IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

CHRISTIAN RODRIGUEZ,

Plaintiff,

v.

ELAINE DUKE, ACTING SECRETARY OF HOMELAND SECURITY, *et al.*,

Defendants.

Docket No. 2:16-cv-07092-MKP-CLP

BRIEF OF NON-PROFIT ORGANIZATIONS REPRESENTING U-STATUS APPLICANTS, AS *AMICI CURIAE* IN SUPPORT OF PLAINTIFF

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INTEREST OF AMICI CURIAE

Amici curiae are non-profit organizations who represent and advocate on behalf of applicants for U-non-immigrant status, as well as other immigrants who are victims of crime, and include: ASISTA Immigration Assistance ("ASISTA"), the Tahirih Justice Center ("Tahirih"), the National Center on Domestic and Sexual Violence ("NCDSV"), the Asian Pacific Institute on Gender-Based Violence ("the Institute"), the National Network to End Domestic Violence ("NNEDV"), the National Domestic Violence Hotline ("NDVH"), Freedom Network USA ("FNUSA"), the National Immigration Project of the National Lawyers Guild ("National Immigration Project"), the Coalition to Abolish Slavery & Trafficking ("CAST"), Casa de Esperanza, and the National Resource Center on Domestic Violence ("NRCDV").[1] *Amici* have years of experience working with applicants for U status, and in litigating the statutes and regulations pertaining to the U-status regime. In light of the claims advanced in this case concerning the eligibility of bona fide U-status applicants for employment authorization, *amici* believe the arguments advanced herein, as well as the experiences of their clients, will be helpful to the Court.[2]

ARGUMENT

Congress created U-visa status to encourage victims of crime to cooperate with law enforcement in arresting and prosecuting criminals. In doing so, Congress ensured that applicants with "pending, bona fide applications," 8 U.S.C. § 1184(p)(6), would have the chance to work and

[1] *Amici* certify that (a) no party's counsel authored any part of this brief, (b) no party or party's counsel contributed money that was intended to fund the preparation or submission of this brief, and (c) no person other than *amici* or their counsel contributed money that was intended to fund the preparation or submission of this brief.

[2] Fuller descriptions of individual *amici* are provided in the addendum.

support themselves. This matters because those victims—often domestic abuse victims—are often twice victimized when an abuser or perpetrator is prosecuted, and the victim is left without financial support and without the authorization to work. As *amici's* experience below demonstrates, the ability to work and support one's family is a critical component of the U-visa program.

Leaving U-visa applicants in limbo for more than three years without considering a work-authorization application, as Defendants contend they may do, is not only extremely harmful to victims of crime, but it is also inconsistent with the text and purpose of the U-visa statute. As demonstrated below, Congress specifically intended 8 U.S.C. § 1184(p)(6) to provide employment authorization to applicants while their applications are pending, and before the U.S. Citizenship and Immigration Services ("USCIS") engages in a merits review of these applications. Instead, the agency adjudicates applications for work authorization only *after* a full merits-based review of the case. These procedures flout the agency's statutory obligations under Section 1184(p)(6).

Furthermore, Defendants' claim that 8 U.S.C. § 1184(p)(6) does not provide a workable legal standard to adjudicate work authorization applications is simply wrong. Congress routinely uses the term "bona fide," and USCIS routinely applies that term, in a wide variety of circumstances. In this case, where Congress has both defined the criteria for U status, and required every applicant to obtain an independent certification from a law-enforcement agency supporting the claim for U status, it is not difficult to formulate clear, administrable standards for what constitutes a "pending, bona fide" application.

I. Congress Provided U-Status Immigration and Humanitarian Relief to Vulnerable Immigrants Without Status to Encourage Cooperation with Law Enforcement.

Congress created the U-status regime in 2000 as part of a decades-long legislative effort to encourage immigrants who had been victims of a crime to seek justice. These efforts began with the Violence Against Women Act of 1994 ("VAWA"), Pub. L. No. 103-322, 108 Stat. 1796 (1994). VAWA created legal protections for foreign nationals, including immigrants subject to battery or "extreme cruelty" by a spouse who is a U.S. citizen ("USC") or lawful permanent resident ("LPR") of the United States. *Id*. at § 40701, 108 Stat. 1953 (codified at 8 U.S.C. § 1154(a)(1)). Whereas prior to VAWA these battered spouses depended on the abusive USC or LPR spouse to petition for immigration status, VAWA allowed battered immigrants to "self-petition" for lawful permanent resident status. *Id*. Although the program was effective in providing relief for survivors of domestic violence who (but for their abuser's control of the immigration system) would have been eligible for permanent residence, it did not address the needs of survivors of abuse who were not immediate relatives of U.S. citizens or LPRs.

Therefore, in 2000 Congress created the U-non-immigrant status to protect vulnerable immigrants, especially women and girls, "severely victimized by criminal activity," including domestic violence, rape, and sexual abuse. Victims of Trafficking and Violence Protection Act of 2000 ("VTVPA"), Pub. L. No. 106-386, § 1513(a)(2)(B), 114 Stat. 1464, 1533 (codified at 8 U.S.C. § 1101(a)(15)(U)). Congress recognized that persons without lawful status were unable "to report these crimes" or to "fully participate" in their investigation and prosecution because they feared deportation. *Id.* at § 1513(a)(1)(B). The statute serves the dual purpose of "offering protection to victims of such offenses in keeping with the humanitarian interests of the United States," and "strengthen[ing] the ability of law enforcement agencies to detect, investigate, and prosecute" certain crimes. *Id*. at § 1513(a)(2)(A). According to the Department of Homeland Security ("DHS"), Congress:

> created the U non-immigrant status program out of recognition that victims without legal status may otherwise be reluctant to help in the investigation or prosecution of criminal activity. Immigrants, especially women and children, can be particularly vulnerable to criminal activity like human trafficking, domestic violence, sexual assault, stalking, and other crimes due to a variety of factors, including but not limited to: language barriers, separation from family and friends, lack of understanding of U.S. laws, fear of deportation, and cultural differences. Accordingly, under this law, Congress sought not only to prosecute perpetrators of crimes committed against immigrants, but to also strengthen relations between law enforcement and immigrant communities.

Department of Homeland Security, *U and T Visa Law Enforcement Resource Guide for Federal, State, Local, Tribal and Territorial Law Enforcement, Prosecutors, Judges, and Other Government Agencies* at 4, *available at* https://www.dhs.gov/sites/default/files/publications/U-and-T-Visa-Law-Enforcement-Resource%20Guide_1.4.16.pdf [hereinafter "*U and T Visa Guide*"].

A particularly distinctive component of the U program is the requirement that an independent, third-party, law-enforcement authority provide a written and sworn certification about the crime and the U petitioner's "helpfulness" in an investigation or prosecution. Every application must include this law enforcement certification—signed under penalty of perjury—establishing that the applicant was a victim of a qualifying crime and helpful to the police. Thus, no one can apply for the status without the direct input of a law enforcement officer or agency. This certification requirement imposes a substantial hurdle for anyone seeking U status, and, according to DHS, "acts as a check against fraud and abuse." *Id*. at 26.

A. Humanitarian Relief Available Under the U Regime Includes the Right to Work.

Congress recognized that regularizing immigration status would be ineffective for victims and survivors of abuse if they could not work to support themselves. Thus, it required that U-status holders be granted work authorization. 8 U.S.C. § 1184(p)(3)(B) (providing that Attorney General

"shall, during the period [that individuals are in lawful U-status], provide the aliens with employment authorization.").

As originally created in 2000, the U program was capped at 10,000 grants of U status per year. However, by 2007, USCIS anticipated that U applications would quickly exceed that cap. Defs.' Mot. at 11. It therefore created a regulatory waiting list, on which "approvable" applicants were placed when the year's allotment of U visas had already been assigned. *See* 8 C.F.R. § 214.14(d)(2) (regulation creating the waiting list); *see also* Defs.' Mot. at 5–6 (summarizing the waiting list procedure). Under these regulations, the agency reviewed applications for approvability, on the merits, on a first-come-first-served basis. The first 10,000 approved petitions received the U status, and the other petitions that were approvable were placed on the waiting list in order of filing date. Defs.' Mot. at 5-6. Importantly, the regulation provided that "[a]ll eligible petitioners who, due solely to the cap, are not granted U-1 non-immigrant status *must* be placed on a waiting list and receive written notice of such placement." 8 C.F.R. § 214.14(d)(2). *Id*. (emphasis added). Thus, the regulations envisioned that *all* filed petitions would be reviewed on the merits, and then either be denied or placed on the waiting list. In addition, USCIS provided by regulation that it could "authorize employment for such petitioners and family members." *Id*. Once the applicant moved from the waiting list and received U status, he or she would automatically receive work authorization. Defs.' Mot. at 6.

Against this backdrop, Congress amended the U-program provisions with the Trafficking Victims Protection Reauthorization Act of 2008 ("TVPRA"), Pub. L. 110-457, 122 Stat. 5044 (codified in part at 8 U.S.C. § 1184(p)(6)). At that time—and fully aware that USCIS had created a waiting list for "approvable" petitions, and would issue work authorizations to those on the waiting list—Congress enacted a new provision recognizing the need for swifter work

authorization for all victims and survivors. As illustrated by the stories below and explained in the legislative history of the 2008 provision, swift work authorization is vital for crime survivors who need to escape power and control tactics of domestic violence abusers, rapists, human traffickers, and other crime perpetrators. Without the ability to support themselves and their children *while their applications are pending*, crime survivors are often trapped under the control of their abusers. As the 2008 bill's sponsors explained, U-visa applicants "should not have to wait for up to a year before they can support themselves and their families" and added that USCIS should strive to issue work authorization within 60 days of filing. 154 Cong. Rec. H10,888, 10,905 (Dec.10, 2008) (statement of Reps. Berman and Conyers), 2008 WL 5169865. Accordingly, the 2008 amendments specifically authorized the Secretary of Homeland Security to "grant work authorization to any alien who has a *pending, bona fide application for [U] status*." 8 U.S.C. § 1184(p)(6) (emphasis added).

B. USCIS's Failure to Review Bona Fide Pending Applications Denies Applicants the Relief Congress Envisioned.

In practice, however, tens of thousands of applicants with pending, bona fide applications for U visas now languish without work authorization for years, instead of weeks or months. USCIS blatantly ignores its statutory obligations relating to all pending, bona fide applications. Instead, the agency has decided that each fiscal year, it will review only a small fraction of pending applications with a full merits review for "approvability" for its U-status waiting list. Defs.' Mot. at 5–6. It therefore fails to consider whether the vast majority of remaining pending applications are bona fide, and therefore, whether those applicants should be authorized to work. The Government emphasizes that 97,000 petitions were "pending" for U-status principal applicants as of the end of March 2017, Defs.' Mot. at 4. However, it does not say how many of those pending applications have been placed on the U-status waiting list (with its attendant benefits), and how

many are pending, bona fide applications, left in limbo, with no determination as to the work-authorization protections Congress enacted in Section 1184(p)(6). Defs.' Mot. at 4.

In short, USCIS has implemented no process to adjudicate work authorization for pending, bona fide applications prior to a full merits review. For this reason, tens of thousands of crime victims, all with law enforcement certifications proving their helpfulness to our criminal system, are waiting years before they can become participating members of our society. Defs.' Mot. at 5–6. This failure thwarts the will of Congress, which specifically intended a swifter work authorization process within a reasonable period, such as the 60 days suggested in the Congressional committee report on the TVPRA. Failing to implement this provision discourages immigrant victims from seeking justice and hampers law enforcement, thus frustrating Congress's dual aim in creating the U status. As the stories contained in the following section illustrate, USCIS's delay in implementing Congress's scheme also causes grave harm to victims who do aid law enforcement and subsequently seek U status.

C. USCIS's Failure to Implement the Law Continues to Harm the Vulnerable Immigrants Congress Intended to Protect.

Amici have worked for decades with survivors of domestic violence whose abusers have used threats of arrest and removal, as well as violence and economic dependency, to control and isolate them. One reason many survivors have found the courage to report crimes and abuse to law enforcement was the promise of both immigration-status relief and the ability to seek financial independence. USCIS's wholesale disregard of that promise has significantly compromised the safety and well-being of survivors and their families. While the few examples we set forth here[3] cannot convey the breadth of the harm suffered by the tens of thousands of applicants with bona

[3] All names have been redacted to protect the anonymity of victims.

fide applications pending but no employment-authorization determination, they may at least illustrate the depth of some individual harm caused by USCIS's inaction:

- AA filed a petition for U-non-immigrant status in August of 2015. She was married to her abuser and has five children with him. She was subjected to abuse by her husband for over twenty years, including incidents of physical, sexual and verbal abuse. Her children were also abused. After he beat her daughter, AA finally called the police and participated in a child-abuse investigation and prosecution against her husband. She separated from him and moved into a shelter with her children. After a year of trying to find housing and support herself and her children, she had to move back into her husband's home, in a separate apartment in the home, where her husband pays the bills. While there is a protective order against the husband, which has so far held off further violence, he maintains control over AA by doing things like shutting off the electricity. She has considered going back into the shelter system but she thinks this will have a terrible impact on her children. AA wants to be able to work and pay her own bills so that she can be independent. She has said about her situation: "I can't do anything," "It's like I'm a slave," and "It's eating me alive."

- BB cooperated with law enforcement in connection with domestic violence charges against her former spouse. She has two young sons, one of whom is a special needs child. She filed the petition for U status in August 2014, and sought an employment authorization at the same time. BB had severe anxiety and pending mental health issues relating to her lack of immigration status, lack of employment papers, and lengthy U status adjudication. She would continually check the Vermont Service Center's processing times online every few days. Given her mental health, her son's special needs, and the fact that she was a single mother, BB's attorneys submitted an expedited request to the Vermont Service Center in March of 2016. The request was promptly

denied eight days later. BB was forced to live and support her children solely on the child support payments reluctantly and sporadically paid by her former abuser and ex-husband. She finally received her employment authorization in August 2017, three years after filing for the U petition, and has finally begun to establish her own financial footing for herself and her children. She is still waiting for her U status.

- CC is a single mother to two U.S.-citizen children and a victim of domestic violence. CC was physically and emotionally abused by her husband before he was arrested for assaulting her in 2009. Since the separation, CC has continued to care for her two young children entirely by herself. She filed her U petition in March 2017. CC is currently unemployed as she is afraid to work without documentation out of fear of deportation.
- DD is a twenty-five-year-old Salvadoran woman who survived seven years of physical abuse from her partner. DD cooperated with police after her partner attacked her earlier this year and she filed her U petition in July 2017. DD and her two daughters, aged two and seven, have since moved from shelter to shelter seeking stability. In order to secure transitional housing DD must prove that she has or can earn sufficient income. Without a work permit, she struggles to find work to help her move forward with her life. She is terrified that the victimization she suffered at the hands of her partner will lead to destitution and homelessness for her and her children.
- FF was a victim of child sexual abuse. Her case was filed in early September 2014. She is now twenty years old and is not currently working because she has not been able to get a job without work authorization, despite having grown up in the United States. She is struggling financially. Her fiancé's sole income is insufficient for the couple and FF's two young children.
- GG was a victim of domestic violence. Her abuser never allowed her to work and used her dependence to belittle her and keep her in the relationship. His violence against her has included

punching her and yanking a patch of hair out of her head. In 2014, he slammed GG's head into a pole. Since filing her U petition in January 2016, GG has been unable to find stable employment without a valid work permit, yet she is the sole provider for her two U.S. citizen children, aged ten and twelve.

- HH is a single mother of four U.S.-citizen children and a survivor of sustained physical and sexual violence from her partner. In 2013, her partner raped and attempted to kill her. HH's cooperation with police led to his deportation. Shortly after, however, her partner orchestrated HH's abduction to Mexico. HH was finally able to flee with her four children back to the United States in late 2016, and is struggling to regain her footing. HH filed her U visa case in September 2017 and does not have work authorization.

As these cases illustrate, USCIS's failure to implement the work-authorization provision of Section 1184(p)(6) is causing serious harm to the very people Congress intended to protect with U status.

II. USCIS Can Adjudicate Work Authorizations for a "Pending, Bona Fide Application," Prior to a Merits Review, with Little Additional Burden.

A. Congress and the Agency Commonly Use the Term "Bona Fide."

USCIS claims in its brief that the statute lacks a "standard" for USCIS to use in determining whether an application is "bona fide" and that USCIS therefore need not make that determination. Defs.' Mot. at 20. The Court should not credit this position. The term "bona fide" is a commonly used legal term, and in light of the statute's clear criteria for U-visa eligibility, is certainly an intelligible standard in this context.

The term bona fide—Latin for "in good faith"—is a widely used legal term for something that is "1. Made in good faith; without fraud or deceit. 2. Sincere; genuine." Bona fide, *Black's Law Dictionary* (10th ed. 2014). The term is routinely used in immigration statutes and regulations

as well as in other Congressional and agency actions. *See, e.g.*, 8 U.S.C. § 1184(l)(C)(i) (granting certain exceptions for aliens who demonstrate a "bona fide offer of full-time employment"); 8 U.S.C. § 1101(a)(15)(R) (providing non-immigrant status based on membership in a "bona fide nonprofit, religious organization in the United States"); 8 U.S.C. § 1182(a)(9)(B)(iii)(II) (providing that certain periods "in which an alien has a bona fide application for asylum pending" are excluded from determinations of unlawful presence); 8 C.F.R. § 214.11 (defining "bona fide determination" under particular requirements of the T-visa program for victims of human trafficking).

In this case, the term is used to trigger a work-authorization determination. This determination must necessarily precede and be separate from a determination on the merits, since it is made while the application for the U status is "pending." 8 U.S.C. § 1184(p)(6). USCIS makes these kinds of determinations regularly and provides work authorization before adjudicating an application on the merits in many similar contexts. For example, an "applicant for asylum . . . may be provided [work authorization] under regulation" starting 180 days after filing an asylum application—before the determination of asylum on the merits. 8 U.S.C. § 1158(d)(2). Similarly, VAWA self-petitioners whose abusers are U.S. citizens, like other "immediate relative" family-based petitioners, may receive work authorization before the government adjudicates their underlying petition on the merits. 8 C.F.R. § 274a.12(c)(9). There is no statutory or regulatory reason USCIS cannot adjudicate employment authorization for a pending, bona fide application for U status long before it undertakes the merits-based determination as to whether an applicant is "approvable" for that status.

B. The Contours of the Term Bona Fide in the U Context Are Easily Drawn From the U Application Itself.

Because Congress uses the term "bona fide" for different immigration benefits, individual program requirements suggest what constitutes a bona fide application. A review of the statute granting work authorization to those with "pending, bona fide" U-visa applications, and the attendant U-status regulations, gives a clear picture of what constitutes a bona fide application in this context.

The starting point for that review is, again, the statutory law-enforcement certification requirement that sets U petitions apart. Because Congress has required applicants to submit sworn certifications by law-enforcement agencies or officers as part of the filing, any U-status petition comes to USCIS with significant independent indicia of good faith that most other immigration applications lack. As Defendants acknowledge, this distinctive feature of the U-status program provides a significant and independent check on abuse and fraud in these applications. *U and T Visa Guide* at 3.

Moreover, as provided by regulation, the application must include a Form I-918, which provides the additional substantive information needed to conduct a merits review. 8 C.F.R. § 214.14(c)(1). This form includes detailed background and family information about the applicant, and information about the crime. *Id*. Agency regulations for a U-status application also require a signed statement by the petitioner describing the victimization. 8 C.F.R. § 214.14(c)(2)(i). Additionally, the petitioner must submit to a biometric capture and, if applicable, pay a biometric-capture fee. 8 C.F.R. § 214.14(c)(3).

This regulatory scheme readily lends itself to a quick determination of whether an application is bona fide. Moreover, this good faith review does not require the full-blown merits review the agency currently requires before placing a U applicant on the waiting list, which includes substantive examination of the contents and details of the application and records. Defs.'

Mot. at 5–6. Rather, USCIS can carry out a brief, summary review of the application to ensure it is complete and filed in good faith, especially in light of the law enforcement certification.

This kind of summary review to determine whether the application is bona fide need not be toothless. An application that omits required information, or that lacks a law-enforcement certification, for example, would not meet the bona fide application requirements. Similarly, an application that fails to identify an underlying crime would not be not a bona fide application. Such determinations do not require in-depth consideration of the merits. A quick review of whether the boxes on the form were filled in would reveal such infirmities. This is significantly different, and a much less onerous task for USCIS staff, than the scrutiny USCIS currently applies. A determination concerning whether the application is bona fide need look only at whether the application appears on its face to have been submitted in good faith.

As *amici* are aware from their work, USCIS frequently uses checklists to effectively implement lower-level, non-merits review of documentation and applications. Here, USCIS personnel could use the following checklist to determine whether a U application is a pending bona fide application:

1. Does the application include Form I-918?
    a. Is the form signed and dated?
    b. Are all the required questions answered or is a response provided to the question?

2. Does application include the required law-enforcement certification (Form I-918B)?
    a. Is the form signed and dated?
    b. Are all the required questions answered or is a response provided to the question?

3. Does the application include the required signed statement from the victim?

4. Has a biometric capture been conducted by USCIS?

5. Is the preparer, certifier, or applicant someone known to USCIS to have engaged in fraudulent or deceptive conduct? (For example, if USCIS keeps an internal USCIS fraud list, it could cross-check names against that list.)

Given the relative simplicity of this determination, there is no basis for USCIS to claim that this determination lacks a standard, or that it is too burdensome to apply.

CONCLUSION

The tens of thousands of U petition filed in recent years, each with a sworn law-enforcement certification of helpfulness, are the best proof that the U-status system is working as Congress intended: It has encouraged individuals and communities previously paralyzed by fear to access justice, and it has given our criminal system a powerful tool to hold perpetrators accountable. USCIS has a statutory obligation to these communities to promptly process work authorization for pending, bona fide applications—an obligation the agency routinely carries out in other immigration contexts. As the law makes clear, making this bona fide determination is a simple, bureaucratic determination, which is boosted by the third-party certification *all* U-status applications require. *Amici* respectfully request that this court insist that the government properly implement the law by ensuring that legitimate and helpful victims of crimes receive the swift legal work authorization Congress established for their protection.

Dated: October 27, 2017

Respectfully submitted,

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ADDENDUM

List of *amici* non-profit organizations:

ASISTA Immigration Assistance ("ASISTA") worked with Congress to create and expand routes to secure immigration status for survivors of domestic violence, sexual assault, and other crimes, which were incorporated into the 1994 Violence Against Women Act and its progeny. ASISTA serves as liaison for the field with Department of Homeland Security ("DHS") personnel charged with implementing these laws, most notably the U.S. Citizenship and Immigration Services, Immigration and Customs Enforcement, and DHS's Office for Civil Rights and Civil Liberties. ASISTA also trains and provides technical support to local law-enforcement officials, civil- and criminal-court judges, domestic violence and sexual assault advocates, and legal services, non-profit, pro bono, and private attorneys working with immigrant crime survivors. ASISTA has previously filed amicus briefs to the Supreme Court and to the Second, Seventh, Eighth, and Ninth Circuits. *See United States v. Castleman*, 134 S. Ct. 1405 (2014); *State of Washington v. Trump*, No. 17-35105 (9th Circuit, March 17, 2017); *L.D.G. v. Holder*, 744 F.3d 1022 (7th Cir. 2014); *Torres-Tristan v. Holder*, 656 F.3d 653 (7th Cir. 2011); *Lopez-Birrueta v. Holder*, 633 F.3d 1211 (9th Cir. 2011); *Rosario v. Holder*, 627 F.3d 58 (2d Cir. 2010); *Sanchez v. Keisler*, 505 F.3d 641 (7th Cir. 2007).

Tahirih Justice Center ("Tahirih") is the largest multi-city direct services and policy advocacy organization specializing in assisting immigrant women and girls who survive gender-based violence. Tahirih offers legal and social services to women and girls fleeing all forms of gender-based violence, including human trafficking, forced labor, domestic violence, rape and sexual assault, and female genital cutting/mutilation. Since its beginning in 1997, Tahirih has provided free legal assistance to more than 20,000 individuals, including many who are eligible

for and have received U status. Through direct services, policy advocacy, and training and education, Tahirih protects immigrant women and girls and promotes a world where they can enjoy equality and live in safety and dignity. Tahirih amicus briefs have been accepted in numerous federal courts across the country.

The National Center on Domestic and Sexual Violence ("NCDSV") designs, provides, and customizes training and consultation, influences policy, promotes collaboration, and enhances diversity with the goal of ending domestic and sexual violence. NCDSV's website is a source of information for individuals and professionals, while responding to technical assistance requests by telephone and email regarding issues related to immigration policy. NCDSV often refers to the other *amici* for individual assistance, if attorneys and legal service providers require additional information. We often provide training for advocates and law enforcement, encouraging coordination for the safety of victims, including those requiring assistance to remain in the United States.

The **Asian Pacific Institute on Gender-Based Violence** ("the Institute") is a national resource center on domestic violence, sexual violence, trafficking, and other forms of gender-based violence in Asian and Pacific Islander communities. The Institute serves a national network of advocates and community-based service programs that work with Asian and Pacific Islander survivors, and is a leader on providing analysis on critical issues facing victims in the Asian and Pacific Islander communities. The Institute leads by promoting culturally relevant intervention and prevention, expert consultation, technical assistance and training; conducting and disseminating critical research; and informing public policy. The Asian Pacific Institute's vision of gender democracy drives its mission to strengthen advocacy, change systems, and prevent gender violence through community transformation.

The **National Network to End Domestic Violence** ("NNEDV") is a not-for-profit organization incorporated in the District of Columbia in 1994 to end domestic violence. NNEDV has over 2,000 member programs and serves as the national voice of millions of women, children and men victimized by domestic violence, and their advocates. NNEDV was instrumental in promoting Congressional enactment and the eventual implementation of the Violence Against Women Acts of 1994, 2000, 2005 and 2013 and, working with federal, state, and local policy makers and domestic violence advocates throughout the nation. NNEDV helps identify and promote policies and best practices to advance victim safety.

The **National Domestic Violence Hotline** ("NDVH") was established in 1996 as part of the Violence Against Women Act. It operates a free, anonymous and confidential, around-the-clock hotline available via phone, internet chat, and text services to offer victims of domestic violence compassionate support, crisis intervention, safety planning, and referral services to enable them to find safety and live lives free of abuse. A substantial number of the victims NDVH serves are immigrants or request help related to immigration-related issues. From May 2015 through March 2017, for example, over 10,000 victims contacted NDVH identifying as immigrants, and over 6,500 of them sought help related to immigration concerns.

Freedom Network USA ("FNUSA") is the largest alliance of human trafficking advocates in the United States. Our 51 members work directly with human trafficking survivors in over 30 cities, providing comprehensive legal and social services, including representation in immigration cases. In total, our members serve over 1,000 trafficking survivors per year, over 75% of whom are foreign national survivors. Through our national effort, FNUSA increases awareness of human trafficking and provides decision makers, legislators, and other stakeholders with the expertise and tools to make a positive and permanent impact in the lives of all survivors. FNUSA provides

training and advocacy to increase understanding of the wide array of human trafficking cases in the U.S., and the many forms of force, fraud, and coercion used by traffickers. While many trafficking survivors in the United States pursue T status, others pursue U status. FNUSA has an interest in ensuring that foreign-national trafficking survivors have increased access to employment authorization while their visa applications are pending. Human trafficking is, by nature, a financial crime. Survivors need access to legal, safe employment to recover from their financial, physical, and emotional harms.

The **National Immigration Project of the National Lawyers Guild** ("National Immigration Project") is a non-profit membership organization of immigration attorneys, legal workers, grassroots advocates, and others working to defend immigrants' rights and secure a fair administration of the country's immigration and nationality laws. The National Immigration Project provides legal training to the bar and the bench on the immigration consequences of criminal conduct, and implementation of the Violence Against Women Act. It also litigates on behalf of noncitizens as *amici curiae* in the federal courts, hosts continuing legal education seminars on the rights of noncitizens, and is the author of numerous practice advisories as well as several treatises published by Thompson West. The National Immigration Project has participated as *amicus curiae* in several significant immigration-related cases before the Supreme Court and federal courts of appeals. Through its membership network and its litigation, the National Immigration Project is acutely aware of the problems faced by noncitizens with pending U-visa applications who are unable to work.

The **Coalition to Abolish Slavery & Trafficking** ("CAST") is a Los Angeles-based nonprofit and is one of the pioneers of the U.S. anti-trafficking movement. CAST provides life-saving services to survivors of human trafficking and mobilizes citizens to build a future where

modern slavery no longer plagues our communities, our city, or our world. Through partnerships with over 100 cultural and faith-based community groups, healthcare organizations, government agencies and law enforcement, CAST provides support at every phase of a human trafficking survivor's journey to freedom. In April 2014, CAST's excellent work was honored by President Obama with the Presidential Award for Extraordinary Efforts to Combat Trafficking in Persons. CAST was the first non-profit organization to receive this award.

Casa de Esperanza was founded in 1982 in Minnesota to provide emergency shelter and support services for women and children experiencing domestic violence. In 2009 Casa de Esperanza launched the National Latin@ Network for Healthy Families and Communities, which is a national resource center that provides training and technical assistance, research, and policy advocacy focused on addressing and preventing domestic violence, primarily in Latino and immigrant communities. Casa de Esperanza serves on the Steering Committee of the National Task Force to End Sexual and Domestic Violence and also serves on the board of the National Hispanic Leadership Agenda.

Since 1993, the **National Resource Center on Domestic Violence** ("NRCDV") has provided comprehensive and individualized technical assistance, training, and resource development related to domestic violence intervention and prevention, community education and organizing, and public policy and systems advocacy. NRCDV is a trusted national leader renowned for innovation, multi-disciplinary approaches, and a commitment to ensuring that policy, practice, and research is grounded in and guided by the voices and experiences of diverse domestic violence survivors and advocates. We work with a wide range of partners to advance gender, racial, economic and social justice.

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing brief was served by email on Joseph Marutollo, U.S. Attorney's Office, Eastern District of New York, and Michael J. Wishnie, Counsel for Plaintiff, on October 27, 2017.

Dated: October 27, 2017

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