IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

DOMINGO ARREGUIN GOMEZ et al., Plaintiffs, v. DONALD J. TRUMP et al., Defendants.	Civil Action No. 1:20-cv-01419
MOHAMMED ABDULAZIZ ABDUL MOHAMMED et al., Plaintiffs, v. MICHAEL R. POMPEO et al., Defendants.	Civil Action No. 1:20-cv-01856
AFSIN AKER et al., Plaintiffs, v. DONALD J. TRUMP et al., Defendants.	Civil Action No. 1:20-cv-01926
CLAUDINE NGUM FONJONG et al., Plaintiffs, v. DONALD J. TRUMP et al., Defendants.	Civil Action No. 1:20-cv-02128
CHANDAN PANDA et al., Plaintiffs, v. CHAD F. WOLF et al., Defendants.	Civil Action No. 1:20-cv-01907

PLAINTIFFS' REPLY IN SUPPORT OF MOTION FOR CLASS CERTIFICATION

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Other Authorities

Rules

Treatises

I. INTRODUCTION

Class certification is necessary and appropriate for this Court to issue the full scope of injunctive relief that Plaintiffs request. Plaintiffs' proposed class, including each of their five proposed subclasses, satisfies all four Federal Rule of Civil Procedure (Rule) 23(a) prerequisites and meets the requirements for certification under two subsections of Rule 23(b). As explained below, granting Plaintiffs' Motion for Class Certification ("Motion") would be consistent with numerous decisions of this Court certifying classes in similar actions challenging the Government's unlawful, arbitrary, and capricious administration and implementation of immigration programs. *See, e.g.*, *Afghan & Iraqi Allies Under Serious Threat Because of Their Faithful Service to United States v. Pompeo*, 334 F.R.D. 449 (D.D.C. 2020) (certifying class of individuals challenging the process by which visas are adjudicated).

II. ARGUMENT

Plaintiffs respectfully offer the following reply in support of their Motion for Class Certification, ECF 52. In further support of this reply, Plaintiffs incorporate by reference herein the arguments that Plaintiffs make in their Reply in Support of Motion for Preliminary Injunction ("PI Reply"), filed concurrently herewith. For the reasons explained below, all of Plaintiffs' claims are justiciable, all of their named Plaintiffs have standing, and each of their five proposed subclasses readily satisfies the requirements of Rule 23.

A. Plaintiffs' claims are justiciable.

"A plaintiff seeking . . . class certification must, as a threshold matter, satisfy the justiciability requirements of Article III of the United States Constitution." *Gomez v. Trump*, 2020 WL 3429786, at *5 (D.D.C. June 23, 2020) (citing *O'Shea v. Littleton*, 414 U.S. 488, 494 (1974)). In a class action, standing is satisfied if at least one of the named plaintiffs and proposed class representatives is able to establish standing through "evidentiary proof." *Comcast Corp. v.*

Behrend, 569 U.S. 27, 33 (2013). For the reasons explained below and in Plaintiffs' PI Reply, the proposed class representatives of all of Plaintiffs' proposed subclasses satisfy that standard.

1. The Diversity Visa Subclass Plaintiffs have standing.

With respect to the Diversity Visa Subclass, Defendants contend that the proposed class representatives have not established through evidentiary proof that their injuries are likely to be redressed by this Court.[1] For the reasons explained in Plaintiffs' Motion and Reply in Support of Motion for Preliminary Injunction, that is wrong. ECF 53, at 19–22; PI Reply at 1–4. An order from this Court enjoining the June Proclamation to the extent that it applies to the Diversity Visa Subclass—which would require Defendants to adjudicate and issue diversity visas within its ongoing emergency consular processing services and as mandated under federal law—would allow all Plaintiffs and members of the Diversity Visa Subclass to receive an adjudication of their visas before the September 30, 2020, deadline, and thus receive the once-in-a-lifetime benefit that Congress has afforded them.[2] It is therefore "'likely, as opposed to merely speculative, that [Plaintiffs'] injur[ies] will be redressed by a favorable decision'" from this Court. Opposition at 17 (quoting *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560–61 (1992)).

The Diversity Visa Subclass Plaintiffs have established that they are eligible for a visa through evidentiary proof. They each have submitted all of the documents required for their visa interview to be scheduled.[3] They have also each attested to the fact that they are aware of no

---

[1] Defendants do not argue that the Diversity Visa Subclass Plaintiffs have not suffered legally cognizable injuries sufficient to establish Article III standing. They also do not argue that Plaintiffs' injuries are not causally connected to the June Proclamation.

[2] Alternatively, an order from this Court would require Defendants to reserve visa numbers so that diversity visas may be issued to members of the Diversity Visa Subclass after the September 30 deadline. *See* PI Reply at 30.

[3] *See* Declaration of Aya Nakamura in Support of Plaintiffs' Motion for Preliminary Injunction ("Nakamura Decl.") ¶ 10; Declaration of Shyam Sundar Koirala in Support of

ground of inadmissibility on which their diversity visa could be denied.[4] Defendants' assertion that Plaintiffs "have not shown any evidence to demonstrate that they can meet their burden of establishing eligibility for a visa 'to the satisfaction of the consular officer' on the date of his or her visa interview," Opposition to PI Motion at 20, is therefore incorrect and has no evidentiary support.

Defendants' assertion that "even if the Court enjoins the Proclamations, or the State Department's alleged actions implementing the Proclamations, the relevant consulate posts may still be suspended due to COVID-19, which would prevent visa processing" is likewise incorrect. As Plaintiffs explain in their PI Reply and Supplemental Motion for Preliminary Injunction, ECF 66, Plaintiffs have requested relief that avoids any asserted COVID-19-related barriers to redressability. *See* PI Reply at 2–3. If the Court grants Plaintiffs' requested relief, the Diversity Visa Subclass will be able to request the emergency and mission-critical visa processing that is available at consular posts worldwide, and their injuries may be redressed by that grant of relief.[5]

Plaintiffs' Motion for Preliminary Injunction ("Koirala Decl.") ¶ 2; Declaration of Aja Tamamu Mariama Kinteh in Support of Plaintiffs' Motion for Preliminary Injunction ("Kinteh Decl.") ¶ 2; Declaration of Jodi Lynn Karpes in Support of Plaintiffs' Motion for Preliminary Injunction ("Karpes Decl.") ¶ 7; Declaration of Iwundu Épouse Kouadio Ijeoma Golden in Support of Plaintiffs' Motion for Preliminary Injunction ("Iwundu Decl.") ¶ 4; Declaration of Fatma Bushati in Support of Plaintiffs' Motion for Preliminary Injunction ("Bushati Decl.") ¶¶ 15–16.

[4] Nakamura Decl. ¶ 11; Koirala Decl. ¶ 8; Kinteh Decl. ¶ 9; Karpes Decl. 14; Iwundu Decl. ¶ 12; Bushati Decl. ¶ 22.

[5] And in all events, at least one of the proposed class representatives of the Diversity Visa Subclass—Plaintiff Aya Nakamura—has a diversity visa application pending at the U.S. consulate in Tokyo, *see* Nakamura Decl. ¶ 15, a U.S. consulate that has *resumed* consular processing of immigrant visas. *See* U.S. Department of State, U.S. Embassies and Consulates in Japan, Visas, https://jp.usembassy.gov/visas/ (last visited Aug. 23, 2020).

2. The Immediate Relative Parent Subclass Plaintiff has standing.

Defendants' contend that Plaintiff Daniel Chibundu Nwankwo lacks standing to serve as the class representative for the proposed Immediate Relative Parent Subclass because he cannot attest that his father's visa application has been denied. Opposition at 20. That is not the point, however, and Defendants' reliance on consular nonreviewability as a means to preclude judicial review demonstrates their misapprehension of the wrong committed to, and ongoing harms suffered by, members of the proposed subclass. Defendants' argument disregards the fact that Plaintiffs all are experiencing harm *at this moment*. *See* Plaintiffs' PI Motion at 19–20. And if Plaintiffs' visas already had been denied, the consular nonreviewability may preclude relief. Defendants cannot be allowed to combine those justiciability doctrines to forever avoid judicial review. A visa denial is not necessary to establish a concrete, ongoing and particularized injury within the meaning of Article III. *See Hawai'i v. Trump*, 138 S. Ct. 2392, 2416 (2018) (ongoing, and indefinite harm of family separation sufficient "to form the basis of an Article III injury").[6]

3. The Preference Relative Subclass Plaintiffs have standing.

For the same reason, the named Plaintiffs and proposed class representatives for the Preference Relative Subclass also have standing. Each of those named Plaintiffs has an approved family-visa petition in a category that is "current"—that is, a visa should immediately be available to the beneficiary of that petition.[7] And for each of the named Plaintiffs, the injury they allege that

---

[6] *Cf. Blanchette v. Conn. Gen. Ins. Corps.*, 419 U.S. 102, 143 (1974) ("One does not have to await the consummation of threatened injury to obtain preventive relief. If the injury is certainly impending, that is enough.").

[7] Declaration of Carmen Ligia Vidal Pimentel in Support of Plaintiffs' Motion for Preliminary Injunction ("Pimentel Decl.") ¶ 5; Declaration of Juan Carlos Rosario Lebron in Support of Plaintiffs' Motion for Preliminary Injunction ("Lebron Decl.") ¶ 4; Declaration of Nazif Alam in Support of Plaintiffs' Motion for Preliminary Injunction ("Alam Decl.") ¶¶ 5–7; Declaration of Claudio Alejandro Sarniguet Jimenez in Support of Plaintiffs' Motion for

the Proclamation is causing them is, among other harms, prolonged family separation resulting from the failure of the State Department to adjudicate and issue visas. For Plaintiff Carmen Pimentel, the ongoing harm is particularly acute—since Plaintiffs' Motions for Preliminary Injunction and Class Certification originally were filed, she has given birth to her newborn son.[8] Because of the Proclamation, however, her husband, her son's father, is stuck in the Dominican Republic, forced to miss the birth and the early months of his son's life. Just like the named Plaintiffs of the Immediate Relative Parent Subclass, a visa denial for the named Plaintiffs of the proposed Preference Relative Subclass is not necessary to establish a concrete, ongoing and particularized injury within the meaning of Article III. *See Blanchette*, 419 U.S. at 143. Defendants' arguments to the contrary should thus be rejected.

4. The Temporary Worker Subclass Plaintiffs have standing.

Defendants do not and cannot seriously argue that any of the named Plaintiffs and proposed class representatives of the Temporary Worker Subclass lacks Article III standing.

- Plaintiff 3Q Digital is suffering multiple harms, including, unrecoverable financial loss, loss of productivity and innovation, reputational harm, and substantial diversion of resources as a direct result of the Proclamation. Declaration of Laura Rodnitzky in Support of Plaintiffs' Motion for Preliminary Injunction ("Rodnitzky Decl.") ¶¶ 21, 22.
- Plaintiff PowerTrunk is suffering, and will continue to suffer, substantial diversion of resources, loss of significant contract opportunities, reputational harm, and

Preliminary Injunction ("Jimenez Decl.") ¶¶ 4, 5; Declaration of Angela Sinon in Support of Plaintiffs' Motion for Preliminary Injunction ("Sinon Decl.") ¶¶ 9–11; Declaration of Loida Phelps in Support of Plaintiffs' Motion for Preliminary Injunction ("Phelps Decl.") ¶¶ 3–5; Declaration of Nancy Abarca in Support of Plaintiffs' Motion for Preliminary Injunction ("Abarca Decl.") ¶ 3.

[8] *See* Plaintiffs' Motion for Leave to Amend Complaint, ECF 76, at 2 n.2 (Aug. 12, 2020).

resulting, unrecoverable financial injury. Decl. of Jose Martin in Support of Plaintiffs' Motion for Preliminary Injunction ("Martin Decl.") ¶¶ 17, 18.

- Plaintiff Shipco Transport is suffering, and will continue to suffer, substantial diversion of resources, reputational harm, loss of productivity, and inability to fulfill its mission and core functions. Declaration of Klaus Jepsen in Support of Plaintiffs' Motion for Preliminary Injunction ("Jepsen Decl.") ¶¶ 22–24.
- And Plaintiff Superior Scape is suffering, and will continue to suffer, loss and diversion of resources and substantial, unrecoverable financial losses, rendering it unable to fulfill its contracts or fulfill its core functions and operations. Indeed, it risks having to close its business. Declaration of Terry Newman in Support of Plaintiffs' Motion for Preliminary Injunction ("Newman Decl.") ¶¶ 10, 12–14.

All of the above-described harms constitute legal cognizable injuries under Article III. *See, e.g.*, *Havens Realty Corp. v. Coleman*, 455 U.S. 363, 378–81 (1982) (diversion of resources; inability to fulfill organizational mission and functions); *Carpenter Indus. Council v. Zinke*, 854 F.3d 1, 5 (D.C. Cir. 2017) ("Economic harm to a business clearly constitutes injury in fact. And the amount is irrelevant."); *Baker Elec. Coop. v. Chaske*, 28 F.3d 1466, 1472–73 (8th Cir. 1994) (loss of productivity); *First Nat'l Bank & Trust Co. v. Nat'l Credit Union Admin.*, 988 F.2d 1272, 1275 (D.C. Cir. 1993) (competitive and economic injury); *Beacon Assocs. v. Apprio, Inc.*, 308 F. Supp. 3d 277, 288 (D.D.C. 2018) (reputational harm); *Tenrec, Inc. v. USCIS*, 2016 WL 5346095, *10 (D. Or. Sept. 22, 2016) (loss of individual workforce members and resources as a result of alleged invalid visa processing); *see also Everglades Harvesting & Hauling, Inc. v. Scalia*, 427 F. Supp. 3d 101 (D.D.C. 2019) (granting employer's motion for preliminary injunction against H-2A program).

5. The Exchange Visitor Program Subclass Plaintiffs have standing.

Defendants agree that Plaintiffs ASSE International, Inc., and EurAuPair International have established with sufficient evidentiary proof a concrete and particularized injury for Article III purposes—specifically, in the form of substantial economic losses that threaten their very existence and ability to do business. Opposition at 24; Declaration of William Gustafson in Support of Plaintiffs' Motion for Preliminary Injunction at ¶¶ 17–20;31–33. For the reasons explained above and in Plaintiffs' PI Reply, *see* PI Reply at 4, Defendants' alternative argument that the Proclamations are not otherwise subject to judicial review based on the doctrine of consular nonreviewability is meritless and should be rejected. ASSE International, Inc. and EurAuPair International have standing to proceed as class representatives of the Exchange Visitor Program Subclass.

B. All of the proposed subclasses independently satisfy the remaining requirements of Rule 23(a).

The Court should also reject Defendants' cursory arguments that Plaintiffs' proposed subclasses fail to satisfy the remaining requirements of Rule 23(a).

1. The Diversity Visa Subclass satisfies the remaining requirements of Rule 23(a).

Defendants contend that the Diversity Visa Subclass does not satisfy the commonality, typicality, or adequacy requirements of Rule 23(a)(1). Defendants are wrong.[9]

With respect to commonality, Defendants' cursory argument—that factual circumstances specific to each absent class member's visa application renders the legal issues this case presents

[9] Defendants do not argue that the Diversity Visa Subclass—or, for that matter, any or Plaintiffs' proposed subclasses—fails to satisfy Rule 23(a)'s "numerosity" requirement. Nor could they. They also do not contend that Plaintiffs must establish that the proposed class or subclasses be "ascertainable." Plaintiffs therefore do not address those issues here, and rest on the arguments set forth in Plaintiffs' Motion.

incapable of class-wide resolution—lacks merit and should be rejected. In their Motion, Plaintiffs set forth several common questions of law and fact that unify all Plaintiffs and class members. Motion at 19–20. Each of those questions clearly "depend[s] on 'a common contention [that] is capable of classwide resolution—which means that determination of its truth or falsity will resolve an issue that is central to the validity of each one of the claims in one stroke.'" *Damus v. Nielsen*, 313 F. Supp. 3d 317, 331 (D.D.C. 2018) (quoting *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 349 (2011)) (second alteration in original). For instance, "whether the Proclamation was issued in a manner that violates separation-of-powers principles of the U.S. Constitution," or "whether the Proclamation and Defendants' actions taken to enforce and implement the Proclamation violate the APA," *see* Motion at 19, are questions of law that will fully resolve several of the claims asserted in this case in a manner that applies evenly across all class members and proposed subclasses. Moreover, Plaintiffs challenge the lawfulness of a single, "uniform policy or practice that affects all class members," which this Court has held satisfies the commonality prerequisite. *Id.* ("[C]ommonality is satisfied whether there is a uniform policy or practice that affects all class members." (quoting *D.L. v. District of Columbia*, 713 F.3d 120, 128 (D.C. Cir. 2013))); *see also N.S. v. Hughes*, -- F.R.D. --, 2020 WL 2219441, at *13 (D.D.C. May 7, 2020) (same); *Hoyte v. District of Columbia*, 325 F.R.D. 485, 490 (D.D.C. 2017) ("[The commonality] requirement is usually met when the class members 'challenge polices or practices that apply to all members of the class.'" (quoting 5–23 Moore's Federal Practice—Civil § 23.23 n.7.5.1)). Plaintiffs' claims present questions of law or fact that are common to the class, and thus satisfy Rule 23(a)(2)'s "commonality" requirement.

Nor is Plaintiffs' definition of the proposed Diversity Visa Subclass overinclusive. *See* Opposition at 16. Defendants do not dispute that the Proclamation applies to every member of the

proposed Diversity Subclass as it is defined in Plaintiffs' Motion. Because that is so, and because Defendants have suspended the adjudication and issuance of diversity visas on the basis of the Proclamation, the proposed class definition aligns with the number of individuals worldwide who share the named Plaintiffs' claims for relief. To the extent that Defendants argue that the proposed Diversity Visa Subclass does not satisfy commonality because the named Plaintiffs lack standing, *see* Opposition at 16, that argument fails for the reasons discussed above and in Plaintiffs' PI Reply. *See* PI Reply at 1–4.

Defendants' arguments with respect to typicality of the proposed Diversity Visa Subclass should also be rejected. In this respect, Defendants' position relies entirely on the contention, discussed *supra* and in Plaintiffs' PI Reply, that the named Plaintiffs and proposed representatives of the Diversity Visa Subclass lack standing. *See* Opposition at 17 (no typicality because Plaintiffs lack standing). They do not, and their claims are typical of, and share common questions of law and fact with, the claims of the absent class members. And because Defendants' adequacy argument shares the same incorrect premise, *see* Opposition at 18 (no adequacy because Plaintiffs lack standing), it also fails.

Plaintiffs' proposed Diversity Visa Subclass readily satisfies the requirements of Rule 23(a). Indeed, the *only practical way* of granting relief to all of the individuals who have been harmed by Defendants' unlawful conduct is through Rule 23's class action device. Requiring separate and successive suits for diversity visa lottery winners would be grossly inefficient and result in a waste of valuable judicial resources. This case—and the claims it asserts with respect to *all* of Plaintiffs' proposed subclasses—is precisely the sort of case for which Rule 23 was intended.

2. Plaintiffs' other proposed subclasses satisfy the requirements of Rule 23(a).

The remaining proposed subclasses—the Immediate Relative Parent Subclass, the Preference Relative Subclass, the Temporary Worker Subclass, and the Exchange Visitor Program Subclass—likewise satisfy the requirements of Rule 23(a). Indeed, they do so for the very same reasons that Rule 23(a) is satisfied with respect to the Diversity Visa Subclass.

Again, the questions whether "the Proclamation was issued in a manner that violates separation-of-powers principles of the U.S. Constitution," or "whether the Proclamation and Defendants' actions taken to enforce and implement the Proclamation violate the APA," *see* Motion at 19, are questions of law that will fully resolve the claims asserted in this case in a manner that applies evenly across all class members and all proposed subclasses. Put differently, a common answer with respect to the legality of the Proclamation and its implementation will "drive the resolution of the litigation." *Ramirez v. U.S. Immigration & Customs Enforcement*, 338 F. Supp. 3d 1, 45 (D.D.C. 2018) (quoting *Wal-Mart Stores, Inc.*, 564 U.S. at 350). Commonality is therefore satisfied for all of Plaintiffs' proposed subclasses.

And each of the proposed subclass representatives presents claims typical of their respective subclass members. "Typicality means that the representative plaintiffs must 'possess the same interest and suffer the same injury' as the other class members." *Damus*, 313 F. Supp. 3d at 331 (quoting *Gen. Tel. Co. of Sw. v. Falcon*, 457 U.S. 147, 156 (1982)). The commonality and typicality requirements "tend to merge"; "'[b]oth serve as guideposts for determining whether under the particular circumstances maintenance of a class action is economical and whether the named plaintiff's claim and the class claims are so interrelated that the interests of the class members will be fairly and adequately protected in their absence.'" *Ramirez*, 338 F. Supp. 3d at 46 (quoting *Falcon*, 457 U.S. at 157). Courts have made clear that "[f]actual variations between

the claims of class representatives and the claims of other class members . . . do not negate typicality." *Bynum v. District of Columbia*, 214 F.R.D. 27, 34 (D.D.C. 2003); *see also Wagner v. Taylor*, 836 F.2d 578, 591 (D.C. Cir. 1987) ("Courts have held that typicality is not destroyed merely by factual variations." (internal quotation marks omitted)). Thus, the so-called "unique defenses" that Defendants identify—*e.g.*, country conditions, visa type, or status of consular operations—are simply irrelevant. To the extent that any factual differences exist, those factual differences do not undermine typicality because the *claims* of the proposed class representatives, which turn on the legality of a Proclamation that applies evenly to the entire subclass, are the same as the claims of absent class members.

Finally, each of the proposed class representatives in the Immediate Relative Parent Subclass, the Preference Relative Subclass, the Temporary Worker Subclass, and the Exchange Visitor Program Subclass will fairly and adequately represent the members of their respective subclass. Each of the proposed class members has affirmatively stated that they are seeking to be appointed as class representatives, understand that they will representing a class of similarly situated individuals, are aware of no conflicts that might arise with other similarly situated absent class members, and are prepared to undertake the attendant responsibilities.[10] The named Plaintiffs have thus established with evidentiary proof that none has antagonistic or conflicting interests with the unnamed members of the class, and all will vigorously prosecute the interests of the class through qualified counsel. *See Twelve John Does v. District of Columbia*, 117 F.3d 571, 575 (D.C.

[10] Declaration of Daniel Chibundu Nwankwo in Support of Plaintiffs' Motion for Preliminary Injunction ¶¶ 12–13; Jimenez Decl. ¶¶ 19–21; Sinon Decl. ¶¶ 24–25; Pimentel Decl. ¶¶ 22–23; Saleh Decl. ¶¶ 16–17; Alam Decl. ¶¶ 19–20; Lebron Decl. ¶¶ 26–27; Phelps Decl. ¶¶ 14–15; Abarca Decl. ¶¶ 14–15; Martin Decl. ¶¶ 21–23; Jepsen Decl. ¶¶ 29–31; Newman Decl. ¶¶ 22–24; Rodnitzky Decl. ¶¶ 27–30; Supplemental Declaration of Williams Gustafson in Support of Plaintiffs' Motion for Preliminary Injunction ¶¶ 10–12.

Cir. 1997) (stating that standard). Defendants' contention that the named Plaintiffs will not fairly and adequately represent the subclass to which they are appointed should be rejected.

C. All of the proposed subclasses may be certified under Rule 23(b).

Finally, Defendants make cursory arguments generally asserting that Plaintiffs' proposed subclasses does not fall within any subsection of Rule 23(b). But again, Defendants' arguments on this point turn on the same erroneous assumptions as their standing and Rule 23(a) arguments, asserting, incorrectly, that the factual circumstances that flow from the status of consular operations at individual U.S. consulate posts worldwide somehow undermines this Court's ability to determine on a class-wide basis the legality of a Presidential Proclamation that applies evenly across the class, and the legality of agency action taken to implement that Proclamation. Defendants are wrong for the reasons set forth above and as explained in Plaintiffs' Motion and PI Reply.

Under Rule 23(b)(2), a single order enjoining Defendants' implementation and enforcement of the Proclamation would provide relief to every member of Plaintiffs' proposed class, including each of the proposed subclasses, because the Proclamation applies evenly across all subclasses and imposes on each class and subclass member a new, potentially insurmountable admissibility requirement without notice of or explanation for how to satisfy it. For the same reasons, certification under Rule 23(b)(1)(A) is also appropriate. *See Adair v. England*, 209 F.R.D. 5, 12 (D.D.C. 2002) (certification under Rule 23(b)(1)(A) particularly appropriate when a single injunction against government action is necessary to afford unitary treatment to all class members).

III. CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court enter an order granting Plaintiffs' Motion and certifying the proposed class, including the five proposed subclasses, under Rule 23(b)(2) or Rule 23(b)(1)(A); appoint Plaintiffs as class representatives;

and appoint as class counsel the below-listed attorneys from AILA, Innovation Law Lab, Justice Action Center, and the Law Office of Laboni A. Hoq.

DATED this 24th day of August, 2020.

INNOVATION LAW LAB

s/Nadia H. Dahab
Stephen Manning (admitted *pro hac vice*)
Nadia Dahab (admitted *pro hac vice*)
Jordan Cunnings (admitted *pro hac vice*)
Tess Hellgren (admitted *pro hac vice*)
333 SW Fifth Avenue #200
Portland, OR 97204
Telephone: (503) 241-0035
stephen@innovationlawlab.org
nadia@innovationlawlab.org
jordan@innovationlawlab.org
tess@innovationlawlab.org

Jesse M. Bless (D.D.C. Bar No. MA0020)
AMERICAN IMMIGRATION LAWYERS ASSOCIATION
1301 G Street NW, Ste. 300
Washington, D.C. 20005
(781) 704-3897
jbless@aila.org

Karen C. Tumlin (admitted *pro hac vice*)
Esther H. Sung (admitted *pro hac vice*)
JUSTICE ACTION CENTER
P.O. Box 27280
Los Angeles, CA 90027
Telephone: (323) 316-0944
karen.tumlin@justiceactioncenter.org
esther.sung@justiceactioncenter.org

Laboni A. Hoq (admitted *pro hac vice*)
LAW OFFICE OF LABONI A. HOQ
Justice Action Center Cooperating Attorney
P.O. Box 753
South Pasadena, CA 91030
labonihoq@gmail.com