

**Gregory S. Bruch  
Khiran K. Sidhu  
Benjamin B. Williams  
Willkie Farr & Gallagher LLP  
1875 K Street, NW  
Washington, DC 20006  
(202) 303-1000**

**Counsel for Amicus Curiae**

**UNITED STATES DEPARTMENT OF HOMELAND SECURITY  
UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES  
ADMINISTRATIVE APPEALS OFFICE  
WASHINGTON, D.C.**

**In the Matter of** )  
 )  
 **S-E** ) **[redacted]**  
 ) **[redacted]**  
 **Applicant,** )  
 )  
**In proceedings under INA section 204.** )

**AMICUS CURIAE BRIEF IN SUPPORT OF APPLICANT**

## TABLE OF CONTENTS

	<u>Page</u>
I. Introduction and Description of Amicus .....	1
II. Congress Enacted VAWA To Remove Barriers Preventing Immigrant Victims of Domestic Violence from Leaving Abusive Relationships. ....	4
III. Although Self-Petitioners Are Subject to the Same Burden and General Approach to Good Faith Marriage, USCIS Must Apply the Congressionally Mandated “Any Credible Evidence” Standard in Making Good Faith Marriage Determinations in VAWA Cases ...	6
IV. VSC’s Preference for Primary Evidence Controlled by Abusers Is Inappropriate .....	10
A. Insurance Policies, Property Leases, Bank Accounts, and Income Tax Forms Are Largely Out of Reach for Victims of Domestic Violence .....	10
B. USCIS’ Emphasis on “Systems Evidence” Should Recognize the Impediments Posed by the Domestic Violence Context .....	13
C. If Credibility Is an Issue, the VSC Must Say So .....	15
V. Ms. S-E’s Evidence Was Credible and Is the Best Evidence Available .....	15
A. Ms. S-E’s Declarations Are Credible and Detailed and Explain Why Abuser-Controlled Primary Evidence is Unavailable .....	15
B. Other Credible Evidence .....	19
C. The Family Court Protection Order against Mr. E Is Credible “Systems” Evidence of Good Faith Marriage .....	20
VI. Conclusion .....	21
CERTIFICATE OF SERVICE .....	1

**TABLE OF AUTHORITIES**

**CASES**

*Agyman v. INS*, 296 F.3d 871 (9th Cir. 2002) ..... 7

*Bark v. INS*, 511 F.2d 1200 (9th Cir. 1975)..... 7

*Matter of Boromand*, 17 I. & N. Dec. 450 (BIA 1980) ..... 7

*I.N.S. v. Cardozo-Fonseca*, 480 U.S. 421 (1987) ..... 7

*In re Petitioner*, 2011 WL 7789867 (Aug. 9, 2011)..... 6, 15

*In re Petitioner*, 2012 WL 4713253 (Feb. 10, 2012)..... 15

*Matter of Laureano*, 19 I. & N. Dec. 1 (BIA 1983) ..... 7

*Matter of McKee*, 17 I. & N. Dec. 332 (BIA 1980)..... 7

*Matter of Soo Hoo*, 11 I. & N. Dec. 151 (BIA 1965)..... 6

**STATUTES**

8 C.F.R. § 103.2..... 7

8 C.F.R. § 204.2..... 7, 8, 9, 17, 21

61 Fed. Reg. 13061 (Mar. 26, 1996) ..... 6, 13

146 Cong. Rec. S10,188 (Oct. 11, 2000)..... 5, 6, 10

151 Cong. Rec. S13,749 (Dec. 16, 2005)..... 6

H.R. Rep. No. 103-395 (1993) ..... 4

INA §§ 101(a)(15)(U), 214(p) & 245(l)..... 5

INA §§ 204(a)(1)(J), 240(b)(2)(D), & 216(c)(4)..... 7

Pub. L. No. 103-322, 108 Stat. 1796, 1902-55 (1994) ..... 4

Pub. L. No. 106-386, 114 Stat. 1464, 1518-37 (2000) ..... 4

Pub. L. No. 109-162, 119 Stat. 2960 (2005) ..... 6

## OTHER AUTHORITIES

Adams et al, <i>Development of the Scale of Economic Abuse</i> , 14 <i>Violence Against Women</i> 563, 566 (2008).....	11
Adams et al, <i>Measuring the Effects of Domestic Violence on Women’s Financial Well-Being</i> ...	11
Anderson et al, <i>Why Doesn't She Just Leave?": A Descriptive Study of Victim Reported Impediments to Her Safety</i> (June 2003).....	11
L. E. Orloff et al., <i>Battered Immigrant Women’s Willingness to Call for Help and Police Response</i> , 13 <i>UCLA Women’s L.J.</i> (2003).....	14
Leslye Orloff et al., <i>Battered Immigrants and Civil Protection Orders</i> Ch. 5.1 (Dep’t of Justice Office on Violence Against Women Nov. 2003) (“ <i>Battered Immigrants and CPOs</i> ”). .....	14
Marry Ann Dutton et al., <i>Characteristics of Help-Seeking Behaviors, Resources &amp; Service Needs of Battered Immigrant Latinas</i> , 7 <i>Geo. J. on Poverty L. &amp; Pol’y</i> 245, (2000).....	10
Memorandum from T. Alexander Aleinikoff , Exec. Assoc. Comm’r, Immigration and Naturalization Service (Apr. 16, 1996) .....	8
<i>Memorandum from Paul W. Virtue, Office of the General Counsel, Immigration and Naturalization Service to Terrance M. O’Reilly, Director, Administrative Appeals Office</i> (Oct. 16, 1998), 2001 WL 1047693.....	8, 9
New York City Mayor’s Office to Combat Domestic Violence, <i>Medical Providers’ Guide to Managing the Care of Domestic Violence Patients Within a Cultural Context</i> 10 (2d ed. 2004).....	14

[redacted]  
[redacted]

**Gregory S. Bruch**  
**Khiran K. Sidhu**  
**Benjamin B. Williams**  
**Willkie Farr & Gallagher LLP**  
**1875 K Street, N.W.**  
**Washington, D.C. 20006**  
**(202) 303-1000**

**Counsel for Amicus Curiae**

**UNITED STATES DEPARTMENT OF HOMELAND SECURITY**  
**UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES**  
**ADMINISTRATIVE APPEALS OFFICE**  
**WASHINGTON, D.C.**

**In the Matter of** )  
 )  
 **S-E** ) **[redacted]**  
 ) **[redacted]**  
 **Applicant,** )  
 )  
 **In proceedings under INA section 204.** )

**AMICUS CURIAE BRIEF IN SUPPORT OF APPLICANT**

ASISTA, through its counsel, respectfully submits this amicus curiae brief in support of Petitioner, S-E, in the appeal of her I-360 Self-Petition denial notice.

**I. Introduction and Description of Amicus**

ASISTA possesses unique and substantial experience in issues involving domestic violence against immigrants. ASISTA worked with Congress to create and expand routes to secure immigration status for survivors of domestic violence, sexual assault, and other crimes, incorporated in the 1994 Violence Against Women Act (“VAWA”) and its progeny. ASISTA serves as liaison for the field with Department of Homeland Security (“DHS”) personnel charged with implementing these laws, most notably United States Citizenship and Immigration Services

[redacted]  
[redacted]

(“USCIS”), Immigration and Customs Enforcement (“ICE”), and DHS’ Office on 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 submits this amicus curiae brief in support of Petitioner, Ms. S-E. With assistance from counsel at inMotion Inc., Ms. S-E filed the relevant I-360 Self-Petition with USCIS on or about August 2, 2010.<sup>1</sup> USCIS requested additional evidence (“RFE”) from Ms. S-E on the issues of good faith marriage and good moral character.<sup>2</sup> Through her counsel, Ms. S-E provided additional evidence of her good moral character, which USCIS deemed to be sufficient. Ms. S-E also provided additional evidence on her good faith marriage, including affidavits<sup>3</sup> detailing her courtship and feelings towards her husband, copies of cards and letters, and a narrative response addressing the concerns set out in the RFE. Despite this additional evidence, USCIS denied Ms. S-E’s self-petition because it determined that she failed to establish that she married her spouse in good faith; specifically, because “[t]he mere fact [her] spouse was good to [her] and that [she was] in love with him is insufficient to show that [she] married [her] spouse in good faith.”<sup>4</sup> Ms. S-E filed a Motion to Reopen and Reconsider, along with an expanded affidavit<sup>5</sup> and a transcript of her marriage ceremony; while the motion was granted, her petition was again denied.<sup>6</sup> In its denial letter, dated September 6, 2012, USCIS simply noted, without any explanation, that the additional statement provided by Ms. S-E was “insufficient” because it

---

<sup>1</sup> This submission included Ms S-E’s first affidavit; see Affidavit of Ms. S-E (Aug. 2., 2010) (hereinafter “First S-E Affidavit”).

<sup>2</sup> USCIS Request for Evidence (June 16, 2011) (hereinafter “RFE”).

<sup>3</sup> This submission included Ms. S-E’s second affidavit; see Affidavit of Ms. S-E (Aug. 31, 2011) (hereinafter “Second S-E Affidavit”).

<sup>4</sup> USCIS Denial Notice (Dec. 29, 2011) (hereinafter “First Denial Notice”).

<sup>5</sup> Affidavit of Ms. S-E (Jan. 23, 2012) (hereinafter “Third S-E Affidavit”).

<sup>6</sup> USCIS Denial Notice (Sep. 6, 2012) (hereinafter “Second Denial Notice”).

[redacted]  
[redacted]

“was not accompanied by corroborating evidence to establish [her] claims.”<sup>7</sup> On October 3, 2012, Ms. S-E submitted a Motion to Reopen and Reconsider and a Notice of Appeal, along with an even more detailed affidavit<sup>8</sup> and copies of Western Union receipts showing financial support by Mr. E. USCIS did not issue a response to the Motion to Reopen and Reconsider but instead sent a receipt notice for the Notice of Appeal to the Commissioner on October 15, 2012. Ms. S-E has now filed her appeal brief along with an affidavit.<sup>9</sup>

ASISTA believes USCIS erred: (1) by failing to acknowledge the credible corroborating evidence supplied by Ms. S-E; (2) by insisting on traditional primary and secondary evidence; and (3) by failing to explain what details are lacking when it denied a finding of good faith marriage for lack of sufficient detail. Without such specification, it is impossible for applicants to know what evidence will satisfy USCIS when primary evidence is unavailable. This problem is not isolated to this case, which is why ASISTA is submitting this amicus brief. It has become a prevalent problem in VAWA self-petition adjudications, resulting in denials of status to many survivors of domestic violence who, but for their abusers’ control of the normal family-based immigration process, would have obtained status. This is exactly the class of victims Congress created this ameliorative law to help. ASISTA asks the Administrative Appeals Office (“AAO”) to establish clear guidelines for the Vermont Service Center (“VSC”) on how the VSC reviews credible evidence of good faith marriage and to ensure that the VSC provides specificity when requesting further evidence or denying cases on this basis. We suggest the AAO review case law in this area, as well as the special standards Congress established and the USCIS guidance implementing these laws.

---

<sup>7</sup> *Id.*

<sup>8</sup> Affidavit of Ms. S-E (Sept. 18, 2012) (hereinafter “Fourth S-E Affidavit”).

<sup>9</sup> This submission included Ms. S-E’s fifth affidavit; *see* Affidavit of Ms. S-E (Nov. 12, 2012) (hereinafter “Fifth S-E Affidavit”).

[redacted]  
[redacted]

## II. Congress Enacted VAWA To Remove Barriers Preventing Immigrant Victims of Domestic Violence from Leaving Abusive Relationships.

Prior to enactment of the Violence Against Women Act of 1994 (“VAWA 1994”),<sup>10</sup> immigrants who suffered abuse had to endure an administrative process that did not recognize or appreciate the manifestations of domestic violence. Through VAWA 1994 and its reauthorizations in 2000 and 2005,<sup>11</sup> Congress reformed immigration law by creating special routes to status for immigrants who are victims of domestic violence.

The legislative history of VAWA 1994 reflects Congress’s concern for battered immigrants. The House of Representatives’ Committee on the Judiciary explained the purpose of enacting the new immigration provisions in VAWA 1994:

Domestic battery problems can become terribly exacerbated in marriages where one spouse is not a citizen, and the non-citizen’s legal status depends on his or her marriage to the abuser. Current law fosters domestic violence in such situations by placing full and complete control of the alien spouse’s ability to gain permanent legal status in the hands of the citizen or lawful permanent resident spouse.

...

Many immigrant women live trapped and isolated in violent homes, afraid to turn to anyone for help. They fear both continued abuse if they stay with their batterers and deportation if they attempt to leave.<sup>12</sup>

The Battered Immigrant Women Protection Act of 2000, which was part of the Violence Against Women Act of 2000 (“VAWA 2000”),<sup>13</sup> carried forward Congress’s goals underlying VAWA 1994. As explained in the Congressional Record of the Senate, VAWA 2000 was intended to eliminate further barriers facing immigrant victims of domestic violence:

VAWA 2000 addresses residual immigration law obstacles standing in the path of battered immigrant spouses and children seeking to free themselves from abusive relationships that either had not come to the attention of the drafters of VAWA 1994 or have arisen since as a result of [other bills that amended] immigration law.

---

<sup>10</sup> Pub. L. No. 103-322, 108 Stat. 1796, 1902-55 (1994).

<sup>11</sup> See Violence Against Women Act of 2000, Pub. L. No. 106-386, 114 Stat. 1464 (2000); Violence Against Women and Department of Justice Reauthorization Act of 2005, Pub. L. No. 109-162, 119 Stat. 2960 (2005).

<sup>12</sup> H.R. Rep. No. 103-395 (1993).

<sup>13</sup> Pub. L. No. 106-386, 114 Stat. 1464, 1518-37 (2000).



[redacted]  
[redacted]

In the vast majority of cases, granting the right to seek the visa to the citizen or lawful permanent resident spouse makes sense, since the purpose of family immigration visas is to allow U.S. citizens or lawful permanent residents to live here with their spouses and children.

But in the unusual case of the abusive relationship, an abusive citizen or lawful permanent resident can use control over his or her spouse's visa as a means to blackmail and control the spouse. The abusive spouse would do this by withholding a promised visa petition and then threatening to turn the abused spouse in to the immigration authorities if the abused spouse sought to leave the abuser or report the abuse.<sup>14</sup>

VAWA 2000 advanced Congress's express and unequivocal intent to "ensure that domestic abusers with immigrant victims are brought to justice and that the battered immigrants Congress sought to help in the original Act are able to escape the abuse."<sup>15</sup> To do this, VAWA 2000 created the U visa<sup>16</sup> and removed impediments for domestic violence survivors whose marriages did not meet normal family-based requirements, allowing them to petition after a divorce, when the abuser was a bigamist and when the abuser had lost status.<sup>17</sup> One consequence of these changes was to alter the "daunting, difficult, and dangerous task" of providing "detailed information about the date and the place of each of the abuser's former marriages and the date and place of each divorce."<sup>18</sup> These changes, according then-Senator Joseph Biden, the author of the original VAWA, became law as a result of "maybe the single most important provision [added] to [VAWA]... the battered immigrant women provision."<sup>19</sup>

Congress continued to strengthen the VAWA immigration provisions in the Violence Against Women and Department of Justice Reauthorization Act of 2005 ("VAWA 2005").<sup>20</sup> In

---

<sup>14</sup> 146 Cong. Rec. S10,188, S10,195 (Oct. 11, 2000) (Section-by-Section Summary).

<sup>15</sup> *Id.*

<sup>16</sup> INA §S 101(a)(15)(U), 214(p) & 245(l).

<sup>17</sup> Pub. L. No. 106-386, 114 Stat. 1464 (2000).

<sup>18</sup> 146 Cong. Rec. S10,192 (Oct. 11, 2000).

<sup>19</sup> 146 Cong. Rec. S10,204 (Oct. 11, 2000).

<sup>20</sup> Pub. L. No. 109-162, 119 Stat. 2960 (2005).

[redacted]  
[redacted]

floor discussions, members of Congress emphasized the continued hardships facing immigrant victims of domestic violence. Co-sponsor of all the VAWA laws, Senator Edward Kennedy stated:

Eliminating domestic violence is especially challenging in immigrant communities, since victims often face additional cultural, linguistic and immigration barriers to their safety. Abusers of immigrant spouses or children are liable to use threats of deportation to trap them in endless years of violence.<sup>21</sup>

With VAWA 1994 and each reauthorization, Congress ensured greater protection for immigrant victims of domestic violence, thereby furthering its goal of removing the obstacles that prevent immigrant victims of domestic violence from leaving their abusive relationships.

### **III. Although Self-Petitioners Are Subject to the Same Burden and General Approach to Good Faith Marriage, USCIS Must Apply the Congressionally Mandated “Any Credible Evidence” Standard in Making Good Faith Marriage Determinations in VAWA Cases**

In both VAWA self-petitions and regular family-based petitions, the burden of proof is on the petitioner to establish eligibility for the benefit sought by a preponderance of the evidence.<sup>22</sup> The preponderance of the evidence standard is lower than the “clear and convincing evidence” standard used in other immigration contexts<sup>23</sup> and the “beyond a reasonable doubt” standard found in criminal courts. In simple terms, the preponderance standard is met even if the decision-maker is just slightly above 50% convinced by what is being argued.<sup>24</sup>

---

<sup>21</sup> 151 Cong. Rec. S13,749, S13,753 (Dec. 16, 2005) (statement of Sen. Kennedy).

<sup>22</sup> 61 Fed Reg 13,064 (Mar. 26, 1996) (stating that “the preponderance of the evidence “criteria” is “generally applicable to visa petitions and self-petitions”); *In re Petitioner*, 2011 WL 7789867 (Aug. 9, 2011); *Matter of Soo Hoo*, 11 I&N Dec. 151 (BIA 1965).

<sup>23</sup> As an example, the clear and convincing standard is used the circumstance where a lawful permanent resident, who obtained that status through a prior marriage, has remarried an alien within five years and filed a visa petition on his/her behalf. If the lawful permanent resident’s former spouse is still alive, the lawful permanent resident must show through clear and convincing evidence that the status-conferring marriage was not entered into for the purposes of evading immigration laws. See 8 C.F.R. § 204.2(a)(1)(i)(A).

<sup>24</sup> See *I.N.S. v. Cardozo-Fonseca*, 480 U.S. 421 (1987) (defining “more likely than not” as a greater than 50 percent probability of something occurring).

[redacted]  
[redacted]

To determine whether an applicant has met this burden for good faith marriage, the principal question for USCIS adjudicators is whether the couple intended at the time of the marriage to establish a life together.<sup>25</sup> Generally, the marriage need only be viable at inception to be valid.<sup>26</sup> Furthermore, the Adjudicator's Field Manual instructs adjudicators,

Remember that the issue to be resolved during the interview is the bona fides of the marriage, not its "viability" (i.e., the probability of the parties remaining married for a long time). USCIS is not in the business of determining (or even speculating about) viability. *Although the petitioner and the beneficiary may not appear to have a "viable" marriage, the petition may be approved if the marriage is valid and was not entered into solely for immigration purposes.*<sup>27</sup>

To meet the "bona fide"<sup>28</sup> marriage requirement in regular family-base cases petitioners must submit evidence regarding the "bona fides" of their marriage.<sup>29</sup> Ironically, the regulations governing evidence for VAWA petitions contain the same nonexclusive list of evidence as provided in the "bona fide" marriage exception that applies to people who marry while in immigration proceedings: "primary evidence," such as proof of joint ownership of property, birth certificates of children in common, joint tax returns, a lease showing joint tenancy, and/or affidavits from third parties attesting to the bona fides of the marriage.<sup>30</sup> However, despite the similarity in the nonexclusive list of evidence enumerated, VAWA provides a more lenient evidentiary standard – "any credible evidence" – for what evidence may be considered.

---

<sup>25</sup> *Agyman v. INS*, 296 F.3d 871, 883 (9th Cir. 2002); *Bark v. INS*, 511 F.2d 1200 (9th Cir. 1975); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983).

<sup>26</sup> *See Matter of Boromand*, 17 I&N Dec. 450 (BIA 1980). *See also Matter of McKee*, 17 I&N Dec. 332 (BIA 1980) (differentiating between nonviable and sham marriages). By contrast to a bona fide marriage, a sham marriage has been defined by the BIA as a marriage which may comply with all the formal requirements of the law but which the parties entered into with no intent, or "good faith," to live together and which is designed solely to circumvent the immigration laws. Sham marriages are not recognized for immigration purposes." USCIS Adjudicator's Field Manual 21.3(H) [hereinafter "AFM"]. *See also Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983) (holding a "marriage entered into for the primary purpose of circumventing the immigration laws, commonly referred to as fraudulent or sham marriage, is not recognized for the purpose of obtaining immigration benefits.").

<sup>27</sup> AFM at 21.3 (emphasis added).

<sup>28</sup> AFM at 21.3(H).

<sup>29</sup> *See* I-130 Petition for Alien Relative Instructions, <http://www.uscis.gov/files/form/i-130instr.pdf>.

<sup>30</sup> Compare 8 C.F.R. § 204.2(c)(2)(vii) with 8 C.F.R. § 204.2(a)(1)(iii)(B).

[redacted]  
[redacted]

Because abusers often control documents central to proving good faith marriage and other eligibility requirements, Congress created the special “any credible evidence” standard for all VAWA cases.<sup>31</sup> Under this standard, USCIS must “consider any credible evidence relevant to a self-petition.... The self-petitioner may, but is not required to, demonstrate that preferred primary or secondary evidence is unavailable.”<sup>32</sup> Moreover, “[a] self-petition may not be denied for failure to submit particular evidence. It may only be denied on evidentiary grounds if the evidence that was submitted is not credible or otherwise fails to establish eligibility.”<sup>33</sup>

This standard is in line with Congress’s intent to ease the evidentiary challenges that immigrant victims of domestic violence often face. For abused spouses, evidence normally available in family-based marriage petitions may not be accessible because of the dynamics of domestic violence. The former Immigration and Nationality Service repeatedly advised that “adjudicators should give due consideration to the difficulties some self-petitioners may experience in acquiring documentation, particularly documentation that cannot be obtained without the abuser’s knowledge or consent.”<sup>34</sup> Victims of domestic violence may not be able to obtain the sort of evidence generally available in family-based petitions:

[B]attered spouse... self-petitioners *are not likely to have access to the range of documents available to the ordinary visa petitioner for a variety of reasons.* Many self-petitioners have been forced to flee from their abusive spouse and do not have access to critical documents for that reason. Some abusive spouses may destroy documents in an attempt to prevent the self-petitioner from successfully filing. Other self-petitioners may be self-petitioning without the abusive spouse’s knowledge or consent and are unable to obtain documents for that reason. Adjudicators should be aware of these issues and should evaluate the evidence submitted in that light.<sup>35</sup>

---

<sup>31</sup> INA §§ 204(a)(1)(J), 240(b)(2)(D), & 216(c)(4). 8 CFR 204.2(c)(2)(i).

<sup>32</sup> 8 CFR §§ 103.2(b)(2)(iii) & 204.1(f)(1).

<sup>33</sup> Memorandum from Paul W. Virtue, Office of the General Counsel, Immigration and Naturalization Service to Terrance M. O’Reilly, Director, Administrative Appeals Office (Oct. 16, 1998), 2001 WL 1047693 (hereinafter “Virtue Memo”).

<sup>34</sup> Memorandum from T. Alexander Aleinikoff, Exec. Assoc. Comm’r, Immigration and Naturalization Service (Apr. 16, 1996) at 5 (emphasis added) (hereinafter “Aleinikoff Memo”).

<sup>35</sup> Virtue Memo, *supra* n. 33.

[redacted]  
[redacted]

Therefore, a self-petition should not be denied on evidentiary grounds solely because the petitioner has not submitted a specific document requested by the adjudicator. Rather, a self-petition “may only be denied on evidentiary grounds if the evidence that was submitted is not credible or otherwise fails to establish eligibility.”<sup>36</sup>

To this end, for a VAWA petitioner, evidence of a good-faith marriage

*may include, but is not limited to,* proof that one spouse has been listed as the other’s spouse on insurance policies, property leases, income tax forms, or bank accounts; and testimony or other evidence regarding courtship, wedding ceremony, shared residence and experiences. Other types of readily available evidence might include the birth certificates of children born to the abuser and the spouse; police, medical, or court documents providing information about the relationship; and affidavits of persons with personal knowledge of the relationship. *All credible relevant evidence will be considered.*<sup>37</sup>

As acknowledged in the Virtue memorandum, primary documentary evidence will often be difficult to produce because of the domestic violence context. In addition to the normal impediments posed by cultural and language differences, domestic violence survivors often have had to flee their homes without their belongings and documents. As part of their power and control, abusers often exclude their spouses from normal documentation (this is true for citizen victims as well). They often destroy their spouses’ documents, and any documentation that would help them. Finally, they often use the legal system against their victims, refusing to provide information necessary for victims seeking status or other help.<sup>38</sup>

---

<sup>36</sup> *Id.*

<sup>37</sup> 8 C.F.R. § 204.2(c)(2)(vii) (2012) (emphasis added).

<sup>38</sup> See, e.g., Marry Ann Dutton et al., *Characteristics of Help-Seeking Behaviors, Resources & Service Needs of Battered Immigrant Latinas*, 7 *Geo. J. on Poverty L. & Pol’y* 245, 292 (2000) (discussing threats of deportation, refusal to file immigration papers, and calling the INS); see also 146 Cong Rec. S10188, S10192 (Oct. 11, 2000) (discussing abusers who blackmail their victims with threats related to immigration status).

[redacted]  
[redacted]

#### IV. VSC's Preference for Primary Evidence Controlled by Abusers Is Inappropriate

The VSC appears to be insisting on primary evidence. Moreover, it ignores primary evidence submitted by Ms. S-E and dismisses credible evidence for lack of detail, without explaining why the detail she included was insufficient. Contrary to the assertions in their denial, Ms. S-E supplied *ample* evidence of good faith marriage.

##### A. Insurance Policies, Property Leases, Bank Accounts, and Income Tax Forms Are Largely Out of Reach for Victims of Domestic Violence

In their standard RFE concerning good faith marriage,<sup>39</sup> VSC lists the evidence to submit for good faith marriage as follows:

- i. *Insurance policies in which you or your spouse is named as the beneficiary*
- ii. *Bank statements, tax records and other documents that show you share accounts and other similar responsibilities*
- iii. *Evidence of your courtship, wedding ceremony, residence, special events, etc.*
- iv. *Evidence of joint ownership of property (such as home, automobile, etc.)*
- v. *Birth certificates of children born to you and your spouse*
- vi. *Affidavits of friends and family who can provide specific information verifying your relationship with your spouse*

The evidence in italics above is evidence under the primary control of the abuser and should not, therefore, be emphasized by VSC as evidence it expects victims of domestic violence to possess.<sup>40</sup> Moreover, nowhere in these standard RFEs does VSC even *mention the any credible evidence standard*. This approach defies the mandate of Congress and USCIS' own memoranda on credible evidence in VAWA cases. It also confuses both adjudicators and petitioners, who may believe that only evidence within an abuser's control will prove good faith marriage.

These forms of evidence are *exactly the kinds of evidence abusers are likely to use to control their victims*. Abusers typically and purposefully fail to include their spouses in any

---

<sup>39</sup> RFE at 3.

<sup>40</sup> Amici note that, despite the statement in preference (a) that it wants insurance policies in the abuser's name, in practice it rejects such policies as credible evidence unless they list both parties.

[redacted]  
[redacted]

document that implies the spouse is an equal. Withholding resources from the victim is a classic tactic of an abuser:

[B]y controlling resources (*e.g.*, money, employment, etc.), the batterer ensures that the victim remains dependent upon the batterer, thus reinforcing subjugation and reducing the likelihood of escape by the victim. Isolating the victim from resources or sources of emotional support is another way of controlling the victim. By separating the victim from friends and family either physically... or emotionally..., the batterer creates an atmosphere of dependence and control.”<sup>41</sup>

Studies performed by an expert working with abusers show that they “restrict women’s access to assets by refusing to include their name on property such as a home, vehicle, or business; they may deny access to cash, savings, and investments; and they may control access to health insurance.”<sup>42</sup> “[A]busive men hide jointly earned money, prevent their partners from having access to joint bank accounts, lie about shared assets, and withhold information about their finances.”<sup>43</sup>

According to a recent study, 99% of domestic violence survivors reporting psychological abuse also reported economic abuse.<sup>44</sup> The notion that abusers would necessarily include their victims in tax returns is unreasonable given this well-demonstrated desire for economic control over their victims. It bears repeating: Abusers view spouses as property that they solely control, not as equal partners who should be given access to resources allowing them to act independently.

---

<sup>41</sup> Anderson et al, *Why Doesn't She Just Leave?: A Descriptive Study of Victim Reported Impediments to Her Safety*, 18 J. Family Violence 151 (June 2003), available at <http://www.springerlink.com/content/v433568j6918q721/fulltext.pdf>.

<sup>42</sup> Adams et al, *Measuring the Effects of Domestic Violence on Women's Financial Well-Being*, CFS Research Brief 2011-5.6 (May 2011), available at [http://www.cfs.wisc.edu/presentations/Adams2011\\_ResearchBrief.pdf](http://www.cfs.wisc.edu/presentations/Adams2011_ResearchBrief.pdf).

<sup>43</sup> Adams et al, *Development of the Scale of Economic Abuse*, 14 Violence Against Women 563, 566 (2008), available at <http://vaw.sagepub.com/content/14/5/563.abstract> (collecting papers).

<sup>44</sup> *Id.*

[redacted]  
[redacted]

Ms. S-E's experience is a classic example of such tactics. As she has testified, she was denied access to health care; she asked to be put on Mr. E's policy, but he did not do so.<sup>45</sup> She was even denied access to money for a doctor, despite being in extreme pain.<sup>46</sup> She was denied access to finances and financial information generally; Mr. E denied her access to money for food—resulting in her going days without eating—and money for clothes for her daughter, who had to wear shorts in spite of cold weather. Moreover, she was subsequently abused regarding those finances; she was not allowed to work, because in Mr. E's view, "it was the man's job, and only the man's job, to provide for those in his household and control their resources."<sup>47</sup> Ms. S-E asked about finances, and told her husband she felt like he treated her as a child in not allowing her access to this information; his response was to say, "a women is supposed to cook, clean and have sex with her husband. She don't need to know anything else."<sup>48</sup> In fact, the only time Ms. S-E was ever given any sort of access to money was in exchange for sex with her husband.<sup>49</sup>

As for tax forms, Ms. S-E did not file her taxes with her husband because she was forced to flee the household due to Mr. E's extreme abuse. In the very beginning of January 2008—too early, in most cases, to file taxes—she fainted due to malnutrition and awoke to her head being slammed repeatedly in the door by Mr. E.<sup>50</sup> She chose to flee and protect herself and her child, both of whom had been subject to increasingly extreme abuse at the hands of Mr. E.

Even if an abuser were to include his or her victims in the primary evidence emphasized by USCIS, obtaining a copy of the document from the abuser might endanger the victim's life and safety, or that of any children remaining with the abuser. This is why domestic violence

---

<sup>45</sup> Second S-E Affidavit ¶ 8.

<sup>46</sup> First S-E Affidavit ¶ 20.

<sup>47</sup> *Id.* ¶ 17.

<sup>48</sup> Second S-E Affidavit ¶ 7.

<sup>49</sup> *Id.* ¶ 6.

<sup>50</sup> *Id.* ¶ 10.



[redacted]  
[redacted]

courts often order police officers to accompany victims to obtain documents they may need. Unless and until USCIS has the authority to compel abusers to produce primary evidence, without incurring danger to their abused spouses or their children, it should not emphasize or require victims of domestic violence to produce it.

**B. USCIS’ Emphasis on “Systems Evidence” Should Recognize the Impediments Posed by the Domestic Violence Context**

Although the VSC RFE and denial does not mention system documents in the context of good faith marriage, Ms. S-E supplied a protection order granted to her against her abuser. The VSC’s challenge to her good faith marriage evidence *does not mention this protection order*. The failure to consider the importance of this evidence is a fatal flaw in VSC’s denial. The Supplementary Information to USCIS’ regulations state that court documents, medical reports, police reports, and other official documents will be given “more weight... therefore, [self-petitioners] are strongly encouraged to submit this type of evidence whenever possible.”<sup>51</sup> It takes great courage for a noncitizen victim of domestic violence to access our court systems; when a victim does, the VSC should give significant weight to the finding of that system.

Victims of domestic violence—particularly immigrant women—face a multitude of barriers that impede access to the social and legal services designed to protect them. Across the general population, approximately 57% of abused women have never told anyone about the abuse.<sup>52</sup> Even when abuse is disclosed, immigrant women are often deterred from accessing key medical and legal services because of a general lack of trust in the system and specific fears, including “fear of deportation, fear of retribution by abusers, fear of being the one arrested and separated from children, and fear of future economic, social and/or employability

---

<sup>51</sup> 61 Fed. Reg. 13061, 13068 (Mar. 26, 1996).

<sup>52</sup> New York City Mayor’s Office to Combat Domestic Violence, *Medical Providers’ Guide to Managing the Care of Domestic Violence Patients Within a Cultural Context* 10 (2d ed. 2004) (“NYC Medical Providers Guide”).

[redacted]  
[redacted]

repercussions.”<sup>53</sup> The pervasive and profound nature of these barriers is emphasized in the many handbooks and practice guides for medical, legal, and social service providers that stress the importance of navigating these concerns when working with immigrant women of domestic violence.<sup>54</sup>

Appearing in court to request a civil protection order can be a particularly intimidating challenge for an abused immigrant woman. Victims of domestic violence often fail to report the abuse to police or the courts because of psychological trauma resulting from the abuse and the control exerted by their abusers.<sup>55</sup> Immigrant victims of abuse are even less likely to call the police or seek help from courts. Many immigrant women fear the legal system because they believe that reporting domestic violence to the courts or the police could result in their deportation.<sup>56</sup> Moreover, immigrant women may come from home countries with corrupt or repressive legal systems, or courts that deem a man’s statements to be more credible than a woman’s, making it all the more difficult to seek help from the court system.<sup>57</sup> These significant barriers often prevent immigrant women from obtaining evidence from our court systems.

Despite these intimidating and often overwhelming impediments, Ms. S-E requested a civil protection order from the Superior Court of [redacted].<sup>58</sup> The court granted a temporary restraining order, prohibiting Mr. E from future acts of domestic violence and from any kind of communication or contact with Ms. S-E or her daughter. As noted below, USCIS should have

---

<sup>53</sup> L. E. Orloff et al., *Battered Immigrant Women’s Willingness to Call for Help and Police Response*, 13 UCLA Women’s L.J. 43, 55 (2003).

<sup>54</sup> See, e.g., *NYC Medical Providers Guide*; see also Leslye Orloff et al., *Battered Immigrants and Civil Protection Orders* Ch. 5.1 (Dep’t of Justice Office on Violence Against Women Nov. 2003) (“*Battered Immigrants and CPOs*”).

<sup>55</sup> See *Battered Immigrants and CPOs* at 3.

<sup>56</sup> *Id.*

<sup>57</sup> *Id.*

<sup>58</sup> Order of [redacted].

[redacted]  
[redacted]

considered this “systems” evidence as significant credible evidence demonstrating Ms. S-E’s good faith marriage.

**C. If Credibility Is an Issue, the VSC Must Say So**

If the VSC believes Ms. S-E lacks credibility it should say so, not provide vague reasons for denying her petition and reasons that are impossible to answer without more explanation. Under the AAO’s own decisions, however, Ms. S-E is credible. For example, in *In re Petitioner*, 2012 WL 4713253 (Feb. 10, 2012), the AAO highlighted that the petitioner’s credibility was diminished by failing to describe the wedding ceremony, joint residence, or shared experiences, and the fact the petitioner’s stated date of engagement also conflicted with documentation on the record. Similarly, in *In re Petitioner*, 2011 WL 7789867 (Aug. 9, 2011), the AAO raised inconsistencies about when the petitioner stated he began living with his spouse, when he terminated that living situation, when his spouse was arrested, and when they resumed living together. The lease submitted similarly did not match the testified dates, and the petitioner’s statement regarding the amount paid in rent was inconsistent. No such inconsistencies appear in Ms. S-E’s case, nor did the VSC identify any inconsistencies or other problems with her credibility.

**V. Ms. S-E’s Evidence Was Credible and Is the Best Evidence Available**

**A. Ms. S-E’s Declarations Are Credible and Detailed and Explain Why Abuser-Controlled Primary Evidence is Unavailable**

In its RFE and (nearly identical) first Notice of Denial, the VSC stated that the evidence Ms. S-E submitted was “insufficient” and that it “require[d] certain additional evidence.”<sup>59</sup> Specifically, it criticized letters and cards from Ms. S-E’s spouse for not enumerating “probative

---

<sup>59</sup> RFE, First Notice of Denial.

[redacted]  
[redacted]

details” or “shared experiences.”<sup>60</sup> Mr. E wrote, “I’m so lonely without you by my side... but since I’ve met you I’m feeling full of grace and love.... I’m hoping someday you’ll be wherever I am. I love you and I’ll do anything for you.... Love you forever.”<sup>61</sup> It similarly criticized the letters and holiday cards from friends.<sup>62</sup> While it would make the VSC’s task easier if there were more details in such missives, reiterating the details of shared experiences is not a frequent component of love letters or holiday cards. Moreover, the VSC should be clear on what it means by “probative details.” If such details are lacking, the VSC should give examples of what *would* constitute “probative details.” Finally, although the VSC dismissed these cards as only relevant to Mr. E’s intent, they clearly contribute to understanding Ms. S-E’s motivation and intent in deciding to marry him. Any actual responses from Ms. S-E are, of course, in the control of the abuser.

The VSC was similarly critical of Ms. S-E’s statement regarding phone calls. The VSC noted that Ms. S-E discussed long phone conversations that the two shared (costing Mr. E hundreds of dollars per month), but criticized her for not providing copies of the phone bills from 6-8 years ago—phone bills that, if they still exist, are in the hands of her abuser as he was the one who paid for the calls.

The VSC accepted a lease application, but criticized it as not “show[ing] that a rental lease was actually obtained”—despite the fact that it was clearly sufficient to meet the VSC’s requirement to show a shared residence,<sup>63</sup> as the VSC did not challenge Ms. S-E on that basis. Moreover, the Notice of Denial repeats the same text as the RFE—that the lease application

---

<sup>60</sup> *Id.*

<sup>61</sup> Letter from Mr. E to Ms. S-E (Mar. 16, 2004).

<sup>62</sup> RFE, First Notice of Denial.

<sup>63</sup> 8 C.F.R. § 204.2(c)(1)(D). We observe this is a trend of the VSC (accepting evidence as sufficient and credible for certain purposes but apparently and without explanation insufficient or incredible for others); *see also* the discussion of Ms. S-E’s examination by a social worker, *infra*.

[redacted]  
[redacted]

appeared to be signed by Mr. E, was dated prior to the entry of Ms. S-E, and thus would be given “insufficient evidentiary weight”—despite the fact that this was addressed explicitly in a letter by Ms. S-E’s attorney<sup>64</sup> and her second affidavit.<sup>65</sup> The lack of mention in the Notice of Denial suggests that these submissions were not considered at all. The VSC should be required to explain why new evidence submitted was deemed insufficient; to do otherwise contributes to the difficulty facing self-petitioners trying to determine what evidence will satisfy the agency.

The VSC also rejected Ms. S-E’s personal affidavits as “insufficient.”<sup>66</sup> In her declarations, Ms. S-E discussed how she chose not to get married immediately, because she “wanted the day to be special.”<sup>67</sup> She prepared for months, taking into account the type of dress and the jewelry she would wear, and including her daughter, S, and her close friend, S. G., in the process.<sup>68</sup> She spoke of the intimate wedding ceremony, and how happy and special she felt.<sup>69</sup> Friends attended the wedding, and Ms. S-E submitted photographs showing the event, as well as a transcript of the marriage ceremony.

The VSC criticized the photographs, saying they merely showed that the couple was “together at a particular place and time” but stated that it was “insufficient to show that [Ms. S-E] married [her] spouse in good faith.”<sup>70</sup> This is an example of VSC picking apart each piece of evidence submitted and finding that, by itself, it does not show good faith marriage. This approach seems designed to result in denials, since it is unlikely any one piece of evidence will prove good faith marriage on its own. VSC should, instead, look at all the evidence together to get the picture of the marriage, the totality of the circumstances.

---

<sup>64</sup> Letter from Esther H. Limb, attorney for Ms. S-E, to VSC (Aug. 31, 2011).

<sup>65</sup> Second S-E Affidavit ¶ 3.

<sup>66</sup> RFE, First Notice of Denial.

<sup>67</sup> Fifth S-E Affidavit ¶ 24.

<sup>68</sup> *Id.*

<sup>69</sup> *Id.* ¶ 27.

<sup>70</sup> *Id.*

[redacted]  
[redacted]

The first Notice of Denial also suggested that her declarations were insufficient because they did not “provide sufficient details of [her] courtship, [her] shared experiences, and [her] relationship to show [her] intentions.” In response, Ms. S-E filed a third affidavit, detailing, among other things, how she introduced Mr. E to friends and family, and how they went on dates that included dinners, movies, time at the beach, and shopping.<sup>71</sup> She discussed how Mr. E would come watch her play basketball with a local team and cheer her on, and how they took long drives together.<sup>72</sup> She shared how even on days where she had to work, he would come by on her lunch break so they could have time together, and how “[n]o one had ever done that for [her] before and [how she] felt very special.”<sup>73</sup> This is compelling detail, specific evidence of her reasons for falling in love with and marrying Mr. E, and responds directly to the VSC’s request. The VSC discarded this evidence in its second Notice of Denial, without explanation or discussion, as “not sufficient.”<sup>74</sup>

In denying Ms. S-E’s petition, the VSC stated that “the mere assertion that you loved your spouse is insufficient to show your intentions for entering into the marriage.” Ms. S-E did not “merely assert” she loved her spouse (although presumably love has *some* bearing on good faith marriage); she provided details in her declarations of the courtship—which lasted for years<sup>75</sup>—her wedding and marriage, and submitted other credible documentation, including a family court system order. Her efforts should contribute to the credibility of the best evidence she can provide and a totality of the circumstances evaluation.

---

<sup>71</sup> Third S-E Affidavit ¶ 3.

<sup>72</sup> *Id.*

<sup>73</sup> *Id.*

<sup>74</sup> Second Notice of Denial.

<sup>75</sup> As explained by Ms. S-E in her later affidavits, she did not originally provide further details about her courtship and her feelings for Mr. E in her initial affidavit because she was focused on the harm he caused her. Further, it is not uncommon for victims of domestic violence to need to tell their story several times before all of the details emerge. See section IV.B., *supra*.

[redacted]  
[redacted]

In addition to minimizing and dismissing Ms. S-E's credible evidence, the VSC failed to: (1) explain why the detail Ms. S-E provided was insufficient; or (2) articulate what specific missing details would have satisfied them. We suggest that this is a basis, on its own, for the AAO to reverse or remand the denial. Without an explanation for why the evidence is insufficient and what specific evidence is missing, applicants cannot know what will satisfy the agency. The AAO need not reverse on this basis, however, because it should find in the record sufficient evidence that Ms. S-E entered into a good faith marriage.

### **B. Other Credible Evidence**

Ms. S-E's explanation for not having the abuser-controlled records the VSC requests is reasonable and credible. VSC's insistence on abuser-controlled evidence is not reasonable; it is dangerous. Moreover, USCIS ignored other credible evidence she submitted because she could not submit the abuser-controlled evidence. Ms. S-E submitted copies of four receipts from Mr. E sending money during the period of their courtship, and copies of the lease that was executed so that the couple could have a home together when Ms. S-E arrived. She also provided supporting declarations that might not be individually probative, but that provide context for the rest of her evidence and reveal a true marriage if considering the totality of the circumstances.

Ms. S-E submitted a psychological examination by Dr. K, a board-certified social worker. That declaration corroborates that Ms. S-E "felt herself falling very much in love with this polite, charming older man who was so attentive to her and was exceptionally nice to her family."<sup>76</sup> Dr. K found that Ms. S-E "did not appear to be exaggerating or fabricating any of the details of her relationship with her estranged husband."<sup>77</sup> Dr. K also corroborates that Ms. S-E's told her in 2008 about the phone calls VSC questions due to lack of abuser-controlled evidence.

---

<sup>76</sup> Statement of Dr. K (Jun. 30, 2008).

<sup>77</sup> *Id.*

[redacted]  
[redacted]

VSC did not question the qualifications of Dr. K, apparently accepting the report as conclusive evidence that Ms. S-E was a victim of domestic abuse but ignoring it for purposes of showing good faith marriage. Although the report may not be probative in itself, it fits the “any credible evidence” criteria and supports the credibility of Ms. S-E’s “best evidence” on this matter.

Ms. S-E also submitted evidence showing that following their marriage, the community viewed her and her husband as a genuine married couple. S. G., a close friend of Ms. S-E who attended the wedding, addressed a Christmas card to the couple as, “Mr. & Mrs. E.” The R Family also addressed a card to the couple, as “C. E. & Family” and as Mr. & Mrs. E” within. The VSC rejected these cards as unauthenticated for lack of identification, but the sender of the first card is identified in the record as S. G., and the R Family’s address is clearly shown as well.<sup>78</sup>

### **C. The Family Court Protection Order against Mr. E Is Credible “Systems” Evidence of Good Faith Marriage**

In addition to the cumulative credible evidence noted above, the [redacted] family court viewed the Es as a real married couple and made very specific, detailed findings about the kind of violence perpetrated by the abuser.<sup>79</sup> The temporary restraining order states that Ms. S-E and Mr. E are married and previously resided together, and identifies their family relationship as “wife & husband.”<sup>80</sup> It further notes that, according to Ms. S-E, Mr. E “was never like this up until they got married.”<sup>81</sup> VSC, however, made no mention of this court document in its discussion of Ms. S-E’s good faith marriage. VSC’s failed to even consider the temporary

---

<sup>78</sup> The authentication requirement appears to be an unlawful bootstrapping of the primary evidence standard into the VAWA evidentiary requirements, violating the congressionally mandated “any credible evidence” standard.

<sup>79</sup> Order of [redacted]. Ms. S-E explains in her first declaration, ¶¶ 47-49, why she chose to exchange a final protection order for a divorce, and submitted the written agreement ensuring no further contact or harassment by Mr. E.

<sup>80</sup> *Id.*

<sup>81</sup> *Id.*



[redacted]  
[redacted]

restraining order, which is inconsistent with its regulations and ignores the significant barriers that too often prevent immigrant women from obtaining critical systems evidence.

USCIS should give deference to findings of the family court, and view it as corroborative evidence, contributing to a cumulative, totality of the circumstances showing of good faith marriage. Moreover, the protection order makes clear that this is exactly the kind of victim Congress created the self-petition to protect. Absent affirmative evidence of marriage fraud,<sup>82</sup> VSC's denial of VAWA cases where domestic violence is evident encourages abusers to manipulate documents and legal systems, exactly what Congress sought to thwart in the Violence Against Women Act.

## **VI. Conclusion**

The VSC's denial violates the law and undermines Congress's determination to protect victims of abuse who, but for the abuser's control of the normal family-immigration process, should have received secure status. Most troubling is that this kind of denial—based on lack of evidence in the abuser's control—provides abusers with an easy tool for controlling their victims. Keep your victim out of household and financial records and USCIS will deny her status.

For Ms. S-E, we ask the AAO to reverse VSC's finding that she did not meet her burden and grant her VAWA self-petitions. For all VAWA self-petitioners we ask the AAO to: (1) require VSC to provide more specificity about why evidence is not sufficiently detailed when it cites lack of detail; (2) refrain from insisting on evidence often controlled by abusers; (3) address all evidence presented and explain why it is irrelevant or insufficient; and (4) remind VSC that Congress created a special evidentiary standard for these cases because of the reality of domestic

---

<sup>82</sup> See 8 C.F.R. § 204.2(c)(1)(ix).

[redacted]  
[redacted]

violence. VSC's failure to recognize and adhere to this standard is undermining the law  
Congress created for victims of this pernicious crime.

[redacted]  
[redacted]

RESPECTFULLY SUBMITTED this 18th day of December, 2012.

By \_\_\_\_\_

Gregory S. Bruch  
Khiran K. Sidhu  
Benjamin B. Williams  
Willkie Farr & Gallagher LLP  
1875 K St NW  
Washington, DC 20006

ASISTA  
Gail Pendleton, Co-Director  
2925 Ingersoll Ave, Suite 3  
Des Moines, IA 50312

Attorneys for *Amicus Curiae*  
ASISTA

[redacted]  
[redacted]

### CERTIFICATE OF SERVICE

I, Gregory S. Bruch, certify that I have served a true copy of this brief to the counsel for Petitioner, at the following address:

Esther H. Limb, Esq.  
inMotion, Inc.  
100 Broadway, 10<sup>th</sup> Floor  
New York, NY 10005

Date: December 18, 2012

---

Gregory S. Bruch  
Willkie Farr & Gallagher LLP  
1875 K Street, N.W.  
Washington, D.C. 20006  
*Counsel for Amicus*