RECORD NO. 21-1778

In The
United States Court of Appeals
For The First Circuit

V. U. C.; P. C. C.,
***Plaintiffs – Appellants*,**

v.

U.S. CITIZENSHIP AND IMMIGRATION SERVICES; ALEJANDRO MAYORKAS, in his official capacity as Secretary, Department of Homeland Security; TRACY RENAUD, in her official capacity as Senior Official Performing the Duties of the Director, US Citizenship and Immigration Services; CONNIE NOLAN, in her official capacity as Acting Associate Director, Service Center Operations Directorate, U.S. Department of Homeland Security; MICHAEL PAUL, in his official capacity as Director, Vermont Service Center; WILLIAM CONNOR, in his official capacity as Director, Nebraska Service Center,
***Defendants – Appellees*.**

ON REVIEW OF THE FINAL JUDGMENT OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS (STEARNS, J.)

BRIEF OF *AMICI CURIAE* NON-PROFIT ORGANIZATIONS IN SUPPORT OF APPELLANTS

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DISCLOSURE STATEMENT

Pursuant to Federal Rules of Appellate Procedure 26.1(a) and 29(a)(4)(A), *amici* submit the following corporate disclosure statements:

Amici curiae, listed in Appendix A, are private, non-profit organizations. *Amici* do not have parent companies, and no publicly held company holds more than 10% of the stock in any *amicus* or has a direct financial interest in the outcome of the litigation.

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INTEREST OF AMICI CURIAE[1]

Amici are local, state, and national non-profit organizations who serve and advocate on behalf of immigrant survivors of violence in various ways. Some *amici* represent and advocate for petitioners for U-status and immigrant survivors of violence who seek other kinds of relief. Others provide critical assistance and resources to survivors of human trafficking, domestic abuse, sexual assault, and other gender-based violence in the United States. Through their work, *amici* have direct knowledge of the U-status program and the harms that the delays in adjudicating U-status petitions and accompanying applications for work authorization have inflicted on immigrant survivors of crime. A complete list of amici is attached as Appendix A.

Both parties have, through counsel, consented to the filing of this brief. *See* Fed. R. App. P. 29(a)(2).

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[1] No counsel for a party authored this brief in whole or in part. No party, or counsel for a party, made a monetary contribution intended to fund the preparation or submission of this brief. No person other than *amici curiae*, their members, or their counsel made such a monetary contribution. *See* Fed. R. App. P. 29(a)(4)(E).

SUMMARY OF ARGUMENT

Congress created U nonimmigrant status to protect immigrant survivors of serious crime and to encourage those survivors to cooperate with law enforcement in the investigation and prosecution of the crimes. Congress recognized that the ability of non-citizen survivors to support themselves financially, independent of their abusers, was critical to both the survivors and to the success of the U-status program. The Immigration and Nationality Act ("INA"), at 8 U.S.C. § 1184(p)(6), therefore requires U.S. Citizenship and Immigration Services ("USCIS") to promptly process work authorization to any individual with a "pending, bona fide application" for U status.

For more than a decade after Congress enacted the work-authorization language of § 1184(p)(6), however, USCIS failed to adjudicate initial work authorization applications for *any* U-status petitioners. USCIS's inaction prevents survivors of abuse, trafficking, and other crimes from achieving independence from their victimizers, inflicts emotional and financial harms that Congress sought to avoid, and threatens the continued success of the U-status program. And because Congress made clear that all bona fide U-status petitioners are

eligible for work authorization, and thus provided a well-established and easily manageable standard for courts to apply, there can be no question that the district court had jurisdiction over Plaintiffs' challenge to the agency's inaction.

ARGUMENT

I. Congress Created U Status to Protect Immigrant Survivors and to Advance Law Enforcement

Congress created U status as part of a decades-long legislative effort to encourage non-citizen survivors of crime to seek justice. Those efforts began with the Violence Against Women Act of 1994 ("VAWA"), Pub. L. No. 103-322, Title IV, 108 Stat. 1796, 1902 (1994), which created legal protections for non-citizens subjected to battery or extreme cruelty by a spouse who is a U.S. citizen or lawful permanent resident. *See* 8 U.S.C. § 1154(a)(1). By allowing such non-citizens to "self-petition" for lawful permanent resident status, VAWA freed them from a significant source of control by their abusive spouses. VAWA, however, did not address the needs of survivors of abuse who are not immediate relatives of U.S. citizens or lawful permanent residents.

Congress provided protection to those survivors by creating U status in 2000. U status is available only to non-citizens who were

"severely victimized by criminal activity." Victims of Trafficking and Violence Protection Act of 2000 ("VTVPA"), Pub. L. No. 106-386, § 1513(a)(2)(B), 114 Stat. 1464, 1533.[2] Once granted, U status comes with work authorization (8 U.S.C. § 1184(p)(3)(B)) and extends for four years (*id.* § 1184(p)(6)). At the close of that period, many U-status holders are eligible to adjust their status to lawful permanent residents. *See id.* § 1255(m).

Congress provided these benefits in part to protect survivors. As the Department of Homeland Security has acknowledged, "[i]mmigrants, especially women and children, can be particularly vulnerable to criminal activity like human trafficking, domestic violence, sexual assault, stalking, and other crimes" because of "language barriers, separation from family and friends, lack of understanding of U.S. laws, fear of deportation, and cultural differences." DHS, *U & T Visa Law Enforcement Resource Guide for Federal, State, Local, Tribal & Territorial Law Enforcement,*

[2] The term "U status" derives from the statutory subsection, 8 U.S.C. § 1101(a)(15)(U), where such status is codified.

Prosecutors, Judges, & Other Government Agencies ("U & T Guide") 4.[3] Congress therefore "created victim-based immigration benefits," including U status, to "offer protection" to non-citizen victims of serious crimes. (VTVPA, Pub. L. No. 106-386, § 1513(a)(2)(A)) and to "encourage [them] to seek assistance and report crimes committed against them despite their undocumented status" (ICE, Directive 11005.3, *Using a Victim-Centered Approach with Noncitizen Crime Victims* 1 (Aug. 10, 2021)[4] ("*Victim-Centered Approach*")).[5]

But Congress also created U status for a second reason. Arrests, removals, and other civil immigration enforcement actions have a significant and well-recognized "chilling effect" on "the willingness and ability of noncitizen crime victims to contact law enforcement, participate in investigations and prosecutions, [and] pursue justice."

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[3] https://www.dhs.gov/sites/default/files/publications/U-and-T-Visa-Law-Enforcement-Resource%20Guide_1.4.16.pdf (last accessed Dec. 3, 2021).

[4] https://www.ice.gov/doclib/news/releases/2021/11005.3.pdf (last accessed Dec. 3, 2021).

[5] Congress took particular care to protect survivors of domestic violence and other gender-based crimes: U status expressly extends to survivors of "rape; torture; trafficking; incest; domestic violence; sexual assault; abusive sexual contact; prostitution; sexual exploitation; stalking; [and] female genital mutilation." 8 U.S.C. § 1101(a)(15)(U)(iii).

Victim-Centered Approach 1; *see also, e.g.*, Tahirih Justice Center, *Immigrant Survivors Fear Reporting Violence* (June 2019).[6] Congress recognized as much. VTPVA, Pub. L. No. 106-386, § 1513(a)(1)(B). And Congress further recognized that encouraging non-citizen survivors to come forward despite this fear of deportation would "strengthen the ability of law enforcement agencies to detect, investigate, and prosecute" serious crime. *Id.*; *accord Victim-Centered Approach* 1. U status therefore benefits survivors of serious crimes, but it does not benefit only survivors. It operates to make the United States a safer place for everyone, "encourages victim cooperation with law enforcement, engenders trust in ICE agents and officers, and bolsters faith in the entire criminal justice and civil immigration systems." *Victim-Centered Approach* 1.

To ensure that the U status program advanced both of these goals, Congress imposed formidable prerequisites to obtaining U status. Simply surviving victimization does not entitle a non-citizen to receive U status. The survivor must complete and submit Form I-918, which

[6] https://www.tahirih.org/wp-content/uploads/2019/06/2019-Advocate-Survey-Final.pdf (last accessed Dec. 3, 2021).

provides detailed background and family information as well as information about the qualifying crime. 8 C.F.R. § 214.14(c)(1). She must also submit a signed statement "describing the facts of the victimization" (*id.* § 214.14(c)(2)(iii)) and submit to a biometric capture (*id.* § 214.14(c)(3)).

Most importantly, the survivor must be "helpful" or "likely to be helpful" to "a Federal, State, or local law enforcement official," prosecutor, judge, or similar official. 8 U.S.C. § 1101(a)(15)(U)(i)(III). And she must provide a certification signed under penalty of perjury by the investigating or prosecuting official that attests to this helpfulness in the investigation or prosecution of criminal activity. *Id.* § 1184(p)(1). A survivor of serious crime may therefore petition for U status only if a third-party government official formally attests that "[t]he petitioner is a victim of" specified "criminal activity" and has been, is being, or is likely to be "helpful in the investigation or prosecution of the criminal activity." USCIS Form I-918, Supp. B, *U Nonimmigrant Status Certification* 2-3.[7] Moreover, the certifying official may not merely check

[7] https://www.uscis.gov/sites/default/files/document/forms/i-918supb.pdf (last accessed Dec. 3, 2021).

a box or two but instead must fill out a five-page form that includes a narrative account of the crime and the victim's helpfulness. *Id.* No other immigration benefit includes a similar requirement in all cases.

II. Congress Correctly Recognized That Work Authorization is Critical for Those Who Seek U Status and for the Success of the U-Status Program

In both designing and amending the U-status program, Congress took steps to ensure that non-citizens who had been victimized and came forward to assist law enforcement would be eligible for work authorization. From the outset, Congress mandated that every individual granted U status must be given work authorization. 8 U.S.C. § 1184(p)(3)(B).

When it originally created U status in 2000, however, Congress also imposed a cap of 10,000 U-status grants per year. 8 U.S.C. § 1184(p)(2)(A). That number proved insufficient, and as U.S. Citizenship and Immigration Services ("USCIS") anticipated in the regulations implementing the U-status program, the quota led to a backlog of U petitions. *See* USCIS, *New Classification for Victims of Criminal Activity; Eligibility for "U" Nonimmigrant Status*, 72 Fed. Reg. 53,014, 53,027 (Sept. 17, 2007); *see also* USCIS, *Number of Form I-918,*

Petition for U Nonimmigrant Status, by Fiscal Year, Quarter, and Case Status Fiscal Years 2009-2021 ("*U Petition Status*")[8] (showing current and historical backlogs).

The backlog has grown quickly and consistently since 2008, and the number of pending principal U petitions now stands at more than 165,000. *See U Petition Status*. Moreover, the vast majority of those petitions are meritorious. USCIS has granted roughly 80% of U-status petitions that it processed in each of the last four fiscal years. *See id*. There are thus likely to be more than 130,000 people entitled to U status (and their derivative family members) whose petitions remain stuck in the backlog. Given the statutory quota, this means that an individual filing a meritorious U-status petition today can therefore expect to wait at least *thirteen years* before receiving a grant of U status.

Anticipating a significant backlog—if not one more than a decade long—Congress acted to provide work authorization in the interim. In 2008, it amended 8 U.S.C. § 1184(p)(6) to make anyone with a "pending,

[8] https://www.uscis.gov/sites/default/files/document/data/I918u_visastatistics_fy2021_3.pdf (last accessed Dec. 3, 2021).

bona fide [U-status] application[ ]" eligible for work authorization. William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 ("TVPRA"), Pub. L. 110-457, § 201(c), 122 Stat. 5044, 5053 (2008). And Congress did so because it believed that survivors and other victims of crime "should not have to wait for up to a year before they can support themselves and their families." 154 Cong. Rec. H10,888, 10,905 (Dec. 10, 2008) (statement of Reps. Berman & Conyers). Indeed, Congress believed that USCIS should "strive to issue work authorization and deferred action in most instances within 60 days of filing" the petition. *Id.*

Congress's decision to make work authorization to U-status petitioners was necessary as well as prescient. The ability to work forms a crucial part of the relief available through the U-status program. Non-citizens who cannot work generally have no means to support themselves.[9] As a recent rule issued by the Department of Homeland Security ("DHS") concerning work authorization for the equally vulnerable population of people seeking asylum expressly recognized,

[9] U-status petitioners are not eligible for federal cash, food, and medical programs under 8 U.S.C. § 1641, or for federal subsidized housing under 42 U.S.C. § 1436a.

absent work authorization, such people often must "become familiar with the homelessness resources provided by the state where they intend to reside." DHS, *Asylum Application, Interview, and Employment Authorization for Applicants*, 85 Fed. Reg. 38,532, 38,567 (June 26, 2020).

The impact of work authorization does not stop with the critical ability to earn a living through lawful employment. Until they receive work authorization, non-citizens are unable to open a bank account or, in many states, obtain a driver's license. Further, indigent non-citizens with children risk losing their children in state proceedings if they are deemed unable to protect and provide for the children.

The need for work authorization can be particularly acute for the many people who apply for U status after being subjected to human trafficking or domestic violence. Those who engage in trafficking and abuse seek "compliance from or control over" their victims. Anne L. Ganley, *Health Resource Manual* 37 (2018); *see, e.g.*, Zlatka Rakovec-Felser, *Domestic Violence and Abuse in Intimate Relationships from Public Health Perspective*, 2:1821 Health Psych. Research 62 (2014); National Sexual Violence Resource Center, *Assisting Trafficking*

Victims: A Guide for Victim Advocates 2 (2012); Edna Erez & Nawal Ammar, *Violence Against Immigrant Women and Systemic Responses: An Exploratory Study* (2003). This control extends to "every aspect of a victim's life." Rachel Louise Snyder, *No Visible Bruises: What We Don't Know About Domestic Violence Can Kill Us* 36 (2019).

In particular, people who abuse or traffic others keep tight control over survivors' finances and economic life. *See, e.g.*, Nat'l Domestic Violence Hotline, *Abuse and Immigrants*;[10] Julieta Barcaglioni, *Domestic Violence in the Hispanic Community* (Aug. 31, 2010).[11] Close to 100% of survivors of domestic violence report suffering financial abuse, and 75% of women report staying in abusive relationships due to economic barriers. *See, e.g.*, Postmus et al., *Understanding economic abuse in the lives of survivors*, 27(3) Journal of Interpersonal Violence 411 (2012); Adams et al., *Development of the scale of economic abuse*, 13 Violence Against Women 563 (2008); The Mary Kay Foundation, *The*

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[10] https://www.thehotline.org/resources/abuse-in-immigrant-communities/ (last accessed Dec. 3, 2021).

[11] https://www.safeharborsc.org/blog/safe-harbor-voice/domestic-violence-in-the-hispanic-community (last accessed Dec. 3, 2021).

2012 Mary Kay Truth About Abuse Survey Report (2012).[12] It is therefore difficult to overstate the importance of attaining independent financial resources as a means of promoting the well-being and safety of survivors. *See, e.g.*, Margaret E. Adams & Jacquelyn Campbell, *Being Undocumented & Intimate Partner Violence (IPV): Multiple Vulnerabilities Through the Lens of Feminist Intersectionality*, 11 Women's Health & Urb. Life 15, 21-24 (2012); Nat'l Immigrant Women's Advocacy Project, *Transforming Lives: How the VAWA Self-Petition and U Visa Change the Lives of Survivors and Their Children After Employment Authorization and Legal Immigration Status* (June 8, 2001).[13]

The severe harms that accrue when U-status petitioners lack work authorization are illustrated by the experiences of the clients of *amici* and other organizations that serve crime victims. For example, AA[14] was physically, sexually, and verbally abused by her husband for

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[12] http://content2.marykayintouch.com/Public/MKACF/Documents/2012survey.pdf (last accessed Dec. 3, 2021).

[13] https://niwaplibrary.wcl.american.edu/wp-content/uploads/Transforming-Lives-Final-6.8.21-Final.pdf (last accessed Dec. 3, 2021).

[14] All names have been redacted to protect the anonymity of non-party survivors.

more than 20 years. He also abused their five children. After an incident in which her husband beat their daughter, AA called the police and participated in the ensuing child-abuse investigation and prosecution. She also separated from her husband and moved into a shelter with her children. After a year of trying to find housing and to support her family, AA was forced to move back into a separate apartment in her husband's home—where, despite a protective order, he maintained control over AA by taking actions such as shutting off the electricity.

BB is a survivor of past domestic violence whose partner slammed her head into a pole. He also punched her and pulled a patch of hair out of her head. He never allowed her to work and used her economic dependence to belittle her and keep her in the relationship. But without work authorization, BB struggled to achieve financial independence.

CC, who had two young daughters, survived seven years of physical abuse from her partner. She cooperated with police following an attack from her partner and filed a petition for U status. But lacking work authorization, CC said 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.

In contrast, *amici* have many clients who were able to escape from abuse—once they had work authorization in hand. To take just one example, DD received U nonimmigrant status after suffering serious abuse from a former partner. The work authorization that came with U status allowed DD to obtain a driver's license and a delivery job, which has staved off the threats of insecurity and homelessness. It also allowed DD to stop worrying about the possibility that her former partner would seek to deport her. And DD has now been able to obtain improved medical insurance for her family—a change that is critical, because she has a son with developmental delays who is now able to access regular occupational therapy and is learning to write. As DD's story illustrates, the ability to work legally is a lifeline to survivors.

There can thus be no question that Congress's decision to provide quick, interim work authorization for U-status petitioners provides critical relief to crime victims. Speedy work authorization is also critical to the overall success of the U-status program as a whole. When crime survivors remain unable to work—or, worse, trapped in economic

reliance on the very people who victimized them to begin with—for years even *after* they cooperate with law enforcement, they are much less likely to report the crimes at all.

To say that USCIS has failed to effectuate Congress's intent that work authorization be provided to U-status petitioners within 60 days would be a significant understatement. Until June 2021, the agency refused to adjudicate work authorization requests filed by U-status petitioners until it adjudicated the petition on the merits. That left bona fide petitioners without work authorization for many years. USCIS itself admits that, as of this year, the median time between the filing of a U-status petition and adjudication for the regulatory waitlist, which provides work authorization, was roughly 50 months. USCIS, *Humanitarian Petitions: U Visa Processing Times* 5 (Aug. 12, 2021).[15] Plaintiffs themselves have waited 50 and 52 months. Thus, although Congress intended that work authorizations be available within 60 days, work authorization is currently not available to U petitioners for almost half a decade.

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[15] https://www.uscis.gov/sites/default/files/document/reports/USCIS-Humanitarian-Petitions.pdf (last accessed Dec. 3, 2021).

III. As USCIS Itself Has Recognized, Congress Provided the Standard by Which the Agency Must Adjudicate Initial Work Authorization Applications

As shown above, Congress made all those with pending, bona fide petitions for U status eligible for work authorization, and that authorization is critical both to non-citizens survivors of serious crime and to the success of the U program. The government nevertheless contends that USCIS may completely ignore applications for work authorization filed by U-status petitioners and that the federal courts may not intervene if it does.

The government is wrong on both counts. This Court has jurisdiction over Plaintiffs' claim that USCIS unduly delayed in adjudicating their applications for work authorization, and neither § 701(a)(1) nor § 701(a)(2) of the Administrative Procedures Act ("APA") plausibly supports a contrary result. Further, Congress has not given USCIS the license to undermine the U-status program and leave countless , cooperating survivors subject to harms as serious as homelessness and continued abuse by ignoring work authorization applications filed by U-status petitioners.

A. § 1184(p)(6)'s directive for USCIS to make work authorization determinations is not "committed to agency discretion by law" under § 701(a)(2).

Section 701(a)(2) of the APA, which precludes the judicial review of agency action when "agency action is committed to agency discretion by law," does not bar review of Plaintiffs' work authorization application delay claims. The Sixth Circuit recently considered this issue and held that Section 1184(p)(6) provides "meaningful standards" against which the Court can determine whether DHS is acting according to law, and thus is not "committed to agency discretion." *Barrios Garcia v. United States Dep't of Homeland Sec.*, 14 F.4th 462, 480-81 (6th Cir. 2021). Numerous district courts have reached the same conclusion. *See, e.g.*, *Adueya v. Mayorkas*, No. 17-cv-03350 (DLI), 2021 WL 3492144, at *8 (E.D.N.Y. Aug. 9, 2021); *P. v. McAleenan*, No. 3:19-cv-40119 (ECF 25) (D. Mass. May 19, 2021) (unpublished); *CRVQ v. USCIS*, No. 19-cv-8566, 2020 WL 8994098, at *4 (C.D. Cal. Sept. 24, 2020); *Andrade Carranza v. Cuccinelli*, No. 2:19-cv-03078, 2020 WL 6292639, at *5-6 (D.S.C. Mar. 23, 2020); *Doe v. McAleenan,* No. 5:19-cv-02216 (ECF 13) (E.D. Pa. Sept. 23, 2019) (unpublished); *A.C.C.S. v. Nielsen*, No. cv-18-10759-DMG (MRWx), 2019 WL 7841860, at *9 (C.D.

Cal. Sept. 19, 2019); *Solis v. Cissna*, No. 9:18-00083-MBS, 2019 WL 8219790, at *9 (D.S.C. July 11, 2019); *Rodriguez v. Nielsen*, No. 16-CV-7092 (MKB), 2018 WL 4783977, at *7 (E.D.N.Y. Sept. 30, 2018).

This Court should follow those well-reasoned decisions. As the Court recently reaffirmed, "[t]here is a 'strong presumption' of judicial review under the APA." *Union of Concerned Scientists v. Wheeler*, 954 F.3d 11, 17 (1st Cir. 2020) (quoting *Mach Mining, LLC v. EEOC*, 575 U.S. 480, 486 (2015)). While Section 701(a)(2) of the APA prohibits judicial review of agency decisions "committed to agency discretion by law," Section 706(2)(A) provides that courts should set aside any agency action that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law." The Supreme Court has recognized this tension and the absurd result that would follow if § 701(a)(2) were read broadly: "[a] court could never determine that an agency abused its discretion if all matters committed to agency discretion were unreviewable." *Weyerhaeuser Co. v. U.S. Fish & Wildlife Serv.*, 139 S. Ct. 361, 370 (2018).

Consequently, the Supreme Court has held that Section 701(a)(2) provides "a *very narrow* exception . . . [and] is applicable in those *rare*

instances where statutes are drawn in such broad terms that in a given case there is no law to apply." *Citizens to Preserve Overton Park, Inc. v. Volpe*, 401 U.S. 402, 410 (1971) (emphases added and quotation omitted). Review is precluded only where a statute "is drawn so that a court would have no meaningful standard against which to judge the agency's exercise of discretion," and "no judicially manageable standards are available for judging how and when [an agency] should exercise its discretion." *Heckler v. Chaney*, 470 U.S. 821, 830 (1985).

Courts have found "judicially manageable standards" where a statute or regulation provides some type of direction to the implementing agency, even if that direction inherently includes some degree of discretion. For example, in *Overton Park*, the Court reviewed a statute providing that the Department of Transportation ("DOT") could not use public parkland for highways unless "no feasible and prudent alternative" existed. 401 U.S. at 410. Similarly, in *Weyerhaeuser*, the Court held that a statute requiring the agency "to consider economic impact and relative benefits" provided a meaningful standard for review. 139 S. Ct. 361, 371-72 (2018); *see also Concerned*

Scientists, 954 F.3d at 17 (holding that "fair balance and inappropriate influence" language in statute provided "meaningful tool for review[ ]").

By contrast, in *Heckler v. Chaney*, the Supreme Court held that Section 701(a)(2) precluded judicial review of a statute that merely provided "the [FDA] Secretary is authorized to conduct examinations and investigations." There, the statute did nothing more than grant authorization. It provided absolutely no standard by which a court could measure the agency's actions.

The statutory provision at issue here, 8 U.S.C. § 1184(p)(6), is like those at issue in *Overton Park*, *Weyerhaeuser*, and *Concerned Scientists*. Section 1184(p)(6) provides that "[t]he [DHS] Secretary may grant work authorization to any [noncitizen] who has a pending, bona fide application for non-immigrant status under section 1101(a)(15)(U) of this title." As the Sixth Circuit recognized, both "pending" and "bona fide" are terms with particular meanings that provide a meaningful standard by which the Court can evaluate DHS's actions. *Barrios Garcia*, 14 F.4th at 483-84.

Congress's use of "pending" tells USCIS the stage at which it must consider work-authorization applications. Under the plain

meaning of "pending," a petition is pending if it is "undecided" or "awaiting decision or settlement." Random House Webster's Unabridged Dictionary 1433 (2d ed. 2001). That plain meaning squares with DHS regulations, which discuss both "filing procedures" and "initial eviden[tiary]" requirements that must be satisfied for a petition to be pending. *Barrios Garcia*, 14 F.4th at 482. The word "pending" thus requires USCIS to adjudicate work authorization for all those who have properly filed a complete U petition.

By including the term "bona fide" in Section 1184(p)(6), meanwhile, Congress articulated the substantive standard that USCIS must apply when making work authorization decisions under the statute. "Bona fide" is a "significant, well-understood term of art in the law." *Barrios Garcia*, 14 F.4th at 482. The plain meaning of "bona fide" is "genuine" and "made * * * in good faith" "without deception or fraud." Random House Webster's Unabridged Dictionary 237 (2d ed. 2001); *accord Black's Law Dictionary* (10th ed. 2014); Webster's New World College Dictionary 158 (3d ed. 1997). That plain meaning has remained constant; "bona fide" has "been used as a legal term for 'without fraud or deceit' since at least the 16th century." Bryan A. Garner, *Garner's*

Modern American Usage 109 (3d ed. 2009). The term carries this meaning "in contract, property, bankruptcy, consumer-protection, intellectual-property, and employment-discrimination law." *Barrios Garcia*, 14 F.4th at 482; *see, e.g.*, *United States v. U.S. Shoe Corp.*, 523 U.S. 360, 369 (1998); *Yates v. Mun. Mortg. & Equity, LLC*, 744 F.3d 874, 895-96 (4th Cir. 2014); *Rhodes v. Amoco Oil Co.*, 143 F.3d 1369, 1372 (10th Cir. 1998); *Slatky v. Amoco Oil Co.*, 830 F.2d 476, 485 (3d Cir. 1987). Unsurprisingly, it also carries that meaning throughout immigration law. *See*, *e.g.*, 8 U.S.C. § 1182(a)(9)(B)(iii)(II); *id.* § 1255(e)(3); 8 C.F.R. § 214.11(e).

Congress therefore made clear that any U-status petitioner is eligible for work authorization if she submits a genuine, non-fraudulent petition. And if, as the Supreme Court has held, words like "feasible," "prudent," "benefits," "fair," and "inappropriate" provide a "meaningful standard" for judicial review, certainly well-recognized legal terms of art such as "bona fide" provide the same. This is not one of those "rare" exceptions where the Court has no law to apply.

The phrase "bona fide" also has two further consequences. First, it follows from the plain meaning of "bona fide" that a petition can be bona

fide even if it is ultimately rejected. Put another way, a bona fide petition does not necessarily entitle the petitioner to U status. The language Congress used in Section 1184(p)(6) requires USCIS to provide up-front work authorization determinations for U-status petitioners *before* USCIS makes a determination on the merits.

Second, when considered in the specific statutory and regulatory context governing U petitions, "bona fide" takes on an even more detailed meaning. As shown above, the U-status petition, unlike other petitions for immigration status, contains a statement signed by a third-party government official—the certification from a law enforcement officer, prosecutor, or judge. DHS itself recognizes that this third-party certification, which is unique to U status, "acts as a check against fraud and abuse." U & T Guide 26. In other words, the certification itself is sufficient to indicate that an otherwise-complete petition is bona fide.[16]

[16] The certification also distinguishes petitions for U nonimmigrant status from petitions for T nonimmigrant status. For the latter, which do not include an objective, third-party certification, USCIS's determination whether a petition is bona fide involves a more searching review. *See* 8 C.F.R. § 214.11(e).

USCIS itself has recently, and very belatedly, acknowledged that "bona fide" means "bona fide." In June 2021—13 years after Congress required it to do so—USCIS implemented the "bona fide" language of 8 U.S.C. § 1184(p)(6) and gave "bona fide" its plain meaning of "'made in good faith; without fraud or deceit.'" USCIS, *Bona Fide Determination Process*, Policy Manual vol. 3, part C, ch. 5[17] (quoting Black's Law Dictionary (11th ed. 2019)). And the agency drew the natural conclusion—that when someone files a complete U-status petition, including the law-enforcement certification, the petition is bona fide. USCIS treats as bona fide any U-status petition that (1) has all required fields completed, (2) includes the law-enforcement certification and all other required initial evidence, and (3) for which the agency "has received the result of the principal petitioner's background and security checks based upon biometrics." *Id.*

If a petition is complete in these ways, USCIS treats the petitioner as eligible for deferred action and work authorization. *See id.* The agency then conducts a discretionary analysis focused on "whether the

[17] https://www.uscis.gov/policy-manual/volume-3-part-c-chapter-5 (last accessed Dec. 3, 2021).

petitioner poses a risk to national security or public safety." *Id.* If the agency chooses to exercise its discretion, the petitioner is given deferred action and a renewable, four-year employment authorization document. *Id.* Thus, USCIS's own interpretation demonstrates that "bona fide" takes on its normal, longstanding meaning in this context. The result is that the courts have a well-settled framework to apply in determining whether a petition qualifies as "bona fide," and thus that the issue is not committed to agency discretion by law within the meaning of § 701(a)(2).

B. The INA does not preclude judicial review of Plaintiffs' work authorization application delay claim.

Section 701(a)(1) of the APA, which blocks judicial review of agency action when another statute "preclude[s] judicial review," also cannot bar review of Plaintiffs' work authorization adjudication delay claims. 5 U.S.C. § 701(a)(1). Defendants argue that 8 U.S.C. § 1252(a)(2)(B)(ii), which precludes judicial review of certain discretionary decisions made by certain immigration officials, triggers the application of Section 701(a)(1) here. This is incorrect. *See* Appellants' Br. at 38-42. The Defendants' argument, as it goes, is that 8 U.S.C. § 1184(p)(6)'s text stating that the DHS Secretary "*may* grant

work authorization to any [noncitizen] who has a pending, bona fide" U petition, renders USCIS's adjudication of work authorization applications discretionary and, consequently, Section 1252(a)(2)(B)(ii) strips the court of jurisdiction. But the statute does not apply to work authorization delay claims. Even if it did, Section 1252(a)(2)(B)(ii) would not bar judicial review of the Plaintiff's particular claims.

i. § 1252(a)(2)(B) applies only to cases involving the review of removal orders.

The text and context of Section 1252(a)(2)(B) make clear that it applies only to removal orders. The provision at issue states as follows:

> (B) Denials of discretionary relief
>
> Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of Title 28, or any other habeas corpus provision, and sections 1361 and 1651 of such title, and except as provided in subparagraph (D), and regardless of whether the judgment, decision, or action is made in removal proceedings, no court shall have jurisdiction to review—
>
> > (i) any judgment regarding the granting of relief under section 1182(h), 1182(i), 1229b, 1229c, or 1255 of this title, or
> >
> > (ii) any other decision or action of the Attorney General or the Secretary of Homeland Security the authority for which is specified under this subchapter to be in the discretion of the Attorney General or the Secretary of

> Homeland Security, other than the granting of [asylum].

Id. § 1252(a)(2)(B). Of course, that language must be read in context. *See Davis v. Mich. Dep't of Treasury*, 489 U.S. 803, 809 (1989). The statute appears in a section of the INA titled "Judicial review of orders of removal," and a subsection titled "Matters not subject to judicial review."

Such context is critical. Section 1252 does what its title suggests: it sets up a regime for the judicial review of removal orders. Every provision in § 1252 relates to that topic. *See Barrios Garcia*, 14 F.4th at 476 ("Looking to the entirety of 1252 quickly reveals that this statute explicitly cabins itself to judicial review of certain orders of removal."). For instance, Section 1252(a)(5) makes the statute the "exclusive means" of seeking judicial review of removal orders. Sections 1252(b) and 1252(c) set out procedural requirements. Section 1252(d)(1) sets out an exhaustion requirement for review of removal orders. And so on. *See also DHS v. Regents of the Univ. of Cal.*, 140 S. Ct. 1891, 1907 (2020) (limiting Sections 1252(b)(9) and (g) to the judicial review of removal proceedings); *Jennings v. Rodriguez*, 138 S. Ct. 830, 840-41 (2018); *Reno v. Am. Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482-83 (1999).

Section 1252(a)(2), of which the language at issue is a part, also does what its title suggests: it prevents courts reviewing orders of removal entered against non-citizens from reaching certain topics. Section 1252(a)(2)(A), for example, prevents courts from reviewing many topics related to expedited removal orders. And, with certain exceptions, § 1252(a)(2)(C) bars the judicial review of orders entered against non-citizens convicted of certain crimes.

All of the provisions surrounding § 1252(a)(2)(B) thus apply solely where a federal court is reviewing a final order of removal entered against non-citizens. Notably, so does 8 U.S.C. § 1252(a)(2)(D), which limits the scope of § 1252(a)(2)(B) itself. That section makes clear that "nothing in" § 1252(a)(2)(B) "shall be construed as precluding review of constitutional claims or questions of law raised upon a petition for review filed . . . in accordance with this section." 8 U.S.C. § 1252(a)(2)(D). Given that a petition for review filed in accordance with Section 1252 is one for review of a final order of removal, Section 1252(a)(2)(D) is also expressly limited to that context. *See Barrios Garcia*, 14 F.4th at 476-77.

Nothing in the text of § 1252(a)(2)(B) itself suggests that it, unlike any other provision of § 1252, has a broader ambit. To the contrary, although the text of § 1252(a)(2)(B) specifies that, when the provision has force, it expressly applies to discretionary determinations made both inside and outside removal proceedings, the text does *not* expressly specify that the provision has force outside of removal proceedings. The inescapable implication is that, as the Sixth Circuit held, § 1252(a)(2)(B) "governs judicial review of decisions involving only orders of removal." *Barrios Garcia*, 14 F.4th at 476; *see also Aguilar v. ICE*, 510 F.3d 1, 11 (1st Cir. 2007); *Gonzalez v. ICE*, 975 F.3d 788, 810 (9th Cir. 2020).

This limit on the scope of § 1252(a)(2)(B) is dispositive here. Plaintiffs seek adjudications of their work authorization applications while their bona fide petitions for U status are pending. Their claims do not challenge removal orders and, indeed, have no relation whatsoever to removal proceedings.

The same result would follow even if § 1252(a)(2)(B) were ambiguous as to its application where a removal order is not at issue. There is a strong presumption in favor of judicial review of

administrative action that controls whenever a statute is "reasonably susceptible to divergent interpretation." *Kucana v. Holder*, 558 U.S. 233, 251 (2010). Indeed, this presumption of judicial review is so strong, it takes "clear and convincing evidence" of contrary Congressional intent to preclude judicial review." *Id.* at 252; *accord Abbott Labs. v. Gardner*, 387 U.S. 136, 141 (1967). And as the Sixth Circuit recently concluded, § 1252(a)(2)(B) "does not clearly and convincingly evince Congress's intent to prohibit the federal courts from reviewing [USCIS]'s refusal to adjudicate work authorization applications submitted by persons seeking U-nonimmigrant status." *Barrios Garcia*, 14 F.4th at 476-77.

ii. 8 U.S.C. § 1184(p)(6) does not give USCIS the discretion to decide whether to adjudicate work authorization applications.

The Defendants' argument would fail even if Section 1252(a)(2)(B) could apply to this case. Section 1252(a)(2)(B) bars judicial review of certain discretionary determinations. But Section 1184(p)(6)—the statute on which Plaintiffs base their work authorization delay claim—does not give USCIS the discretion to adjudicate, or not adjudicate, work authorization applications filed by U-status petitioners. Instead,

by saying that "the Secretary may grant work authorization" to those with pending, bona fide U petitions (8 U.S.C. § 1184(p)(6)), it gives USCIS discretion in reaching the outcome of those adjudications.

Under binding Supreme Court precedent, that distinction is critical. In *INS v. St. Cyr*, 533 U.S. 289, 307-08 (2001), the Supreme Court noted that there is a long-recognized "distinction between eligibility for discretionary relief, on the one hand, and the favorable exercise of discretion, on the other hand." Thus, where eligibility for work authorization is "governed by specific statutory standards," applicants are provided "'a right to a ruling on . . . eligibility,' even though the actual granting of relief [is] 'not a matter of right[.]'" *Id.*; *see also Bennett v. Spear*, 520 U.S. 154, 172 (1997) ("It is rudimentary administrative law that discretion as to the substance of the ultimate decision does not confer discretion to ignore the required procedures of decision[-]making.").

As shown in Section III.A above, that is the case here. By making those with "pending, bona fide" U-status petitions eligible for work authorization (8 U.S.C. § 1184(p)(6)), Congress provided a specific standard governing work authorization in this context. The result is

that, under *St. Cyr*, USCIS retains an obligation to *adjudicate* applications for work authorization filed by U-status petitioners even though the outcome of those adjudications is discretionary. And the Sixth Circuit and numerous district courts have reached precisely that conclusion. *See supra* p. 18; Appellants' Br. at 33.

Indeed, outside the context of litigation, USCIS reads § 1184(p)(6) in precisely that way. As discussed in Section III.A above, the agency recently enacted a policy of providing work authorization to those who have filed bona fide petitions for U status. Under that policy, adjudication is not discretionary. Rather, USCIS "determines whether" *every* pending petition is "bona fide" and, if a petition is, the agency decides whether to "exercise[ ] its discretion to grant" the benefit. USCIS, *Bona Fide Determination Process*. The new procedure, in other words, effectively reads the statute in the same way as Plaintiffs: as giving "discretion to provide employment authorization," not discretion to adjudicate. *Id.*

Finally, *amici* note that the government's interpretation of § 1184(p)(6) is also directly contrary to the purposes of the U-status program. As shown above, Congress created U status to protect non-

citizen survivors of serious crime and to aid law enforcement in the investigation and prosecution of crimes. As further shown above, Congress's promise that work authorization would be available to U-status petitioners provides a critical means of achieving both of those goals. The government's view that USCIS need never adjudicate work authorization requests for U-status petitioners renders that promise nugatory. On the Defendants' argument, U-status petitioner can be left stranded without work authorization, and therefore without any means of support or any way of becoming independent of an abuser or trafficker, for an unlimited time until a U petition is available. And given the current backlog, that time would now approach 13 years—almost 8000% percent longer than the 60 days' wait Congress envisioned. The government's attempt to countenance such waits thus cannot be reconciled with the purposes of the U status program any more than it can be reconciled with the governing statutory language.

In short, there is no statute that precludes judicial review of Plaintiffs' work authorization delay claims, both because 8 U.S.C. § 1252(a)(2)(B)(ii) only pertains to the exercise of discretion with respect to orders of removal, *see Barrios Garcia*, 14 F.4th at 476, and because 8

U.S.C. § 1184(p)(6) does not give USCIS the discretion to choose whether to adjudicate applications for work authorization. Consequently, there is no statute that strips the federal courts of their power to review USCIS's failure to adjudicate work authorization applications filed by petitioners for U status.

CONCLUSION

For the reasons above, and the reasons stated in the Plaintiffs' opening brief, the judgment of the district court should be reversed, and this case should be remanded for further proceedings.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

This brief complies with type-volume limits in Federal Rules of Appellate Procedure 29(a)(5) and 32(a)(7)(B) because, excluding the parts of the document exempted by Federal Rule of Appellate Procedure 32(f), this brief contains 6,430 words.

This brief complies with the typeface and type style requirements of Federal Rule of Appellate Procedure 29(a)(4) and 32(a)(5) because it has been prepared in a proportionally spaced typeface using Microsoft Word 14-point Century Schoolbook font.

Dated: December 8, 2021 /s/ Nathan Warecki

CERTIFICATE OF SERVICE

I certify that, on this 8th day of December, 2021, the foregoing brief was served on counsel of record for all parties through the CM/ECF system.

Dated: December 8, 2021 /s/ Nathan Warecki

APPENDIX A

APPENDIX A

The **Asian Pacific Institute on Gender-Based Violence** is a national resource center on domestic violence, sexual violence, trafficking, and other forms of gender-based violence impacting Asian and Pacific Islander and immigrant communities. The Institute supports a national network of advocates and community-based service and advocacy programs that work with Asian and Pacific Islander and immigrant and refugee survivors of domestic violence, sexual assault, human trafficking, and other forms of gender-based violence, and provides analysis and consultation on critical issues facing victims of gender-based violence in the Asian, Native Hawaiian, Pacific Islander, and immigrant and refugee communities, including training and technical assistance on implementation of legal protections in the Violence Against Women Act and the Trafficking Victims Protection Act for immigrant and refugee survivors. 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.

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. ASISTA serves as liaison for the field with Department of Homeland Security personnel charged with implementing the resulting laws. ASISTA also trains and provides technical support to local law-enforcement officials, judges, domestic violence and sexual assault advocates, and attorneys working with immigrant crime survivors. ASISTA has previously filed *amicus* briefs with the Supreme Court of the United States, this Court, and four other courts of appeals.

End Domestic Abuse Wisconsin: the Wisconsin Coalition Against Domestic Violence ("End Abuse") is Wisconsin's statewide anti-domestic violence coalition. On behalf of survivors and its member programs, End Abuse promotes social change that transforms societal attitudes, practices, and policies to prevent and eliminate domestic violence, abuse, and oppression. End Abuse's work includes providing training, support, and technical assistance to local domestic abuse

programs and engaging in local, state, and national policy work. This includes support for immigrant survivors of violence, along with representation of immigrants over the last 17 years.

End Abuse recognizes immigrant survivors as some of the most marginalized due to lack of economic opportunities, language access, and basic resources – especially in some of the most rural parts of the state where many immigrant survivors in Wisconsin live. End Abuse prioritizes the wellbeing and autonomy of all survivors, including immigrant survivors, as a critical step toward empowerment and remaining free from abuse.

End Abuse's work includes serving immigrants in Wisconsin, in particular those who are survivors of domestic violence, sexual assault, human trafficking, and stalking through its direct legal services office, where 85% of all clients are immigrants or refugees. The majority of these survivor-clients apply for humanitarian-based immigration relief options, with the U visa being the most prevalent. End Abuse knows that when bona fide U visa petitioners experience delays in receiving deferred action and associated employment authorization, it puts them at greater risk of returning to abusers and being revictimzed due to a lack of opportunities for economic self-sufficiency. In support of U visa petitioner-survivors and for the reasons set forth in this brief, End Abuse urges that the judgment of the district court should be reversed and the case remanded.

Futures Without Violence (FUTURES) is a national nonprofit organization that has worked for more than 35 years to prevent and end violence against women and children in the United States (U.S.) and around the world. We educate about and work to eliminate domestic violence, sexual assault, child abuse, and human trafficking through education and prevention campaigns; training and technical assistance to state agencies, public and private entities, judges and court systems, colleges and universities, and global organizations; and we advance promising policies and practices at the state and federal level that prevent violence and help survivors and their children heal and thrive.

FUTURES staff are experts on family violence prevention, sexual assault, child trauma and human trafficking and the services and supports necessary for children and women to heal from violence and trauma. Based on that experience, we know that U visas and employment authorization dramatically improve the circumstances for immigrant survivors of gender-based violence. These documents allow immigrant survivors of gender-based violence to work, be lawfully present, and aid law enforcement while waiting the full adjudication of their cases. We also know that the massive backlog of U visa applications and excessively long wait for work authorization, inhibits immigrant survivors' efforts to secure justice and move on with their lives. Indeed, their lack of legal status and ability to work leave them vulnerable to further abuse and exploitation.

HarborCOV addresses the needs of survivors of domestic and sexual violence in Massachusetts. They provide direct legal representation to immigrant survivors, helping them obtain abuse prevention orders and immigration benefits, such as U-nonimmigrant status. They also provide direct services to immigrant survivors, including case management, housing support, and assistance through a 24-hour hotline.

Human Rights Initiative of North Texas (HRI) is a non-profit legal services agency that represents people fleeing humanitarian abuses from all over the world. For most of its twenty-year history, HRI has partnered with undocumented people who have survived serious crimes on their U visa cases. HRI provides legal representation through its staff and network of pro bono attorneys, as well as crisis support through its on-staff social services team. As of filing, HRI has over 200 clients with pending U visa applications, many of whom continue to await a Bona Fide or Wait List determination.

The **Immigration Center for Women and Children ("ICWC")** is a non-profit legal services organization whose mission is to provide affordable immigration services to underrepresented immigrants in California and Nevada. Specifically, ICWC cases focus on the rights and

legal remedies of the most vulnerable immigrant communities, including survivors of domestic violence, sexual assault, and other serious crimes. ICWC represents thousands of clients before USCIS each year with a specialization in U nonimmigrant status. ICWC helps clients gain legal status and obtain work authorization to improve their lives and create security and stability for themselves and their families. ICWC does this by providing direct legal services, hosting a database for advocates nationwide, conducting national trainings and publishing practice manuals in our area of expertise. Since its founding in 2004, ICWC has provided legal assistance to more than 45,000 individuals, including many who are eligible for, and have received, U nonimmigrant status. ICWC has filed amicus briefs previously.

Founded in 1973, the **Los Angeles Center for Law and Justice (LACLJ)** secures justice for survivors of domestic violence and sexual assault and empowers them to create their own future. LACLJ provides extensive free legal services, including representation in family and immigration court, on survivor-based immigration relief, through advocacy for survivors in the criminal justice system, and by taking appeals when appropriate. In conjunction with legal representation, LACLJ provides wraparound supportive services to meet other essential needs such as housing, food security, mental health, and access to healthcare and safety.

The **National Immigrant Justice Center ("NIJC")** is a program of the Heartland Alliance, a 501(c)(3) charitable organization. NIJC is accredited by the Board of Immigration Appeals to provide legal assistance to indigent and low-income immigrants. NIJC specializes, among other things, in work with survivors of domestic violence and other applicants for U visas. NIJC has significant experience with U visa applications, including endemic delays in adjudication.

The **National Network to End Domestic Violence (NNEDV)** is a not-for profit organization incorporated in the District of Columbia to end domestic violence. As a network of the 56 state and territorial domestic violence and dual domestic violence and sexual assault coalitions and their over 2,000 member programs, NNEDV serves as the

national voice of millions of women, children and men victimized by domestic violence, and their advocates. NNEDV was instrumental in the passing and implementation of the Violence Against Women Act. NNEDV has a strong interest in ensuring that immigrant victims have adequate access to U visa protections and employment authorization documents so that they can report the crimes they experienced without fear that the disclosure will result in financial hardship, homelessness, or other negative consequences.

The **Tahirih Justice Center** is the largest multi-city direct services and policy advocacy organization specializing in assisting immigrant survivors of gender-based violence. In five cities across the country, 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 30,000 individuals, many of whom have experienced the significant psychological and neurobiological effects of that trauma. Through direct legal and social services, policy advocacy, and training and education, Tahirih protects immigrant survivors and promotes a world where they can live in safety and dignity.

The **UC Immigrant Legal Services Center ("UCIMM")** provides free, high-quality immigration legal representation, outreach and education to students and their family members across nine of the ten University of California ("UC") campuses, across California. Namely, we have offices or serve students and their family members at UCLA, UC Irvine, UC Davis, UC San Diego, UC Riverside, UC Santa Cruz, UC Merced, UC Santa Barbara, and UC San Francisco. UCIMM serves enrolled UC Students and immediate family members of UC Students, who are parents, spouses, children, or siblings. Via our free, direct client services model, we've filed dozens of U visas for survivors. Many of these survivors lives changed dramatically once they received work authorization through their U visa application.

The **Urban Justice Center Domestic Violence Project (DVP)** is a nonprofit organization based in New York, New York. DVP provides, among other services, free legal consultation and representation to domestic violence survivors seeking immigration relief, including U nonimmigrant status. DVP currently represents dozens of immigrants with pending petitions for U nonimmigrant status, all of whom continue to be vulnerable to abuse and exploitation because they are unable to work lawfully in the United States.

The **Women's Law Center of Maryland, Inc**. is a nonprofit, public interest, membership organization of attorneys and community members with a mission of improving and protecting the legal rights of women. Established in 1971, the Women's Law Center achieves its mission through direct legal representation, research, policy analysis, legislative initiatives, education and implementation of innovative legal-services programs to pave the way for systematic change. Our direct legal services aim to increase access to justice to survivors of intimate partner relationships through representation in protective order hearings, family law cases, and immigration matters, recognizing that survivors, especially those who are foreign-born, have unique needs and challenges within the legal system.