAGE** 1 of 1	**BENEFICIARY** A208 674 193 [redacted]

BRIDGET CAMBRIA
CAMBRIA AND KLINE PC
123 N 3RD STREET
READING PA 19601

Notice Type: Approval Notice
Section: Special Immigrant-Juvenile

The above petition has been approved.

The petition indicates that the person for whom you are petitioning is in the United States and will apply for adjustment of status. The information submitted with the petition shows that the person for whom you are petitioning is not eligible to file an adjustment of status application at this time.

Additional information about eligibility for adjustment of status may be obtained from the local USCIS office serving the area where the person for whom you are petitioning lives.

Until the person for whom you are petitioning files an adjustment application, or applies for an immigrant visa, this approved petition will be stored in this office. If the person for whom you are petitioning becomes eligible to adjust status based on this petition, he or she should submit a copy of this notice with Form I-485, Application for Permanent Residence to the local office.

If the person for whom you are petitioning decides to apply for an immigrant visa outside the United States based on this petition, the petitioner should file Form I-824, Application for Action on an Approved Application or Petition, to request that we send the petition to the Department of State National Visa Center (NVC).

The NVC processes all approved immigrant visa petitions that require consular action. The NVC also determines which consular post is the appropriate consulate to complete visa processing. It will then forward the approved petition to that consulate.

The approval of this visa petition does not in itself grant any immigration status and does not guarantee that the alien beneficiary will subsequently be found to be eligible for a visa, for admission to the United States, or for an extension, change, or adjustment of status.

Please read the back of this form carefully for more information.

THIS FORM IS NOT A VISA AND MAY NOT BE USED IN PLACE OF A VISA.

NOTICE: Although this application/petition has been approved, USCIS and the U.S. Department of Homeland Security reserve the right to verify the information submitted in this application, petition and/or supporting documentation to ensure conformity with applicable laws, rules, regulations, and other authorities. Methods used for verifying information may include, but are not limited to, the review of public information and records, contact by correspondence, the internet, or telephone, and site inspections of businesses and residences. Information obtained during the course of verification will be used to determine whether revocation, rescission, and/or removal proceedings are appropriate. Applicants, petitioners, and representatives of record will be provided an opportunity to address derogatory information before any formal proceeding is initiated.

Please see the additional information on the back. You will be notified separately about any other cases you filed.

NATIONAL BENEFITS CENTER
USCIS, DHS
P.O. BOX #648004
LEE'S SUMMIT MO 64064
Customer Service Telephone: (800) 375-5283

Department of Homeland Security
U.S. Citizenship and Immigration Services

I-797, Notice of Action

RECEIPT NUMBER	CASE TYPE
MSC-16-911-04846	I360 PETITION FOR AMERASIAN, WIDOWER, OR SPECIAL IMMIGRANT
RECEIPT DATE May 27, 2016 / **PRIORITY DATE** May 25, 2016	**PETITIONER** A208 449 JEL-m
NOTICE DATE November 3, 2016 / **PAGE** 1 of 1	**BENEFICIARY** A208 449 JEL-m

JOSHUA EMMANUEL LOPEZ MARTINEZ
C/O CAMERIS AND RIINE PC
123 N 3RD STREET
READING PA 19601

Notice Type: Approval Notice
Section: Special Immigrant-Juvenile

The above petition has been approved. The person this petition is for will be notified separately when a decision is reached on his or her pending adjustment of status application.

The approval of this visa petition does not in itself grant any immigration status and does not guarantee that the alien beneficiary will subsequently be found to be eligible for a visa, for admission to the United States, or for an extension, change, or adjustment of status.

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US CITIZENSHIP & IMMIGRATION SVCS
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Customer Service Telephone: (800) 375-5283

Form I-797 (Rev. 01/31/05) N

Department of Homeland Security
U.S. Citizenship and Immigration Services

Form I-797C, Notice of Action

THIS NOTICE DOES NOT GRANT ANY IMMIGRATION STATUS OR BENEFIT.

RECEIPT NUMBER MSC-16-915-16696		**CASE TYPE** I360 PETITION FOR AMERASIAN, WIDOWER, OR SPECIAL IMMIGRANT
RECEIPT DATE August 23, 2016	**PRIORITY DATE** August 22, 2016	**PETITIONER** A208 554 091 V.G.R.A.
NOTICE DATE October 13, 2016	**PAGE** 1 of 1	**BENEFICIARY** A208 554 091 V.G.R.A.

BRIDGET CAMBRIA
CAMBRIA AND KLINE PC
123 N 3RD STREET
READING PA 19601

Notice Type: Approval Notice
Section: Special Immigrant-Juvenile

This notice is to advise you of action taken on this case. The official notice has been mailed according to the mailing preferences noted on the Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative. Any relevant documentation was mailed according to the specified mailing preferences.

The above petition has been approved.

The petition indicates that the person for whom you are petitioning is in the United States and will apply for adjustment of status. The evidence indicates that he or she is not eligible to file an adjustment of status application. This determination is based on the information submitted with the petition and any relating files. If the person for whom you are petitioning believes that he or she is eligible for adjustment of status, then he or she should contact the local USCIS office for more information.

Because the person for whom you are petitioning is not eligible to adjust, we have sent the approved petition to the **Department of State National Visa Center (NVC), 32 Rochester Avenue, Portsmouth, NH 03801-2909.** The NVC processes all approved immigrant visa petitions that need consular action. It also determines which consular post is the appropriate consulate to complete visa processing. The NVC will then forward the approved petition to that consulate.

This completes all USCIS action on this petition. You should allow a minimum of 30 days for Department of State processing before contacting the NVC. If you have not received any correspondence from the NVC within 30 days, you may contact the NVC by e-mail at NVCINQUIRY@state.gov. You will need to enter the USCIS receipt number from this approval notice in the subject line. In order to receive information about your petition, you will need to include the Petitioner's name and date of birth, and the Applicant's name and date of birth, in the body of the e-mail.

The NVC will contact the person for whom you are petitioning concerning further immigrant visa processing steps.

The approval of this visa petition does not in itself grant any immigration status and does not guarantee that the alien beneficiary will subsequently be found to be eligible for a visa, for admission to the United States, or for an extension, change, or adjustment of status.

Please read the back of this form carefully for more information.

This courtesy copy may not be used in lieu of official notification to demonstrate the filing or processing action taken on this case.

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Department of Homeland Security
U.S. Citizenship and Immigration Services

I-797, Notice of Action

THE UNITED STATES OF AMERICA

RECEIPT NUMBER MSC-16-915-16696		**CASE TYPE** I360 PETITION FOR AMERASIAN, WIDOWER, OR SPECIAL IMMIGRANT
RECEIPT DATE August 23, 2016	**PRIORITY DATE** August 22, 2016	**PETITIONER** A208 554 091 [redacted]
NOTICE DATE October 13, 2016	**PAGE** 1 of 1	**BENEFICIARY** A208 554 091 [redacted]

[redacted]
C/O CAMBRIA AND KLINE PC
123 N 3RD STREET
READING PA 19601

Notice Type: Approval Notice
Section: Special Immigrant-Juvenile

The above petition has been approved.

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Department of Homeland Security
U.S. Citizenship and Immigration Services

I-797, Notice of Action

THE UNITED STATES OF AMERICA

RECEIPT NUMBER MSC-17-900-97121		**CASE TYPE** I360 PETITION FOR AMERASIAN, WIDOWER, OR SPECIAL IMMIGRANT
RECEIPT DATE October 25, 2016	**PRIORITY DATE** October 21, 2016	**PETITIONER** A028 674 832 A.M.L
NOTICE DATE November 28, 2016	**PAGE** 1 of 1	**BENEFICIARY** A208 674 832 A.M.L.

A.M.L.
C/O CAMBRIA AND KLINE PC
123 N 3RD STREET
READING PA 19601

Notice Type: Approval Notice
Section: Special Immigrant-Juvenile

The above petition has been approved. The person this petition is for will be notified separately when a decision is reached on his or her pending adjustment of status application.

The approval of this visa petition does not in itself grant any immigration status and does not guarantee that the alien beneficiary will subsequently be found to be eligible for a visa, for admission to the United States, or for an extension, change, or adjustment of status.

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