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To the Houston Asylum Office:

This is a request for a review of a negative credible fear determination. You should grant this request because the record before the asylum office made plain that Ms. [REDACTED] was persecuted in the past. The standard for a credible fear finding, though, is less than that: she need only show that she has a significant possibility of being eligible for asylum after a full hearing. *See* 8 C.F.R. § 208.30(e)(2). This standard is easily satisfied. Because the record is clear, no new interview is required and the asylum should issue a positive credible fear determination.

First, the evidence in the record compels the conclusion that Ms. [REDACTED] suffered persecution by her husband. Ms. [REDACTED] credibly explained that “I was harmed when I was with the father of my daughters and it was physically and psychologically or both.” *See* USCIS Form I-870 Record of Determination/Credible Fear Worksheet, Questions & Answers Attachment at 4 (July [REDACTED], 2014).

The record continues, at length, to explain that the harm included hitting her, insulting her and sexually assaulting her when she was 8 months pregnant with her oldest daughter. *Id.* at 5. Her husband hit her in the face and “opened my skin and my face was covered in blood.” *Id.* She could not go to the police “because he would threaten me I could never do that. And my daughter she is a witness of that.” *Id.* Her husband beat her repeatedly and “one time he got [me] out of bed by pointing a gun at me.” *Id.* at 5-6.

What happened to Ms. _____ constitutes offensive harm, *Li v. Ashcroft*, 356 F.3d 1153, 1158 (CA9 2004) (en banc), and therefore is classified as persecution. *See Chand v. INS*, 222 F.3d 1066, 1073-74 (CA9 2000) (holding that “[p]hysical harm has consistently been treated as persecution.”).

Second, there is a significantly possibility that Ms. _____ could demonstrate that the persecution was on account of her particular social group, El Salvadoran women who are unable to leave a domestic relationship. Here, again, the record is plain. When she was asked why he harmed her, she replied that he did so “without any basis” and that “the truth is I am very afraid of

him.” *Id.* at 6. Indeed, after she *tried* to leave the relationship, threatened her. *Id.* at 6. It is not subject to doubt that the country conditions in El Salvador, of which the specialized officers of the asylum corps are charged with knowing, show that gender-based violence in domestic relationships is common and that the cause of the violence is tied to treating the female (here, Ms.) as the property of the male partner. *See, e.g.*, Brief of Dep’t of Homeland Security filed in *Matter of L-R-* at 11-21 (filed Apr. 13, 2009) available at http://cgrs.uchastings.edu/sites/default/files/Matter_of_LR_DHS_Brief_4_13_2009.pdf (last accessed 08/12/2014).

Third, the record plainly demonstrates that there is a significant possibility that Ms. could demonstrate a fear of future harm, a humanitarian basis for asylum, or other serious harm would happen to her. Ms. could demonstrate a reasonable possibility of future harm.¹ The persecutor remains at large in El Salvador and Ms. is very afraid of him. It is

¹ Of course, she is *not* required to do so. Once past persecution is established, it is the government’s burden to prove that there is no reasonable possibility of future persecution. This record certainly does not meet that burden.

hardly dispositive that Ms. [redacted] has experienced a respite from [redacted]’s violence. Notably, the asylum officer never asked *why* [redacted] has granted her this reprieve. *See* I-870 at 7. At a hearing, there is a significant possibility that Ms. [redacted] could establish that he left her in peace because she was not with another man. *Cf.* I-870 at 4

The record plainly states that the persecution Ms. [redacted] suffered has left a traumatic mark on her such that repatriation would be cruel or inhumane. *See* I-870 at 7. Ms. [redacted] suffered harm that she has “not been able to forget.” *Id.*

The record plainly demonstrates that there is a significant possibility that Ms. [redacted] could demonstrate, notwithstanding any rebutted past persecution presumption, that she would suffer other serious harm. Pages 7-13 of the Form I-870, Questions & Answers, provides detailed information of the other serious harm that could befall her. For “other serious harm” nexus is not an element.

The negative credible fear determination should be reconsidered and, based on the record, a positive determination should be made. The expedited removal order should be vacated and § 240 proceedings initiated.

Sincerely,
IMMIGRANT LAW GROUP PC

/s/ Stephen W Manning
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