IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

[redacted]**Chikumba,**
[redacted]

[redacted]

[redacted]

[redacted], a minor
[redacted]

[redacted] a minor
[redacted]

[redacted], a minor
[redacted]

[redacted]

[redacted]

C/A: 26-0332 (ABJ)

FIRST AMENDED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF[1]

[1] Plaintiffs file this First Amended Complaint as a matter of course under Federal Rule of Civil Procedure 15(a)(1)(B), within twenty-one days after service of Defendants' motion to dismiss on September 4, 2026. No leave of Court is required. This pleading supersedes the original Complaint in its entirety.

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Plaintiffs,)
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v.)
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U.S. Department of State,)
2201 C Street, NW)
Washington, DC 20520,)
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Marco Rubio, in his official capacity as Secretary of State,)
2201 C Street, NW)
Washington, DC 20520,)
)
Defendants.)

INTRODUCTION

1. Congress has commanded that "[a]ll immigrant visa applications shall be reviewed and adjudicated by a consular officer," and that "[a]ll nonimmigrant visa applications shall be reviewed and adjudicated by a consular officer." 8 U.S.C. § 1202(b), (d). The Department of State has set that command aside.

2. On December 23, 2025, the Department publicly announced that "the United States is suspending or limiting entry **and visa issuance** to nationals of 39 countries." U.S. Dep't of State, *Presidential Proclamation 10,998 on Restricting and Limiting the Entry of Foreign Nationals*, travel.state.gov (Dec. 23, 2025) (emphasis added). Plaintiffs refer to that announced practice, and

the implementing guidance that carries it out, as the "Visa-Issuance Suspension Policy." It is the agency action this lawsuit challenges.

3. The Policy rests on two Presidential Proclamations issued under 8 U.S.C. § 1182(f). Neither says a word about visas. Section 1182(f) authorizes the President to "suspend the **entry**" of a class of noncitizens, or to "impose on the **entry** of aliens any restrictions he may deem to be appropriate." Proclamation 10,949 accordingly "fully restrict[s] and limit[s] the **entry** of nationals" of the designated countries, 90 Fed. Reg. 24,497, 24,499 (June 10, 2025), and Proclamation 10,998 does the same, 90 Fed. Reg. 59,717, 59,721 (Dec. 19, 2025). The Department has taken an entry restriction and converted it, by guidance, into a bar on issuing visas.

4. It lacks the authority to do so. The Supreme Court has held that the "basic distinction between admissibility determinations and visa issuance . . . runs throughout the INA," and that "[t]he concepts of entry and admission — but not issuance of a visa — are used interchangeably in the INA." *Trump v. Hawaii*, 585 U.S. 667, 694 & n.3, 695 n.4 (2018). Judges of this Court have held that the Department may not rely on a § 1182(f) proclamation to refuse a visa. *See, e.g., Gomez v. Trump*, 485 F. Supp. 3d 145, 191–94 (D.D.C. 2020)*; Milligan v. Pompeo*, 502 F. Supp. 3d 302, 314–16 (D.D.C. 2020)*; Thein v. Trump, No. 25-2369 (SLS), 2025 U.S. Dist. LEXIS 162775, at *41–47 (D.D.C. Aug. 21, 2025); Nasser Al-Shakliah v. Rubio*, No. 25-3870 (JEB), 2026 U.S. Dist. LEXIS 103708, at *37–39 (D.D.C. May 11, 2026)*; infra* ¶¶ *81–85.*

5. The Department's own regulation forecloses the Policy independently. "A visa can be refused **only** upon a ground specifically set out in the law or implementing regulations." 22 C.F.R. § 40.6. Section 1182(f) sets out no ground of visa ineligibility. And where Congress has meant an entry bar to carry a visa bar with it, it has said so in terms: "the Secretary of State may

not issue any visa to" the covered individual. 8 U.S.C. § 1182e(a); *accord id.* § 1182f(a). Section 1182(f) contains no such command.

6. Plaintiffs are twenty-six noncitizens who have applied for immigrant or nonimmigrant visas, paid the required fees, submitted the required documentation, and in most cases appeared for a consular interview. Not one has been found inadmissible under 8 U.S.C. § 1182(a). Not one has been found ineligible for the visa she seeks on any ground Congress enacted. Their applications have been paused, parked indefinitely in "administrative processing," or stamped "refused" with a citation to a statute that governs entry and not visas.

7. Plaintiffs do not ask this Court to direct any consular officer how to decide any application, and they do not ask it to order that any visa be issued. They ask it to declare the Visa-Issuance Suspension Policy unlawful, to vacate it, and to enjoin Defendants from applying it to Plaintiffs. This relief will allow Plaintiffs to receive the adjudications Congress guaranteed them, on the grounds Congress enacted. That relief is prospective, and this Court may grant it.

PARTIES

8. Plaintiff [redacted] is a citizen of Zimbabwe. Ms. [redacted] has a pending DS-260 immigrant visa application bearing case number [redacted] at the U.S. Consulate General in Johannesburg, South Africa. Plaintiff [redacted] has not been scheduled for a consular interview.

9. Plaintiff [redacted] is a citizen of Afghanistan. Ms. [redacted] has a pending DS-260 immigrant visa application bearing case number [redacted] at the U.S. Embassy in Doha, Qatar. Plaintiff [redacted] has not been scheduled for a consular interview.

10. Plaintiff [redacted] is a citizen of Iran. Ms. [redacted] has a pending DS-260 immigrant visa application bearing case number [redacted] at the U.S. Embassy in Ankara, Türkiye. Plaintiff [redacted] has not been scheduled for a consular interview.

11. Minor Plaintiffs [redacted]. are stepchildren of [redacted], who is a citizen of Nigeria and a lawful permanent resident of the United States. Plaintiff [redacted].'s DS-260 case number is [redacted], Plaintiff [redacted].'s DS-260 case number is [redacted], and Plaintiff [redacted].'s DS-260 case number is [redacted], all at the U.S. Consulate General in Lagos, Nigeria. The minors attended their consular interview in Lagos, Nigeria on October 25, 2025 and were ultimately refused under INA 221(g).

12. Plaintiff [redacted] is a citizen of Eritrea. Mr. [redacted] has a pending DS-260 immigrant visa application bearing case number [redacted] at the U.S. Embassy in Nairobi, Kenya. Plaintiff [redacted] has not been scheduled for a consular interview.

13. Plaintiff [redacted] is a citizen of Syria. Ms. [redacted] has a pending DS-260 immigrant visa application bearing case number [redacted] at the U.S. Embassy in Abu Dhabi, United Arab Emirates. A derivative family member of Ms. [redacted] has a pending DS-260 immigrant visa application bearing case number [redacted] at the same post. Plaintiff [redacted] attended her consular interview and was refused under INA 212(f).

14. Plaintiff [redacted] is a citizen of Iran. Mr. [redacted] has a pending DS-260 immigrant visa application bearing case number [redacted] at the U.S. Embassy in Yerevan, Armenia. Plaintiff [redacted] attended his consular interview and was refused under INA 212(f).

15. Plaintiff [redacted] is a citizen of Yemen. Ms. [redacted] has a pending DS-260 immigrant visa application bearing case number [redacted] at the U.S. Embassy in Jakarta, Indonesia. Plaintiff [redacted] attended her consular interview and was refused under INA 212(f).

16. Plaintiff [redacted] is a citizen of Laos. Ms. [redacted] has a pending DS-260 immigrant visa application bearing case number [redacted] at the U.S. Embassy in Vientiane, Laos. Plaintiff [redacted] has not yet attended a consular interview though one is scheduled for December 30, 2026.

17. Plaintiff [redacted] is a citizen of Laos. Ms. [redacted] has a pending DS-160 nonimmigrant visa application bearing case number [redacted] at the U.S. Embassy in Bangkok, Thailand. Plaintiff [redacted] attended a consular interview and was refused under INA 212(f).

18. Plaintiff [redacted] is a citizen of Iran. Ms. [redacted] has a pending DS-260 immigrant visa application bearing case number [redacted] at the U.S. Embassy in Abu Dhabi, United Arab Emirates. Plaintiff [redacted] attended her consular interview on January 15, 2026 and was refused under INA 212(f).

19. Plaintiff [redacted] is a citizen of Syria. Mr. [redacted] has a pending DS-260 immigrant visa application bearing case number [redacted] at the U.S. Embassy in Amman, Jordan. Plainiff [redacted] was initially scheduled for a consular interview on August 4, 2026 however the interview was cancelled.

20. Plaintiff [redacted] is a citizen of Togo. Mr. [redacted] has a pending DS-260 immigrant visa application bearing case number [redacted] at the U.S. Embassy in Lomé, Togo. Plaintiff [redacted] attended a consular interview on April 23, 2026 and was refused under INA 212(f).

21. Plaintiff [redacted] is a citizen of Syria. Mr. [redacted] has a pending DS-260 immigrant visa application bearing case number [redacted] at the U.S. Embassy in Beirut, Lebanon. Plaintiff [redacted] attended his interview and was refused under INA 221(g).

22. Plaintiff [redacted] is a stateless Palestinian refugee born in Syria. Ms. [redacted] has a pending DS-260 immigrant visa application bearing case number [redacted] at the U.S. Embassy in Beirut, Lebanon. Plaintiff [redacted] was initially scheduled for interview on September 4, 2026 however it was cancelled.

23. Plaintiff [redacted] is a citizen of Iran. Ms. [redacted] has a pending DS-160 nonimmigrant visa application bearing case number [redacted] at the U.S. Consulate General in Frankfurt, Germany. Plaintiff [redacted] attended a consular interview and was refused under INA 212(f).

24. Plaintiff [redacted] is a citizen of Togo. Ms. [redacted] has a pending DS-260 immigrant visa application bearing case number [redacted] at the U.S. Embassy in Lomé, Togo. Plaintiff [redacted] attended her consular interview and was refused under INA 212(f).

25. Plaintiff [redacted] is a citizen of Iran. Ms. [redacted] has a pending DS-260 immigrant visa application bearing case number [redacted] at the U.S. Embassy in Yerevan, Armenia. Plaintiff [redacted] attended her consular interview on June 10, 2024. She was initially refused under INA 221(g) and later under INA 212(f).

26. Plaintiff [redacted] is a citizen of Syria. Ms. [redacted] has a pending DS-260 immigrant visa application bearing case number [redacted] at the U.S. Embassy in Amman, Jordan. Plaintiff [redacted] attended her consular interview on February 19, 2026 and was refused under INA 221(g) and INA 212(f).

27. Plaintiff [redacted] is a citizen of Syria. Ms. [redacted] has a pending DS-260 immigrant visa application bearing case number [redacted] at the U.S. Embassy in

Amman, Jordan. Plaintiff [redacted] attended her consular interview and was refused under INA 221(g).

28. Plaintiff [redacted] is a citizen of Benin. Mr. [redacted] has a pending DS-260 immigrant visa application bearing case number [redacted] at the U.S. Embassy in Cotonou, Benin. Plaintiff [redacted] attended his consular interview and was refused under INA 221(g) and INA 212(f).

29. Plaintiff [redacted] is a citizen of Burma. Ms. [redacted] has a pending DS-260 immigrant visa application bearing case number [redacted] at the U.S. Embassy in Bangkok, Thailand. Plaintiff [redacted] attended her consular interview and was refused under INA 221(g) and INA 212(f).

30. Plaintiff [redacted] is a citizen of Iran. Mr. [redacted] has a pending DS-260 immigrant visa application bearing case number [redacted] at the U.S. Embassy in Ankara, Türkiye. A family member of Mr. [redacted] has a pending DS-260 immigrant visa application bearing case number [redacted] at the same post. Plaintiff [redacted] has not been scheduled for a consular interview.

31. Plaintiff [redacted] is a citizen of Iran. Mr. [redacted] has a pending DS-260 immigrant visa application bearing case number [redacted] at the U.S. Embassy in Ankara, Türkiye. A family member of Mr. [redacted] has a pending DS-260 immigrant visa application bearing case number [redacted] at the same post. Plaintiff [redacted] has not yet been scheduled for a consular interview.

32. Plaintiff [redacted] is a citizen of Libya. Mr. [redacted] has a pending DS-260 immigrant visa application bearing case number [redacted] at the U.S. Embassy in

Tunis, Tunisia. Plaintiff [redacted] attended his consular interview on January 6, 2026 and was refused under INA 212(f).

33. Plaintiff [redacted] is a citizen of Syria. Mr. [redacted] has a pending DS-260 immigrant visa application bearing case number [redacted] at the U.S. Embassy in Amman, Jordan. Plaintiff [redacted] has not been scheduled for a consular interview.

34. Defendant United States Department of State is a cabinet-level department of the United States. It is responsible for the review, adjudication, and issuance of immigrant and nonimmigrant visas abroad. 8 U.S.C. §§ 1104, 1201, 1202. The Proclamations assign the Department responsibilities regarding their implementation.

35. Defendant Marco Rubio is the Secretary of State. He is responsible for the Department's implementation of the Proclamations and for the guidance and directives that constitute the Visa-Issuance Suspension Policy and the National Interest Exception Policy challenged here. He is sued in his official capacity.

JURISDICTION AND VENUE

36. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 because this action arises under the laws of the United States, including the Immigration and Nationality Act and the Administrative Procedure Act, 5 U.S.C. §§ 701–706.

37. The Court may grant relief under the Administrative Procedure Act, 5 U.S.C. §§ 702, 705, 706, and the Declaratory Judgment Act, 28 U.S.C. §§ 2201–2202.

38. The Court also has jurisdiction to review executive action that is *ultra vires*. *See Chamber of Commerce of the U.S. v. Reich*, 74 F.3d 1322, 1327–28 (D.C. Cir. 1996).

39. Venue is proper under 28 U.S.C. § 1391(e) because Defendants are an agency of the United States and an officer of the United States sued in his official capacity, Defendants reside

in this District, and a substantial part of the events and omissions giving rise to Plaintiffs' claims occurred in this District.

40. Plaintiffs have standing. Each Plaintiff has suffered a concrete and particularized injury: the deprivation of the review and adjudication of her visa application that 8 U.S.C. § 1202(b) and (d) require. That procedural deprivation is paired with each Plaintiff's concrete interest in obtaining the visa for which she applied and paid. *See Thein*, 2025 U.S. Dist. LEXIS 162775, at *15–16.

41. Those injuries are fairly traceable to Defendants' Visa-Issuance Suspension Policy and would be redressed by the relief sought. An order vacating the Policy and enjoining its application to Plaintiffs would secure the lawful adjudications Plaintiffs seek. That injury is redressed even if a Plaintiff's application is ultimately denied on a lawful ground. *Id.* at *17–18. Plaintiffs who receive visas would in addition hold documents valid for six months, 8 U.S.C. § 1201(c)(1), during which the temporary entry restrictions may be modified or lifted, *see* Proclamation 10,949 § 5, 90 Fed. Reg. at 24,503. That is a "necessary first step on a path that could ultimately lead to relief fully redressing the injury." *Thein*, 2025 U.S. Dist. LEXIS 162775, at *18 (citation omitted).

42. Plaintiffs are within the zone of interests protected by 8 U.S.C. § 1202(b) and (d). *Id.* at *19–20.

43. The doctrine of consular nonreviewability does not bar this action. The doctrine "bars judicial review of the particular determinations that consular officers render in specific cases," but "does not prohibit forward-looking challenges to the policies and rules that govern those determinations." *Al-Shakliah*, 2026 U.S. Dist. LEXIS 103708, at *16. "[W]hen plaintiffs pursue forward-looking challenges to the lawfulness of regulations or policies governing consular

decisions, courts may review them." *Pietersen v. U.S. Dep't of State*, 138 F.4th 552, 560 (D.C. Cir. 2025); *see Int'l Union of Bricklayers & Allied Craftsmen v. Meese*, 761 F.2d 798, 801 (D.C. Cir. 1985).

44. Plaintiffs challenge Defendants' categorical, written, worldwide directives, not any individual consular officer's exercise of judgment. Those directives "exist independent of any particular plaintiff's adjudication," and the relief Plaintiffs seek "is prospective." *Al-Shakliah*, 2026 U.S. Dist. LEXIS 103708, at *27. A policy challenge of this kind proceeds even where the named plaintiffs have themselves received refusals issued under the challenged policy. *Tate v. Pompeo*, 513 F. Supp. 3d 132, 142 (D.D.C. 2021); *Al-Shakliah*, 2026 U.S. Dist. LEXIS 103708, at *26.

45. Nor does the doctrine reach Plaintiffs whose applications remain unadjudicated. "[T]he doctrine of consular nonreviewability is not triggered until a consular officer has made a decision with respect to a particular visa application." *Nine Iraqi Allies Under Serious Threat Because of Their Faithful Serv. to the U.S. v. Kerry*, 168 F. Supp. 3d 268, 290 (D.D.C. 2016). A refusal entered to permit administrative processing is not the yes-or-no determination that puts an application to rest. *Janay v. Blinken*, 743 F. Supp. 3d 96, 112 (D.D.C. 2024); *Thein*, 2025 U.S. Dist. LEXIS 162775, at *26–28.

LEGAL BACKGROUND

A. Visa Issuance, Inadmissibility, and Admission Are Distinct

46. A noncitizen seeking to come to the United States must clear two separate checkpoints. Abroad, a consular officer decides whether to issue a visa. 8 U.S.C. §§ 1201(a)(1), 1202. At the border, a Department of Homeland Security officer decides whether to admit. *Id.* §§ 1182(a), 1225(a)(3).

47. A visa permits a prospective immigrant only "to travel to a port of entry, airport or land border crossing, and **request permission** of the Department of Homeland Security (DHS), Customs and Border Protection (CBP) inspector to enter the United States." U.S. Dep't of State, *What Is a U.S. Visa?*, travel.state.gov. A visa "has never guaranteed an alien's entry into the United States" but "merely gives the alien permission to arrive at a port of entry" and ask. *Saavedra Bruno v. Albright*, 197 F.3d 1153, 1157 (D.C. Cir. 1999).

48. Every visa carries that limitation. A visa holder is not "entitle[d]" "to be admitted" if an immigration official finds him "inadmissible under this chapter, or any other provision of law." 8 U.S.C. § 1201(h).

49. The converse is also true: a person who is inadmissible is not necessarily ineligible for a visa. *See id.* § 1182(k) (permitting admission of "otherwise inadmissible aliens who possess immigrant visas"); *Almaqrami v. Pompeo*, 933 F.3d 774, 776 (D.C. Cir. 2019).

50. Section 1182(a) enumerates the grounds of inadmissibility and provides that "aliens who are inadmissible under the **following paragraphs** are ineligible to receive visas and ineligible to be admitted to the United States." 8 U.S.C. § 1182(a) (emphasis added). Section 1182 "carefully distinguishes between subsections, which include §§ 1182(a) and 1182(f), and paragraphs, which are subunits of those subsections." *Gomez*, 485 F. Supp. 3d at 192. "[T]he following paragraphs" in § 1182(a) therefore "include only the ten paragraphs of § 1182(a); they do not also include § 1182(f), a distinct subsection of § 1182." *Id.*

51. The Supreme Court has described the separation as "basic" and said it "runs throughout the INA," which "is rife with examples distinguishing between the two concepts." *Hawaii*, 585 U.S. at 694 & n.3. It was explicit about where visas fall: "[t]he concepts of entry and

admission — but not issuance of a visa — are used interchangeably in the INA." *Hawaii*, 585 U.S. at 695 n.4.

B. The Duty to Adjudicate Is Mandatory and the Grounds of Refusal Are Limited

52. Congress directed that "[a]ll immigrant visa applications shall be reviewed and adjudicated by a consular officer," 8 U.S.C. § 1202(b), and that "[a]ll nonimmigrant visa applications shall be reviewed and adjudicated by a consular officer," *id.* § 1202(d). Those provisions are mandatory, not permissive, and create a nondiscretionary duty. *Filazapovich v. Dep't of State*, 560 F. Supp. 3d 203, 235 (D.D.C. 2021); *Rai v. Biden*, 567 F. Supp. 3d 180, 195 (D.D.C. 2021); *Thein*, 2025 U.S. Dist. LEXIS 162775, at *30–32; *cf. Meina Xie v. Kerry*, 780 F.3d 405, 408 (D.C. Cir. 2015).

53. The Department has bound itself by regulation to the same effect. "When a visa application has been properly completed and executed before a consular officer in accordance with the provisions of the INA and the implementing regulations, the consular officer **must issue the visa**, refuse the visa under INA 212(a) or 221(g) or other applicable law or, pursuant to an outstanding order under INA 243(d), discontinue granting the visa." 22 C.F.R. § 42.81(a) (emphasis added).

54. The grounds of refusal are closed. "A visa can be refused **only** upon a ground specifically set out in the law or implementing regulations." *Id.* § 40.6 (emphasis added). The residual phrase "or other applicable law" in § 42.81(a) follows an enumeration of visa-ineligibility provisions — "INA 212(a) or 221(g)" — and reaches other law rendering an applicant ineligible for a **visa**, not law restricting her **entry**.

55. The Department's manual is to the same effect. A consular officer's decision to "issue or refuse an [immigrant visa] application must be based on [the] interview, during which

[the officer] must ensure that all required documentation has been provided, that there is a legal basis for the applicant to immigrate, and that there are no ineligibilities that would affect visa issuance." 9 FAM 504.1-3(f). An officer "cannot temporarily refuse, suspend, or hold the visa for future action." *Id.* 504.1-3(g).

56. A refusal entered under 8 U.S.C. § 1201(g) so that an application may undergo "administrative processing" is not a final adjudication. The Department tells applicants that a case "refused for administrative processing . . . will remain refused while undergoing such processing" and "will receive **another adjudication** once such processing is complete." Such a refusal "may be overcome once you can determine administrative processing is completed." 9 FAM 306.2-2(A)(2)(a); *see Nine Iraqi Allies, 168 F. Supp. 3d at 284*, 287–89; *Janay*, 743 F. Supp. 3d at 112.

C. Section 1182(f) Governs Entry, Not Visa Issuance

57. Section 1182(f) provides that "[w]henever the President finds that the **entry** of any aliens or of any class of aliens into the United States would be detrimental to the interests of the United States, he may by proclamation, and for such period as he shall deem necessary, suspend the **entry** of all aliens or any class of aliens as immigrants or nonimmigrants, or impose on the **entry** of aliens any restrictions he may deem to be appropriate." 8 U.S.C. § 1182(f) (emphases added).

58. Section 1182(f) is one of the few INA provisions that retained the statute's 1952-era reference to "entry." The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 replaced most references to "entry" with "admission," defined as "lawful entry . . . after inspection and authorization by an immigration officer." *Id.* § 1101(a)(13)(A).

59. Section 1182(f)'s authority is confined to its "sphere": preventing the physical entry of specified classes of noncitizens. *Hawaii*, 585 U.S. at 680. Courts "assume that § 1182(f) does not allow the President to expressly override particular provisions of the INA." *Id.* at 682.

60. Where Congress has intended an entry restriction to operate as a bar on visa issuance, it has said so expressly. *See* 8 U.S.C. § 1182e(a) ("the Secretary of State may not issue any visa to" covered officials); *id.* § 1182f(a) (same). Congress included no comparable command in § 1182(f).

61. Section 1201(g) accordingly bars issuance only to a person who "is ineligible to receive a visa . . . under section 1182 of this title, or any other provision of law." The categories of persons made "ineligible to receive a visa" by § 1182 appear in subsection (a), not subsection (f). "A suspension of entry under § 1182(f) therefore has no bearing on whether the person is 'inadmissible' under § 1182(a) or ineligible to receive a visa under § 1201(g)." *Gomez*, 485 F. Supp. 3d at 192.

D. The Presidential Proclamations

62. On January 20, 2025, the President issued Executive Order 14,161, directing the Secretary of State to identify countries whose "vetting and screening information is so deficient as to warrant a partial or full suspension on the admission of nationals from those countries" under 8 U.S.C. § 1182(f). 90 Fed. Reg. 8,451, 8,451 (Jan. 30, 2025).

63. On June 4, 2025, the President issued Proclamation 10,949, *Restricting the Entry of Foreign Nationals To Protect the United States From Foreign Terrorists and Other National Security and Public Safety Threats*, 90 Fed. Reg. 24,497 (June 10, 2025). Invoking § 1182(f), the Proclamation "fully restrict[ed] and limit[ed] the **entry** of nationals" of twelve countries and partially restricted the entry of nationals of seven others. *Id.* at 24,499–501.

64. On December 16, 2025, the President issued Proclamation 10,998, *Restricting and Limiting the Entry of Foreign Nationals to Protect the Security of the United States*, 90 Fed. Reg. 59,717 (Dec. 19, 2025), finding that "most of the countries identified in Proclamation 10,949 . . . continue to exhibit woeful inadequacies in screening, vetting, and provision of information," and

determining "to continue to fully restrict and limit the **entry** of nationals" of additional countries. *Id.* at 59,717, 59,721.

65. Together the Proclamations restrict the entry of nationals of thirty-nine countries: Afghanistan, Myanmar (Burma), Chad, the Republic of Congo, Equatorial Guinea, Eritrea, Haiti, Iran, Libya, Somalia, Sudan, Yemen, Burundi, Cuba, Laos, Sierra Leone, Togo, Turkmenistan, and Venezuela under Proclamation 10,949; and Burkina Faso, Mali, Niger, South Sudan, Syria, Angola, Antigua and Barbuda, Benin, Côte d'Ivoire, Dominica, Gabon, The Gambia, Malawi, Mauritania, Nigeria, Senegal, Tanzania, Tonga, Zambia, and Zimbabwe under Proclamation 10,998.

66. Each Proclamation speaks exclusively to entry. Neither purports to suspend the issuance of visas, and neither could, because § 1182(f) confers no such authority.

67. Each Proclamation provides for a case-by-case national interest exception, to be granted in the discretion of the Secretary of State or his designee. Proclamation 10,949 § 4(d), 90 Fed. Reg. at 24,503; Proclamation 10,998 § 6(e), 90 Fed. Reg. at 59,727.

E. The Department of State's Visa-Issuance Suspension Policy

68. The Department did not confine its implementation to entry. On December 23, 2025, it published guidance announcing that "the United States is suspending or limiting entry **and visa issuance** to nationals of 39 countries as well as individuals applying using travel documents issued or endorsed by the Palestinian Authority," and that "[a]pplicants who are subject to Presidential Proclamation 10,998 may still submit visa applications and attend scheduled interviews, but they may be **ineligible for visa issuance** or admission to the United States." U.S. Dep't of State, *Presidential Proclamation 10,998 on Restricting and Limiting the Entry of Foreign Nationals*, travel.state.gov (Dec. 23, 2025) (emphases added).

69. The Department captioned its companion announcement "Suspension of **Visa Issuance** to Foreign Nationals to Protect the Security of the United States." U.S. Dep't of State, travel.state.gov (last updated Feb. 2, 2026) (emphasis added).

70. The Department customarily transmits non-public implementing guidance to diplomatic and consular posts following a Presidential Proclamation. The guidance implementing Proclamation 10,949 was produced in litigation. It directs consular officers to "first determine whether [an] applicant is otherwise eligible for a visa under the INA, without regard to the [Proclamation]," and then provides that even if the applicant is otherwise eligible, if she is "subject to [the Proclamation]" she "must be refused . . . unless [she] qualifies for one of the [Proclamation's] narrowly defined exceptions." *Thein*, 2025 U.S. Dist. LEXIS 162775, at *8–9 (quoting the administrative record).

71. The Department's manual codifies the same instruction, listing ineligibility for entry under 8 U.S.C. § 1182(f) as a basis for refusing a visa application. 9 FAM 301.4-1(a). That instruction is contrary to 8 U.S.C. §§ 1201(g) and 1202(b) and (d), and to 22 C.F.R. §§ 40.6 and 42.81(a).

72. The Policy operates categorically. Consular officers are directed to refuse, under § 1182(f), all visa applications by applicants subject to Proclamation 10,949, "regardless of their application's status or circumstances," including by "retroactively rejecting already approved and adjudicated visa applications." *Momeni v. Blinken*, No. 2:24-cv-04879 (ODW), 2026 U.S. Dist. LEXIS 116834, at *5 (C.D. Cal. May 27, 2026).

73. Applicants whose approved visas had already been printed have had the foils stamped "cancelled without prejudice" and their applications refused under § 1182(f). *Al-Shakliah*, 2026 U.S. Dist. LEXIS 103708, at *8–10.

74. Applicants refused under the Policy receive one of two explanations: that the application is denied outright on the basis of the Proclamation, or that it "would have to undergo mandatory administrative processing" and will "receive another adjudication once such processing is complete." *Thein*, 2025 U.S. Dist. LEXIS 162775, at *10–11.

75. The Department issued non-public implementing guidance for Proclamation 10,998 that directs consular officers to refuse covered applicants in the same manner, which is consistent with the Department's published December 23, 2025 announcement and with its practice under Proclamation 10,949.

F. The National Interest Exception Policy

76. Although the Proclamations provide for case-by-case national interest exceptions, the Department has narrowed the exception to a nullity in practice.

77. In litigation, the Department produced a document explaining that a national interest exception "should be used rarely and the relationship of the travel to U.S. national interests should be exceptional in nature." The same document lists as travel that would "likely NOT qualify for an NIE absent other factors": travel "to visit or attend events involving family members who are U.S. citizens, LPRs, or lawfully admitted aliens"; travel "for education, work, or training in the United States," "includ[ing] continuing students or resuming employment"; travel that "if denied, would cause the applicant financial hardship, personal hardship (including but not limited to emotional distress), educational hardship, or non-critical harm to an applicant's health and well-being"; travel "to provide assistance to a U.S. citizen family member"; and travel "for routine commercial or business purposes."

78. Those exclusions eliminate substantially every category of travel for which the Plaintiffs and other covered applicants seek visas.

79. The Department has further directed that national interest exception requests be made by Chiefs of Mission rather than adjudicated by the consular officers to whom 8 U.S.C. § 1202(b) and (d) assign the review and adjudication of visa applications. *Cf. Al-Shakliah*, 2026 U.S. Dist. LEXIS 103708, at *23–24.

80. Plaintiffs allege on information and belief that, as of the filing of this amended complaint, national interest exceptions under Proclamation 10,998 have been granted in a negligible number of cases, if any. Plaintiffs refer to the Department's directives governing the exception as the "National Interest Exception Policy."

G. Courts Have Repeatedly Held That § 1182(f) Cannot Support a Visa Refusal

81. The question presented is not new. For six years the judges of this Court have uniformly held that the Department may not rely on a proclamation issued under 8 U.S.C. § 1182(f) to refuse a visa application.

82. In *Gomez v. Trump*, the Court held that "Subsection 1201(g) precludes the issuance of visas only as to persons who are 'ineligible to receive a visa' under Section 1182, not to persons who are only ineligible to enter under that provision." *Gomez*, 485 F. Supp. 3d at 191. Judge Boasberg adopted that analysis in *Milligan*, 502 F. Supp. 3d at 315, and reaffirmed it in *Al-Shakliah*, 2026 U.S. Dist. LEXIS 103708, at *37–39.

83. In *Tate v. Pompeo*, the Court granted preliminary relief to nonimmigrant visa applicants, concluding that "[b]ecause § 1182(f) concerns itself only with entry, a person subject to a Presidential Proclamation relying on § 1182(f) is only ineligible to enter, but not ineligible for a visa," and that "Defendants have identified no applicable statutory authority permitting the State Department to suspend visa processing on the basis of the entry restrictions provided by the Presidential Proclamations." *Tate,* 513 F. Supp. 3d at 145–46. The Court enjoined the Department

"from relying on the Presidential Proclamations to suspend or refuse visa adjudications for those plaintiffs covered by the Proclamations." *Id.* at 154.

84. In *Thein v. Trump*, the Court considered the guidance implementing Proclamation 10,949 and held that Plaintiffs were likely to show it "not in accordance with law" and "in excess of statutory . . . authority." *Thein*, 2025 U.S. Dist. LEXIS 162775, at *47. "Plain as day, Subsection 1182(f) addresses only the question of entry, not the issuance of visas. No doubt that is why Proclamation 10,949 itself only speaks to admissibility." *Id.* at *41–42. The Court preliminarily enjoined the Secretary "from issuing visa-application refusals based on 8 U.S.C. § 1182(f), Proclamation 10,949, or any guidance instructing consular officers to refuse visas based on Subsection 1182(f)." *Id.* at *53. The Department complied with that order and adjudicated nearly all of the applications, and after the diversity visa fiscal year closed the Court held the enjoined claims moot and dismissed the case, rejecting a separate constitutional challenge to § 1182(f) itself. *Thein v. Trump*, 2026 U.S. Dist. LEXIS 13123 (D.D.C. Jan. 23, 2026), appeal dismissed as moot, 2026 U.S. App. LEXIS 4672 (D.C. Cir. Feb. 17, 2026). The Court's construction of § 1182(f) and § 1201(g) was not revisited.

85. In *Al-Shakliah v. Rubio*, the Court declined to dismiss challenges to the Department's "No-Visa Policy" — its practice of refusing visas under § 1182(f) for applicants subject to Proclamation 10,949 — as both in excess of statutory authority and arbitrary and capricious, and likewise declined to dismiss a challenge to the Department's national interest exception policy on the theory that the Department "maintains a waiver process in name but has narrowed it to a nullity in practice." 2026 U.S. Dist. LEXIS 103708, at *29–30, *36–39. The Court dismissed the claims of applicants who had been interviewed and refused under § 1182(f) insofar as those claims sought review of the particular consular determinations in their cases, *id*. at *18–

22, and held that a challenge to the relocation of national interest exception authority is cognizable under 5 U.S.C. § 706(2) rather than § 706(1), *id*. at *34–36.

FACTUAL ALLEGATIONS

86. Plaintiffs are twenty-six nationals of countries designated in Proclamation 10,949 or Proclamation 10,998. Each applied for an immigrant or nonimmigrant visa, paid the required fees, and submitted the documentation the Department required.

87. For purposes of this amended complaint, Plaintiffs are grouped as follows. The "**Pending-Adjudication Plaintiffs**" are those Plaintiffs whose visa applications have been submitted and remain pending without a consular interview having been conducted, or whose scheduled interviews were cancelled or have not been rescheduled. This group includes Plaintiffs [redacted].

88. The "**Administrative-Processing Plaintiffs**" are those Plaintiffs who appeared for a consular interview, whose applications were refused under 8 U.S.C. § 1201(g) for administrative processing, and who have been advised that their cases "will receive another adjudication once such processing is complete." No consular officer has made the yes-or-no determination that concludes their applications. This group includes Plaintiffs [redacted].

89. The "**Refused Plaintiffs**" are those Plaintiffs whose applications have been refused with a citation to 8 U.S.C. § 1182(f) or to a Proclamation, without any finding that the Plaintiff is inadmissible under 8 U.S.C. § 1182(a) or otherwise ineligible for the visa sought. This group includes Plaintiffs [redacted].

90. No Plaintiff has been notified that he or she is inadmissible under 8 U.S.C. § 1182(a).

91. No Plaintiff has been notified that he or she is ineligible to receive the visa sought on any ground enacted by Congress.

92. Defendants have declined to adjudicate, or have purported to refuse, Plaintiffs' applications by reason of the Proclamations and the Visa-Issuance Suspension Policy.

93. The sole operative reason for Defendants' treatment of Plaintiffs' applications is Plaintiffs' nationality.

94. Some posts have advised applicants categorically that covered nationals will be refused under 8 U.S.C. § 1201(g) as a consequence of the Proclamations. *See* Ex. A (Notice, U.S. Embassy Almaty).

95. Plaintiffs face prolonged family separation, lost employment and educational opportunities, expiring medical examinations and police clearance certificates, the prospect of re-application, re-interview, and repayment of fees, and — for Plaintiffs residing in conditions of conflict or instability — continuing danger.

96. If the Visa-Issuance Suspension Policy is left in place, the resulting backlog will prevent the issuance of visas, and therefore entry, even after the temporary entry restrictions are lifted.

CAUSES OF ACTION

FIRST CAUSE OF ACTION
The Visa-Issuance Suspension Policy Exceeds Statutory Authority and Is Not in Accordance With Law
(5 U.S.C. § 706(2)(A), (C))

97. Plaintiffs repeat and reallege each of the foregoing paragraphs as if fully set forth herein.

98. The Department of State is an agency subject to the Administrative Procedure Act. 5 U.S.C. § 701(b)(1).

99. The Visa-Issuance Suspension Policy is final agency action. It marks the consummation of the Department's decisionmaking on how covered applications will be treated, and rights and obligations have been determined by it: covered applicants are refused visas. *Cf. California v. Mullin*, 183 F.4th 42, 51 (1st Cir. 2026) (denying a stay pending appeal where the Government had not made a strong showing that its implementation of a § 1182(f) proclamation was not final agency action; "agency action that carries out a presidential directive is ordinarily subject to APA review" (quoting *Agatha v. Trump*, 151 F.4th 9, 11 (1st Cir. 2025))).

100. Section 1182(f) authorizes the President to suspend or restrict the **entry** of noncitizens. It does not authorize the Department of State to suspend the issuance of visas, and it does not relieve consular officers of the duty Congress imposed by 8 U.S.C. § 1202(b) and (d).

101. Section 1201(g) bars issuance only to persons ineligible to receive a visa under § 1182. A person subject to a § 1182(f) proclamation is ineligible to enter; she is not thereby ineligible to receive a visa. *Gomez*, 485 F. Supp. 3d at 191–92.

102. The Policy directs consular officers to refuse visas on a ground not "specifically set out in the law or implementing regulations," in violation of 22 C.F.R. § 40.6, and to withhold the issuance or refusal that 22 C.F.R. § 42.81(a) requires.

103. The Policy therefore is "in excess of statutory jurisdiction, authority, or limitations, or short of statutory right," and "otherwise not in accordance with law." 5 U.S.C. § 706(2)(A), (C).

104. The Court should hold unlawful and set aside the Visa-Issuance Suspension Policy and enjoin Defendants from applying it to Plaintiffs.

SECOND CAUSE OF ACTION
The Visa-Issuance Suspension Policy Is Arbitrary and Capricious
(5 U.S.C. § 706(2)(A))

105. Plaintiffs repeat and reallege each of the foregoing paragraphs as if fully set forth herein.

106. An agency must "examine the relevant data and articulate a satisfactory explanation for its action including a rational connection between the facts found and the choice made." *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983).

107. Defendants offered no reasoned explanation for treating a restriction on entry as a bar on visa issuance, and none is available: the two are distinct under the INA. *Hawaii*, 585 U.S. at 694–95.

108. Defendants failed to consider important aspects of the problem, including the statutory duty to adjudicate under 8 U.S.C. § 1202(b) and (d); the closed list of refusal grounds under 22 C.F.R. § 40.6; the temporary and reviewable character of the Proclamations; the expiration of medical examinations, police clearance certificates, and visa priority under the Policy; and the backlog the Policy creates.

109. Defendants departed, without acknowledgment or explanation, from the Department's own longstanding regulatory framework governing visa adjudication and refusal. An unexplained departure from an agency's prior position is arbitrary and capricious. *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009); *Encino Motorcars, LLC v. Navarro*, 579 U.S. 211, 221–22 (2016).

110. The Policy is therefore arbitrary, capricious, and an abuse of discretion within the meaning of 5 U.S.C. § 706(2)(A), and should be held unlawful and set aside.

THIRD CAUSE OF ACTION
The National Interest Exception Policy Is Arbitrary and Capricious and Contrary to Law (5 U.S.C. § 706(2)(A), (C), (D))

111. Plaintiffs repeat and reallege each of the foregoing paragraphs as if fully set forth herein.

112. The Proclamations direct that exceptions "may be made case-by-case for individuals for whom the Secretary of State finds, in his discretion, that the travel by the individual

would serve a United States national interest." Proclamation 10,949 § 4(d), 90 Fed. Reg. at 24,503; Proclamation 10,998 § 6(e), 90 Fed. Reg. at 59,727.

113. Plaintiffs do not seek to enforce the Proclamations directly, and do not claim a right to any particular exception. They challenge the Department's guidance implementing the exception as agency action reviewable under the APA. *See Moghaddam v. Pompeo*, 424 F. Supp. 3d 104, 120 (D.D.C. 2020); *Ashtari v. Pompeo*, 496 F. Supp. 3d 462, 469–70 (D.D.C. 2020); *Al-Shakliah*, 2026 U.S. Dist. LEXIS 103708, at *30–32.

114. By directing that exceptions be granted "rarely" and only for interests "exceptional in nature," and by excluding from eligibility substantially every category of travel for which covered applicants apply — family reunification, education, employment, hardship, assistance to United States citizen relatives, and routine business — the Department has maintained an exception process in name while rendering it unattainable in fact.

115. A policy or practice of declining to grant exceptions altogether is reviewable and is not committed to agency discretion by law. *Kangarloo v. Pompeo*, 480 F. Supp. 3d 134, 140 (D.D.C. 2020); *Al-Shakliah*, 2026 U.S. Dist. LEXIS 103708, at *33–34; *cf. Hawaii*, 585 U.S. at 749 (Breyer, J., dissenting) (a waiver program may be "nothing more than a sham" where waivers are "vanishingly rare").

116. By assigning national interest exception determinations to Chiefs of Mission rather than to the consular officers to whom Congress assigned the review and adjudication of visa applications, the Department has acted "without observance of procedure required by law." 5 U.S.C. § 706(2)(D); *see* 8 U.S.C. §§ 1104(a), 1202(b), (d); 22 C.F.R. §§ 42.62(b), 42.81.

117. The National Interest Exception Policy is therefore arbitrary, capricious, contrary to law, and adopted without observance of procedure required by law, and should be held unlawful and set aside.

FOURTH CAUSE OF ACTION
Agency Action Unlawfully Withheld and Unreasonably Delayed
(5 U.S.C. §§ 555(b), 706(1))
(Pending-Adjudication and Administrative-Processing Plaintiffs Only)

118. Plaintiffs repeat and reallege each of the foregoing paragraphs as if fully set forth herein.

119. Congress imposed on consular officers a nondiscretionary duty to review and adjudicate every immigrant and nonimmigrant visa application. 8 U.S.C. § 1202(b), (d). That duty is a discrete agency action the Department is required to take. *Norton v. S. Utah Wilderness All.*, 542 U.S. 55, 64 (2004); *Meina Xie*, 780 F.3d at 408; *Thein*, 2025 U.S. Dist. LEXIS 162775, at *30–33.

120. The Department must also "conclude a matter presented to it" "within a reasonable time." 5 U.S.C. § 555(b).

121. As to the Pending-Adjudication Plaintiffs, no consular officer has reviewed and adjudicated the application at all.

122. As to the Administrative-Processing Plaintiffs, the refusal entered under 8 U.S.C. § 1201(g) to permit administrative processing is not the adjudication § 1202(b) and (d) require. The Department has told these Plaintiffs that their cases "will receive another adjudication once such processing is complete." The yes-or-no determination that concludes their applications has not been made. *Janay*, 743 F. Supp. 3d at 112; *Thein*, 2025 U.S. Dist. LEXIS 162775, at *26–28.

123. A purported refusal entered under 8 U.S.C. § 1182(f) likewise does not discharge the duty, because § 1182(f) is not a lawful ground of visa refusal and because the entry restriction it implements is temporary by its terms. *Momeni*, 2026 U.S. Dist. LEXIS 116834, at *7–8.

124. Defendants' withholding of adjudication is unreasonable under each of the factors set out in *Telecommunications Research & Action Center v. FCC*, 750 F.2d 70, 79–80 (D.C. Cir. 1984). There is no rule of reason governing a pause of indefinite duration; Congress directed that "all" applications "shall" be adjudicated; human health and welfare are at stake, including family separation, lost livelihoods, expiring medical and police clearances, and personal safety; no competing agency priority is served by refusing to adjudicate applications that have already been filed and paid for; the interests prejudiced by the delay are severe; and no finding of bad faith is required.

125. Defendants have unlawfully withheld and unreasonably delayed agency action. The Court should compel Defendants to review and adjudicate these Plaintiffs' applications within a reasonable time, without reliance on 8 U.S.C. § 1182(f), the Proclamations, or the Visa-Issuance Suspension Policy. 5 U.S.C. § 706(1).

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court:

A. Take jurisdiction over this matter;

B. Declare that 8 U.S.C. § 1182(f) does not authorize Defendants to suspend the issuance of visas, to decline to review and adjudicate visa applications, or to refuse a visa application;

C. Declare unlawful and set aside the Visa-Issuance Suspension Policy, including the Department of State's guidance of December 23, 2025, any non-public cable or directive implementing Proclamation 10,949 or Proclamation 10,998 that instructs consular officers to

refuse visa applications under 8 U.S.C. § 1182(f), and 9 FAM 301.4-1(a) insofar as it identifies 8 U.S.C. § 1182(f) as a ground for refusing a visa;

D. Declare unlawful and set aside the National Interest Exception Policy;

E. Enjoin Defendants from refusing, declining to adjudicate, or suspending the adjudication of Plaintiffs' visa applications on the basis of 8 U.S.C. § 1182(f), Proclamation 10,949, Proclamation 10,998, or any guidance implementing them;

F. Compel Defendants to review and adjudicate the visa applications of the Pending-Adjudication and Administrative-Processing Plaintiffs within a reasonable time, and to do so applying the same standards applied in every other case, without regard to 8 U.S.C. § 1182(f);

G. Order Defendants to file a status report within thirty days of the Court's order, and every thirty days thereafter, reporting the status of each Plaintiff's application;

H. Order such further relief as is necessary to prevent Plaintiffs from being prejudiced by Defendants' unlawful conduct, including extension of the validity of medical examinations and police clearance certificates;

I. Award Plaintiffs their costs and reasonable attorney's fees under the Equal Access to Justice Act, 28 U.S.C. § 2412(d), and any other applicable law;

J. Enter all necessary writs, injunctions, and orders as justice and equity require; and

K. Grant such further relief as this Court deems just and proper.

Dated: September 18, 2026

Respectfully submitted,

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