UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

[redacted] **JIMENEZ,** [redacted], **JASON KOMUTRATTANANON, and** [redacted], on behalf of themselves and all others similarly situated, Plaintiffs, v. **MARKWAYNE MULLIN,** Secretary of Homeland Security; **JOSEPH B. EDLOW,** Director, U.S. Citizenship and Immigration Services; **DIRECTOR, USCIS CALIFORNIA SERVICE CENTER;** **MARCO RUBIO,** Secretary of State; **U.S. DEPARTMENT OF HOMELAND SECURITY;** **U.S. CITIZENSHIP AND IMMIGRATION SERVICES; and** **U.S. DEPARTMENT OF STATE,** Defendants.	Civil Action No. 3:26-cv-01384-OAW

FIRST AMENDED CLASS ACTION COMPLAINT
FOR DECLARATORY, INJUNCTIVE, AND MANDAMUS RELIEF

Congress created the K-3 nonimmigrant classification so that the spouse of a United States citizen could enter the United States "to await the approval of such petition and the availability to the alien of an immigrant visa." 8 U.S.C. § 1101(a)

(15)(K)(ii). Defendants have reduced that classification to a dead letter by two practices, neither of which appears in any statute or regulation. First, Defendants leave the Form I-129F that initiates the classification unadjudicated for longer than the immigrant petition it was enacted to bridge, so that the K-3 arrives, if at all, after the delay it exists to cure. Second, the moment the Form I-130 is approved, Defendants treat the K-3 petition as extinguished: the National Visa Center closes the K-3 case, and the Department of State instructs its consular officers to refuse the K-3 application for that reason alone. Plaintiff [redacted] Jimenez, a Detective and veteran who filed both petitions for his wife on the same day in August 2025, brought this action on August 27, 2026, when neither had been adjudicated. Defendants have since approved every petition he filed — including two immigrant petitions for his stepchildren, filed ten months after the K-3 petition and approved in little more than four months, while the K-3 petition, filed first, waited more than a year and was adjudicated on the same day as they were. By Defendants' own stated rule, the approval of his wife's Form I-130 now requires the closure of the K-3 case that his approved Form I-129F initiated, before his wife can be interviewed on it. Plaintiff Jason Komutrattananon has already received that treatment from USCIS itself: by written decision it denied the K-3 petition he filed for his wife on the sole ground that her Form I-130 had been approved. Plaintiffs bring this amended complaint on behalf of themselves and two nationwide classes

of United States citizens to whom Defendants apply the same two practices, and allege as follows:

JURISDICTION

1. This action arises under the Constitution and the laws of the United States, including the Immigration and Nationality Act ("INA") and the Administrative Procedure Act ("APA").

2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 (federal question) and 28 U.S.C. § 1361 (mandamus). The APA, 5 U.S.C. §§ 555(b), 702 and 706, supplies the cause of action and the standard of review, and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, authorizes the declaratory relief sought.

3. No statute precludes review. Title 8, United States Code, section 1252(a)(2)(B)(ii) withdraws jurisdiction only over decisions "the authority for which is specified under this subchapter to be in the discretion of the Attorney General or the Secretary of Homeland Security." A decision is not so specified merely because an agency has chosen to treat it as discretionary.

4. Neither 8 U.S.C. § 1101(a)(15)(K) nor 8 U.S.C. § 1184(r) specifies that the pace at which a Form I-129F is adjudicated, or the question whether a Form I-129F and the K-3 application based on it remain valid after approval of a Form I-130, lies in the discretion of the Secretary of Homeland Security or the Secretary of State.

5. The doctrine of consular nonreviewability is not implicated. Plaintiffs do not challenge the grant or the denial of any visa by any consular officer in any individual case. The closure practice challenged here is carried out in the first instance by the National Visa Center, a domestic processing office of the Department of State in Portsmouth, New Hampshire, which administratively closes the K-3 case and declines to forward the approved Form I-129F to any consular post. That act is not a visa adjudication and is not performed by a consular officer. Plaintiffs further challenge the written instruction of general applicability, published by the Department of State and applied by the National Visa Center and by USCIS, that directs the disposition of an entire category of petitions and applications without regard to their merits, and the failure of a domestic agency to adjudicate petitions filed with it.

6. A declaration that the closure practice is unlawful, and an order directing Defendants to process the petitions, redress the injuries alleged here without regard to whether any visa is thereafter issued. The injury of each Plaintiff who petitions for a spouse is the loss of the processing to which the statute entitles the petition, and the longer separation that follows from that loss: the K-3 classification exists to admit the spouse while the immigrant visa is pending, and the closure practice substitutes the immigrant-visa wait described below for the processing Congress provided. Relief that removes the sole stated ground for the closure and restores that processing shortens the separation by that difference, and

no act of any consular officer is required for it to do so. As to Plaintiff Komutrattananon, the March 20, 2026 denial of his petition is itself the injury, and an order setting that denial aside and directing adjudication on the merits is itself the redress, whatever effect the Proclamation may have on when a visa issues to his spouse.

VENUE

7. Venue is properly laid in the District of Connecticut under 28 U.S.C. § 1391(e)(1)(C), because Plaintiffs Jimenez and [redacted] reside in this judicial district and no real property is involved in this action. The claims of every Plaintiff arise from the same two nationwide practices, are brought against the same Defendants, and seek the same relief, and are properly joined in this single action.

PARTIES

8. Plaintiff [redacted] Jimenez is a citizen of the United States, born in [redacted] in [redacted], Connecticut. He resides at [redacted], Unit [redacted], [redacted], Connecticut [redacted], within this judicial district. He is the petitioner on the Form I-129F and the Forms I-130 described below.

9. Plaintiff [redacted] is a citizen of the United States who resides in [redacted], Connecticut, within this judicial district. She is the petitioner on a Form I-130 filed on July 2, 2026 on behalf of her husband, a citizen of [redacted], receipted as number [redacted], and on a Form I-129F seeking K-3

classification for him, receipted as number [redacted]. Both petitions are pending with USCIS.

10. Plaintiff Jason Komutrattananon is a citizen of the United States who resides in [redacted], California. He is the petitioner on a Form I-130 filed on October 17, 2024 on behalf of his wife, a citizen of [redacted], receipted as number [redacted] and approved on November 20, 2025, and on a Form I-129F seeking K-3 classification for her, receipted as number [redacted] on December 9, 2024, which USCIS denied on March 20, 2026 on the ground that the Form I-130 was no longer pending.

11. Plaintiff [redacted] is a citizen of the United States who resides in [redacted], New Jersey. She is the petitioner on a Form I-129F seeking K-3 classification for her husband, a citizen of [redacted], receipted as number [redacted], which has been pending with USCIS since July 3, 2025.

12. Defendant Markwayne Mullin is the Secretary of Homeland Security, residing at 2707 Martin Luther King Jr. Ave., SE, Washington, DC 20528. He is sued in his official capacity. He is charged by law with the administration and enforcement of the immigration laws, including the adjudication of the petitions at issue here.

13. Defendant Joseph B. Edlow is the Director of United States Citizenship and Immigration Services, residing at 111 Massachusetts Ave., NW, Washington,

DC 20529. He is sued in his official capacity. USCIS, including its California Service Center, operates under his direction.

14. Defendant Director of the USCIS California Service Center, located at 2642 Michelle Drive, Tustin, California 92780, is the officer in charge of a USCIS facility at which Forms I-129F seeking K-3 classification are adjudicated, including the petition filed by Plaintiff Jimenez, and is sued in an official capacity.

15. Defendant Marco Rubio is the Secretary of State, residing at 2201 C Street, NW, Washington, DC 20520. He is sued in his official capacity. The Department of State publishes the Foreign Affairs Manual provision described below, and its National Visa Center is the entity to which an approved Form I-129F is forwarded.

16. Defendant United States Department of Homeland Security, located at 2707 Martin Luther King Jr. Ave., SE, Washington, DC 20528, is an agency of the United States within the meaning of 5 U.S.C. § 701(b)(1).

17. Defendant United States Citizenship and Immigration Services, located at 111 Massachusetts Ave., NW, Washington, DC 20529, is a component of the Department of Homeland Security and is the agency with which Plaintiffs' petitions were filed.

18. Defendant United States Department of State, located at 2201 C Street, NW, Washington, DC 20520, is an agency of the United States within the meaning of 5 U.S.C. § 701(b)(1).

STATEMENT OF FACTS

A. The K-3 classification and the statutory scheme.

19. Congress created the K-3 classification in section 1103 of the Legal Immigration Family Equity Act, Pub. L. No. 106-553 (2000), to reunite United States citizens with spouses stranded abroad by the government's own processing delays.

20. Section 1101(a)(15)(K)(ii) of Title 8 defines the K-3 nonimmigrant as the spouse of a United States citizen who "seeks to enter the United States to await the approval of such petition and the availability to the alien of an immigrant visa."

21. That definition contains two conjuncts. Approval of the Form I-130 satisfies only the first. The second — "the availability to the alien of an immigrant visa" — is not satisfied until an immigrant visa is practically available to the beneficiary through consular processing.

22. The K-3 classification is available only to the spouse of a United States citizen. The spouse of a United States citizen is an immediate relative under 8 U.S.C. § 1151(b) and is never subject to a numerical limitation. If "availability" meant only the existence of a visa number, the phrase would have been surplusage on the day it was enacted.

23. The implementing regulation conditions K-3 eligibility on a Form I-130 having been "filed" — not approved, and not pending. 8 C.F.R. § 214.2(k)(7).

24. The regulation governing automatic termination of K-3 status, 8 C.F.R. § 214.2(k)(11), enumerates the events that terminate the status. Those events are denials, revocations, and changes in the qualifying family relationship. Approval of the Form I-130 appears nowhere in the list. The statute is to the same effect: under 8 U.S.C. § 1184(r)(3), the period of authorized admission of a K-3 nonimmigrant terminates thirty days after the denial of the Form I-130, of the immigrant visa application based on its approval, or of the application for adjustment of status based on its approval. Congress enumerated the events that end the classification, and approval of the Form I-130 is not among them.

25. The regulations expressly contemplate that K-3 status will continue after the Form I-130 is approved: 8 C.F.R. § 214.2(k)(10)(ii) provides for extension of K-3 status "after a Form I-130 filed on their behalf has been approved."

26. The provisions of 8 C.F.R. § 214.2(k) cited above are regulations of the Department of Homeland Security, published in the Code of Federal Regulations, and they bind Defendants. The Department of State has no authority to amend a regulation of the Department of Homeland Security, and neither Department may amend a published regulation by a manual provision or by guidance posted on a website.

27. No statute and no regulation promulgated through notice-and-comment rulemaking provides that approval of a Form I-130 terminates, moots, or

authorizes the administrative closure of a Form I-129F seeking K-3 classification, or the refusal of a K-3 visa application based on it.

28. Congress has declared it the sense of Congress that the processing of an immigration benefit application should be completed not later than 180 days after its initial filing. 8 U.S.C. § 1571(b).

B. The closure practice.

29. Defendants maintain a practice of treating a Form I-129F seeking K-3 classification, and the K-3 visa application based on it, as terminated, moot, or administratively closed upon approval of the corresponding Form I-130.

30. The Department of State publishes that practice in the Foreign Affairs Manual at 9 FAM 502.7-3(C)(2)(c). That provision instructs consular officers that where the Form I-130 has been approved, the K-3 visa application "should be refused under INA 221(g)" and the Form I-129F "should be kept in the file with the corresponding I-130 petition," and that only where the Form I-130 "has not yet been approved" is the Form I-129F "still valid" and the K-3 application to be processed.

31. USCIS publishes the same practice on its official website. Its page on K-3 and K-4 nonimmigrant visas states: "Currently, the processing times for Form I-129F are often comparable to the processing times for Form I-130. Once the Form I-130 is approved, beneficiaries are no longer eligible for a K-3 or K-4 nonimmigrant visa, so the Department of State rarely issues K-3 and K-4 visas."

The same page states that if USCIS approves the Form I-130 "before or at the same time as" the Form I-129F, the spouse "will no longer need a K-3 or K-4 visa," and that "[t]his occurs in the vast majority of cases." The Department of State publishes the same practice on its website, which states that when USCIS approves the Form I-130 before the Form I-129F, "the availability of, as well as the need for, a nonimmigrant K-3 visa ends," and that if the National Visa Center receives both an approved Form I-130 and an approved Form I-129F, "[t]he nonimmigrant K-3 visa case will be administratively closed" and the spouse will be instructed to process an immigrant visa instead. USCIS applies the same rule to the Form I-129F itself. By decision dated March 20, 2026, the Vermont Service Center denied the Form I-129F seeking K-3 classification that Plaintiff Komutrattananon had filed for his wife, on the sole ground that USCIS had "made a final decision" on the petitioner's Form I-130, reasoning that "[s]ince the Form I-130 is no longer pending, the beneficiary no longer requires the issuance of a K-3 nonimmigrant visa to await adjudication of the immigrant visa petition." The decision identified no deficiency in the petition, the marriage, or the evidence submitted.

32. The National Visa Center applies the practice to every approved Form I-129F seeking K-3 classification that it receives after approval of the corresponding Form I-130, without individualized consideration of the petition, the application, or the circumstances of the family.

33. That practice does not appear in any statute. It does not appear in any regulation. It was never adopted through notice-and-comment rulemaking under 5 U.S.C. § 553.

34. The practice rests on the unstated premise that once a Form I-130 is approved, the K-3 classification has no remaining function. That premise is false for the spouse of a citizen who comes from a country outside the Visa Waiver Program, for whom approval of the Form I-130 is followed by consular processing that may take many further months, during which the spouse remains barred from the United States.

35. The premise is false as a matter of law for whole categories of spouses. Approval of the Form I-130 makes no immigrant visa available to a spouse who is a national of a country to which the issuance of immigrant visas has been suspended; to a spouse who requires a waiver of a ground of inadmissibility that only USCIS may grant, which no consular officer has authority to grant, and until whose adjudication no immigrant visa may issue; or to any spouse during the months of National Visa Center and consular processing that follow approval. For each of them the K-3 classification retains, after approval of the Form I-130, exactly the function Congress gave it, and the closure practice denies it to them at that moment.

36. Approval of the Form I-130 satisfies only the first of the two conjuncts in 8 U.S.C. § 1101(a)(15)(K)(ii). The closure practice reads the second conjunct out of the statute.

37. The practice is self-executing. It operates automatically upon an event — approval of the Form I-130 — that lies wholly within Defendants' control and whose timing Defendants alone determine.

38. Because the act that extinguishes the K-3 petition is an act Defendants may take at any moment, and because the member of the public affected by it is thereafter routed to an immigrant visa whose eventual issuance Defendants then invoke as mooting any challenge, the practice is structured so as to escape judicial review in every individual case.

C. The delay practice.

39. Congress designed the K-3 classification to operate in the interval between the filing of the Form I-130 and the availability of an immigrant visa. The classification performs its function only if the Form I-129F that initiates it is adjudicated, forwarded, and acted upon while the Form I-130 is still pending.

40. On information and belief, Defendants do not adjudicate a Form I-129F seeking K-3 classification ahead of the Form I-130 filed for the same spouse. Defendants hold the Form I-129F and adjudicate it concurrently with, or after, the Form I-130, so that the K-3 petition is approved, if at all, at the moment its approval has been rendered useless by the closure practice.

41. That practice is reflected in Defendants' own guidance, which contemplates that the Form I-130 will be approved "before or at the same time as" the Form I-129F and prescribes the closure of the K-3 case in that event. It is reflected in the experience of Plaintiff Jimenez, described below, whose K-3 petition was adjudicated on the same day as three immigrant petitions, two of which were filed ten months after it. And it is reflected in Defendants' own published processing times, which show the Form I-129F taking longer with every publication while the K-3 classification is reduced to a dead letter in practice.

42. The delay challenged here is therefore not the product of the individual circumstances of any petition. It is the product of a uniform course of conduct by which Defendants withhold adjudication of every Form I-129F seeking K-3 classification until the petition can no longer serve its purpose.

43. USCIS publishes historical national median processing times by form type and fiscal year on its official website.

44. For Form I-129F, all classifications, USCIS publishes the following national median processing times in months: 8.0 for fiscal year 2021; 12.1 for fiscal year 2022; 13.9 for fiscal year 2023; 8.5 for fiscal year 2024; 7.7 for fiscal year 2025; and 7.8 for fiscal year 2026 through May 31, 2026.

45. Defendants also publish, through their online processing-times tool, an estimated processing-time range for a Form I-129F in the K-1/K-2/K-3/K-4 category at Service Center Operations.

46. On March 16, 2026, Defendants' published range for that category was 10.0 to 13.5 months. On May 22, 2026, it was 11.5 to 14.5 months. On August 17, 2026, it was 12.5 to 16.0 months. On September 17, 2026, the publication in force as this First Amended Complaint is filed, it was 13.0 to 16.5 months.

47. Between the March and September 2026 publications, each end of Defendants' published range grew by three months. For every month a K-3 petition aged, the period within which Defendants told the public such petitions are adjudicated receded by half a month.

48. Defendants' published processing times for a Form I-129F are substantially shorter than their published processing times for a Form I-130 filed by a United States citizen on behalf of a spouse. Defendants are therefore capable of adjudicating a Form I-129F more quickly than a Form I-130.

49. As of August 17, 2026, at Service Center Operations, Defendants published a range of 12.5 to 16.0 months for the Form I-129F and a range of 24.0 to 31.5 months for a Form I-130 filed by a United States citizen for a spouse. As of September 17, 2026, the ranges were 13.0 to 16.5 months and 25.5 to 34.0 months respectively.

50. That difference is the mechanism on which the K-3 classification depends. The classification is of use only if the Form I-129F is adjudicated substantially faster than the Form I-130 it exists to bridge.

51. Defendants' published ranges do not describe a limit on their capacity. In the case of Plaintiff Jimenez, described below, Defendants adjudicated two Forms I-130 in little more than four months, against a published range of 25.5 to 34.0 months, while the Form I-129F filed ten months earlier waited more than a year. Defendants adjudicate quickly the petitions they choose to adjudicate quickly.

52. Defendants' own case-status tool bars a petitioner from submitting an inquiry about a Form I-129F until the petition has been pending for approximately fifteen months.

53. Defendants have never designated the Form I-129F for premium processing. No petitioner may purchase expedited adjudication of a K-3 petition at any price.

D. The burden of both practices falls by nationality.

54. A citizen who petitions for a spouse from a country participating in the Visa Waiver Program may be joined by that spouse during the pendency of the immigrant petition. Such a spouse may travel to the United States without a visa and may be admitted for periods of up to ninety days. 8 U.S.C. §§ 1184(a)(1), 1187.

55. A citizen who petitions for a spouse from a country that does not participate in the Visa Waiver Program has no such option. That spouse must apply for a nonimmigrant visa at a United States consulate.

56. Every alien applying for a nonimmigrant visa "shall be presumed to be an immigrant until he establishes to the satisfaction of the consular officer, at the

time of application for a visa, and the immigration officers, at the time of application for admission," that he is entitled to nonimmigrant status. 8 U.S.C. § 1184(b).

57. A pending or approved Form I-130 filed by a United States citizen spouse is powerful evidence of the intent to immigrate. As a practical matter it defeats an application for a B-2 visitor visa.

58. A spouse from a Visa Waiver Program country never presents an application to a consular officer, never assembles a record disclosing the immigrant petition, and never generates a visa refusal. A spouse from a non-participating country must clear the presumption before a consular officer on a record that discloses the petition, and a refusal under 8 U.S.C. § 1184(b) becomes part of that spouse's permanent record.

59. Congress has treated spousal reunification very differently elsewhere in the same statute. The spouse of a temporary worker admitted under 8 U.S.C. § 1101(a)(15)(H)(i) or § 1101(a)(15)(L) is admitted as a derivative of that worker, concurrently with the worker and without any separate waiting period.

60. And in the very sentence that creates the presumption of immigrant intent, Congress exempted those workers from it by name. The presumption applies to "[e]very alien (other than a nonimmigrant described in subparagraph (L) or (V) of section 1101(a)(15) of this title, and other than a nonimmigrant described in any provision of section 1101(a)(15)(H)(i) of this title except subclause (b1) of such section)." 8 U.S.C. § 1184(b).

61. A citizen of the United States thus has fewer lawful means of reuniting with his spouse than a temporary nonimmigrant worker has. The K-3 classification is the mechanism Congress enacted to close that gap. Defendants' two practices leave it open.

62. The practical burden of the delay practice and of the closure practice therefore falls almost entirely on the spouses of United States citizens who come from countries outside the Visa Waiver Program — which is to say, on precisely the population for whom Congress created the classification.

E. Plaintiff Jimenez and his family.

63. Plaintiff Jimenez was born in [redacted], Connecticut in [redacted] and has lived in Connecticut his entire life.

64. At seventeen he enlisted in the United States Army. He completed basic training at Fort Leonard Wood, Missouri, and served as a Military Policeman in the Connecticut Army National Guard. He was activated for natural disasters and law enforcement functions, and received an honorable discharge in 2016 after nine years of service.

65. Plaintiff Jimenez has served the Town of [redacted], Connecticut as a police officer for approximately fifteen years. He currently holds the rank of Detective. He has served as a Field Training Officer, is a hostage negotiator, and is a member of his department's peer support team. He has been decorated with a Life

Saving Medal, an Excellent Arrest Medal, and a Recognition Award for subduing a violent and suicidal individual.

66. Plaintiff Jimenez married [redacted] on July 25, 2025 in [redacted], [redacted]. The marriage is registered with the [redacted]ian Civil Registry and Vital Records office for the District of [redacted].

67. His wife is a citizen of [redacted], born in [redacted] in [redacted] [redacted]. She resides in [redacted], [redacted]. [redacted] does not participate in the Visa Waiver Program.

68. His wife has two minor children from a prior marriage, referred to herein by their initials as J.V.F.M., age sixteen, and A.F.M., age twelve. Plaintiff Jimenez is their stepfather and co-parents them.

69. Since the marriage Plaintiff Jimenez has maintained two households and has traveled repeatedly to [redacted] to be with his wife and stepchildren.

F. Plaintiff Jimenez's petitions, and their approval after this action was filed.

70. On August 15, 2025, Plaintiff Jimenez filed a Form I-130, Petition for Alien Relative, on behalf of his wife. USCIS receipted that petition as number [redacted] and assigned it a priority date of August 15, 2025.

71. On the same day, August 15, 2025, he filed a Form I-129F on behalf of his wife, seeking K-3 nonimmigrant classification under 8 U.S.C. § 1101(a)(15)(K)(ii). On the Form I-129F he selected the classification "Spouse (K-3 visa)" and

answered "Yes" to the question whether he had filed a Form I-130 on his wife's behalf.

72. USCIS receipted the Form I-129F as number [redacted]. The Form I-797C Notice of Action bears a received date of August 15, 2025 and a notice date of August 20, 2025, and identifies the receiving office as the USCIS California Service Center in Tustin, California.

73. On June 1, 2026, Plaintiff Jimenez filed separate Forms I-130 on behalf of each of his two minor stepchildren, receipted as numbers [redacted] and [redacted], because the K-3 and K-4 route on which the family had relied had produced no adjudication in more than nine months.

74. Plaintiff Jimenez filed his Form I-129F in fiscal year 2025, for which Defendants' published national median processing time is 7.7 months. When he filed, the most recent published median was 8.5 months, for fiscal year 2024.

75. On June 12, 2026, he wrote to the USCIS National Benefits Center requesting adjudication and coordinated review of the related family petitions. On August 13, 2026, he wrote again, by certified mail, return receipt requested, to the National Benefits Center and to the USCIS Hartford Field Office, renewing that request. He also attempted to submit correspondence directly to the Form I-129F through his myUSCIS account; Defendants' systems do not permit the electronic upload of documents to a Form I-129F, and the attempt could not be completed.

76. He opened congressional inquiries with the offices of United States Senator Richard Blumenthal and United States Representative James A. Himes. By electronic mail dated July 16, 2026, the office of Senator Blumenthal transmitted the response USCIS had provided: that "your constituent's petition was received at the California Service Center on August 15, 2025, and remains pending within our stated processing time." That assertion cannot be reconciled with Defendants' own published median of 7.7 months for a Form I-129F filed in fiscal year 2025.

77. Using Defendants' own case-status tool and his receipt date of August 15, 2025, Defendants reported: "Your case is processing normally. The earliest you can submit questions is November 18, 2026."

78. On August 27, 2026, with the Form I-129F and all three Forms I-130 still pending, Plaintiff Jimenez filed the original Complaint in this action. The Form I-129F had then been pending more than twelve months, approximately sixty percent longer than Defendants' published national median for the fiscal year in which it was filed.

79. After this action was filed, on October 9, 2026, Defendants approved on a single day every petition Plaintiff Jimenez had filed: the Form I-130 filed on behalf of his wife; the two Forms I-130 filed on behalf of his stepchildren; and the Form I-129F, receipt number [redacted].

80. The Forms I-130 filed on behalf of the stepchildren on June 1, 2026 were approved on October 9, 2026, a little more than four months after they were

filed. Defendants' published processing-time range for a Form I-130 filed by a United States citizen for a spouse or child at the time was 25.5 to 34.0 months.

81. The Form I-129F, filed on August 15, 2025 — ten months before the stepchildren's petitions — was approved more than twelve months after filing, more than sixty percent longer than Defendants' published national median of 7.7 months for the fiscal year of filing, and only after this action was commenced. It was approved on October 9, 2026, the same day as the three Forms I-130.

82. Defendants thus adjudicated in four months two immigrant petitions filed ten months after the K-3 petition, and adjudicated the K-3 petition on the same day, at the moment when, by Defendants' own stated rule, its approval could no longer lead to a K-3 visa.

83. Upon approval, USCIS forwards a Form I-129F seeking K-3 classification to the National Visa Center of the Department of State, which in turn forwards it to the consular post at which the beneficiary will apply for the K-3 visa.

84. Because the Form I-130 filed on behalf of Plaintiff Jimenez's wife has been approved before any K-3 visa has issued to her, Defendants' stated rule requires the National Visa Center to administratively close the K-3 case, and requires any consular officer before whom his wife appears to refuse the K-3 application under section 221(g) of the INA, for the sole reason that the Form I-130 has been approved.

85. As of the filing of this First Amended Complaint, Defendants have not notified Plaintiff Jimenez of the closure of the K-3 case or the scheduling of a K-3 interview.

86. Approval of the Form I-130 has not made an immigrant visa available to Plaintiff Jimenez's wife. Before an immigrant visa can issue she must complete National Visa Center processing, including payment of fees, submission of a Form DS-260 and a Form I-864 Affidavit of Support with supporting documents, document review, and the scheduling and completion of a consular interview, a sequence that ordinarily takes many months.

87. In addition, by instruction issued in January 2026, the Department of State suspended the issuance of immigrant visas to nationals of seventy-five countries, including [redacted]. On August 21, 2026, the United States District Court for the Southern District of New York held that instruction contrary to law and in excess of statutory authority and vacated it. *Catholic Legal Immigration Network, Inc. v. Rubio*, No. 1:26-cv-00858 (S.D.N.Y.). The Secretary of State and the Department of State have appealed, No. 26-2573 (2d Cir.), and on September 28, 2026 moved to stay the judgment pending appeal. As of October 19, 2026, that motion had been fully briefed and had not been decided. If a stay is granted, no immigrant visa can issue to Plaintiff Jimenez's wife while the suspension remains in force, and the K-3 classification is the only lawful means by which she may join her husband.

88. Plaintiff Jimenez's wife therefore remains in exactly the position the K-3 classification was enacted to relieve: the Form I-130 has been approved, no immigrant visa is available to her, and she is barred from the United States. The closure practice denies her the classification at the only moment it has a function.

G. Plaintiff Komutrattananon: the closure practice applied by USCIS in a final decision.

89. Plaintiff Komutrattananon's wife, [redacted], is a citizen of [redacted] who resides in [redacted], [redacted]. She has not been admitted to the United States since their marriage. [redacted] does not participate in the Visa Waiver Program.

90. On October 17, 2024, Plaintiff Komutrattananon filed a Form I-130 on behalf of his wife, receipted as number [redacted]. On December 9, 2024, he filed a Form I-129F seeking K-3 classification for her, receipted as number [redacted] at the Nebraska Service Center. USCIS charged no fee for the Form I-129F. USCIS issued no request for evidence and no notice of intent to deny on it.

91. On November 20, 2025, USCIS approved the Form I-130 and forwarded it to the National Visa Center. On that date the Form I-129F had been pending more than eleven months without adjudication.

92. By decision dated March 20, 2026, fifteen months after the Form I-129F was filed and four months after the Form I-130 was approved, USCIS,

through its Vermont Service Center, denied the Form I-129F. The decision quotes 8 U.S.C. § 1101(a)(15)(K)(ii), including the words "to await the approval of such petition and the availability of an immigrant visa," and states: "Your Form I-129F must be based upon a Form I-130, Petition for Alien Relative, that is currently pending." It continues: "USCIS made a final decision on your Form I-130, Receipt Number [redacted]. Since the Form I-130 is no longer pending, the beneficiary no longer requires the issuance of a K-3 nonimmigrant visa to await adjudication of the immigrant visa petition." It concludes: "Therefore, the I-129F petition is denied." The decision identifies no deficiency in the petition, in the marriage, or in the evidence submitted.

93. The approval of the Form I-130 has not produced an immigrant visa for Plaintiff Komutrattananon's wife. She attended an immigrant visa interview at the United States Embassy in [redacted] on May 12, 2026. The Embassy refused the application under section 221(g) of the INA, stating that effective January 21, 2026 the Department of State was pausing immigrant visa issuance to nationals of seventy-five countries, including [redacted]. By letter dated June 1, 2026, a consular officer found her ineligible under section 212(f) of the INA pursuant to the Presidential Proclamation entitled "Restricting the Entry of Foreign Nationals to Protect the United States from Foreign Terrorists and Other National Security and Public Safety Threats," and stated that the Department of State was reviewing whether to grant a national interest exception. No visa has issued. The couple

remains separated. Plaintiff Komutrattananon's wife is a plaintiff, represented by other counsel, in Chikumba v. U.S. Department of State, No. 1:26-cv-00332 (D.D.C.), an action challenging that Proclamation; neither she nor Plaintiff Komutrattananon challenges the Proclamation or any consular decision in this action.

94. Plaintiff Komutrattananon is a member of the Closure Class: his Form I-129F was denied by reason of the approval of the corresponding Form I-130, on no other ground. The denial is a final agency action that applies the closure practice to a petition in writing. He seeks to represent the Closure Class together with Plaintiffs Jimenez and [redacted]. The Department of State's review of a national interest exception for his wife remains pending. If the exception is granted, or the Proclamation is set aside or lapses, the only remaining bar to a K-3 visa for her will be Defendants' denial of the Form I-129F.

H. Plaintiffs [redacted] and [redacted].

95. Plaintiff [redacted] married [redacted], a citizen of [redacted], on September 26, 2025 in [redacted], Connecticut. He left the United States on November 8, 2025 and has since resided in [redacted], [redacted]. [redacted] does not participate in the Visa Waiver Program. The couple has been separated since January 1, 2026.

96. On July 2, 2026, Plaintiff [redacted] filed a Form I-130 on behalf of her husband, receipted as number [redacted], and on August 3, 2026 filed a

Form I-129F seeking K-3 classification for him, receipted as number [redacted]. Both petitions are pending. USCIS has issued no decision on either.

97. Defendants' written instruction applies to Plaintiff [redacted]'s K-3 petition by its terms. If the Form I-130 is approved before a K-3 visa has issued to her husband, the National Visa Center will administratively close the K-3 case, and any consular officer before whom her husband appears will refuse the K-3 application under section 221(g) of the INA, for that reason alone. Defendants have announced that outcome in advance, and nothing in the practice turns on any fact particular to her petition. The injury is certain to occur unless the practice is set aside, and it will occur at a moment of Defendants' choosing.

98. Plaintiff [redacted] is a member of the Closure Class, which includes every citizen whose Form I-129F will be closed by reason of the approval of the corresponding Form I-130, and she seeks to represent it together with Plaintiff Jimenez. Approval of her Form I-130 would not moot her claim; it is the event that triggers the closure she challenges.

99. Plaintiff [redacted] married [redacted], a citizen of [redacted], on March 14, 2025 in [redacted]. He resides in [redacted], which does not participate in the Visa Waiver Program. The couple has lived in separate countries since the marriage.

100. On May 9, 2025, Plaintiff [redacted] filed a Form I-130 on behalf of her husband, receipted as number [redacted], and on July 3, 2025 filed a Form I-129F seeking K-3 classification for him, receipted as number [redacted] at the Nebraska Service Center. Both petitions are pending.

101. As of the filing of this First Amended Complaint, Plaintiff [redacted]'s Form I-129F has been pending approximately fifteen and a half months, approximately twice Defendants' published national median of 7.7 months for fiscal year 2025, the fiscal year of filing. Her Form I-130 has been pending approximately seventeen months. USCIS has issued no decision on either petition.

102. Plaintiff [redacted] has submitted status inquiries to USCIS and has sought the assistance of United States Senator Cory Booker and Representative Robert Menendez. After her husband's home in [redacted] was damaged by Hurricane Melissa on October 28, 2025, she requested expedited processing. USCIS responded in writing that her request met the minimum criteria for an expedite request and had been forwarded to the office with jurisdiction over the petitions. No decision followed.

103. Upon approval of the Form I-130 filed by Plaintiff [redacted], Defendants' closure practice will extinguish her K-3 petition in the same manner described above, and she is therefore also a member of the Closure Class.

I. The classes are numerous and the practices are uniform.

104. USCIS receives tens of thousands of Forms I-129F each year. Defendants do not publish the number of Forms I-129F filed for K-3 classification separately from those filed for K-1 classification.

105. The Department of State publishes, in its annual Report of the Visa Office, the number of K-3 visas issued each fiscal year. Those figures understate the class, because the closure practice ensures that a K-3 visa is issued only where the Form I-129F happens to be adjudicated and processed before the Form I-130.

106. Between October 10 and October 14, 2026, fifty-three persons who identified themselves as the petitioner or beneficiary of a pending Form I-129F seeking K-3 classification, each of whom reported the filing dates of both a Form I-130 and a Form I-129F, contacted a website maintained by Plaintiffs' counsel concerning this action. They reported residence in twenty-three States, and four reported that the petitioner resides abroad.

107. Those persons came forward within five days, in response to a single website, without solicitation by Defendants' records or by any notice. They are a fraction of the class, whose full membership is known only to Defendants. By October 17, 2026, 121 persons had completed the form.

108. Both practices are applied uniformly and nationwide, without individualized judgment, to every Form I-129F seeking K-3 classification: the

closure practice by written instruction, and the delay practice by a uniform course of conduct.

CLASS ACTION ALLEGATIONS

109. Plaintiffs bring this action on behalf of themselves and, pursuant to Rules 23(a) and 23(b)(2) of the Federal Rules of Civil Procedure, on behalf of the following classes.

110. The Closure Class consists of all United States citizens who have filed, or will file, a Form I-129F seeking K-3 classification for a spouse, and whose Form I-129F, or the K-3 visa application based on it, has been or will be administratively closed, refused under section 221(g) of the INA, returned, denied, or otherwise disposed of by reason of the approval of the corresponding Form I-130.

111. The Delay Class consists of all United States citizens who have filed a Form I-129F seeking K-3 classification for a spouse that has been pending with USCIS, without adjudication, for longer than the national median processing time for Form I-129F published by USCIS for the fiscal year in which the petition was filed.

112. Excluded from both classes are Defendants, their officers and employees, and the judicial officers to whom this action is assigned and their immediate families.

113. Plaintiffs Jimenez, [redacted], and Komutrattananon seek to represent the Closure Class. Plaintiff [redacted] seeks to represent the Delay Class and, upon approval of her Form I-130, the Closure Class.

114. Numerosity. Each class is so numerous that joinder of all members is impracticable. Fed. R. Civ. P. 23(a)(1). Defendants apply the practices challenged here to every Form I-129F seeking K-3 classification filed anywhere in the United States, numbering in the thousands each year, and the membership of each class changes continuously as petitions are filed, age, and are approved. The members of each class are geographically dispersed throughout the United States and their spouses throughout the world. The identity of every member is known to Defendants from their own records and to no one else.

115. Commonality. There are questions of law and fact common to the Closure Class, the answers to which will resolve the claims of every member in one stroke. Fed. R. Civ. P. 23(a)(2). They include whether 8 U.S.C. § 1101(a)(15)(K)(ii) permits Defendants to treat approval of a Form I-130 as extinguishing eligibility for K-3 classification; whether the closure practice is in excess of statutory authority or contrary to 8 C.F.R. § 214.2(k); whether the practice is arbitrary and capricious; and whether the practice is a substantive rule that could be adopted only through notice-and-comment rulemaking.

116. There are questions of law and fact common to the Delay Class, including whether Defendants maintain a practice of withholding adjudication of a

Form I-129F seeking K-3 classification until the corresponding Form I-130 is adjudicated, and whether that practice is lawful; whether Defendants have a non-discretionary duty to adjudicate a Form I-129F seeking K-3 classification within a reasonable time; whether a delay exceeding Defendants' own published national median for the fiscal year of filing is unreasonable within the meaning of 5 U.S.C. §§ 555(b) and 706(1), in light of the purpose of the classification and the interests at stake; and what rule of reason, if any, governs the pace of Defendants' adjudication of those petitions.

117. Typicality. Plaintiffs' claims are typical of the claims of the classes. Fed. R. Civ. P. 23(a)(3). Each Plaintiff is a United States citizen petitioner subjected to the same uniform practices, applied in the same way, for the same stated reason, and each seeks the same declaratory and injunctive relief as every other member.

118. Adequacy. Plaintiffs will fairly and adequately protect the interests of the classes. Fed. R. Civ. P. 23(a)(4). Each Plaintiff has agreed to serve as a class representative, understands the duties of that role, and has no interest antagonistic to any class member. Plaintiffs are represented by counsel experienced in federal immigration litigation and in litigation against Defendants concerning the K-3 classification, who has undertaken this representation without charge to the named Plaintiffs and who will fairly and adequately represent the interests of the classes. Fed. R. Civ. P. 23(g). Counsel intends to associate as co-counsel an attorney admitted to the bars of New York and New Jersey and of the United States Courts of

Appeals for the Second and Third Circuits, with more than twenty years of experience in complex civil litigation, including the representation of almost one hundred individual claimants in multidistrict litigation, and will seek the Court's approval of that appointment under Rule 23(g).

119. Rule 23(b)(2). Defendants have acted and refused to act on grounds that apply generally to each class, so that final injunctive relief and corresponding declaratory relief are appropriate respecting each class as a whole. Fed. R. Civ. P. 23(b)(2). The closure practice and the delay practice are each a single, uniform course of conduct, the one applied by written instruction and the other by uniform practice, and a single declaration and injunction will afford relief to every member of each class.

120. Inherently transitory claims. The claims of the Closure Class are inherently transitory. The practice operates at the instant the Form I-130 is approved, an event whose timing Defendants control; the affected member is then routed to an immigrant visa whose issuance Defendants invoke to defeat individual review; and no member can be certain that his or her claim will remain live long enough for a court to rule on class certification. Plaintiff Jimenez's own experience in this action demonstrates the point: Defendants approved every one of his petitions after he sued and before any defendant appeared. Certification of the Closure Class should therefore relate back to the filing of the original Complaint on

August 27, 2026, and the mooting of any named Plaintiff's individual claim does not moot the claims of the class.

121. The same is true of the Delay Class. Defendants may at any time adjudicate the petition of any named representative, and have done so with respect to Plaintiff Jimenez, while continuing to apply the same practice to every other member.

122. Each class may be certified separately, and the Court may divide either class into subclasses under Fed. R. Civ. P. 23(c)(5), including a subclass of Closure Class members whose spouses are nationals of countries subject to a suspension of immigrant visa issuance, should the Court find it appropriate.

EXHAUSTION OF REMEDIES

123. No administrative remedy must be exhausted before this action. Under 5 U.S.C. § 704, an appeal to superior agency authority is a prerequisite to judicial review only where a statute expressly requires it, or where an agency rule requires the appeal and makes the action inoperative pending it. Darby v. Cisneros, 509 U.S. 137, 154 (1993). The appeal that USCIS offers from the denial of a Form I-129F is optional, 8 C.F.R. § 103.3(a)(1)(ii) (certain decisions "may be appealed"), and the denial takes effect when issued. Plaintiff Komutrattananon did not appeal the decision of March 20, 2026, and it is final. An administrative appeal would in any event have been futile: the decision rested on no fact peculiar to his petition but on the practice that USCIS publishes on its own website and that the Department of

State publishes in the Foreign Affairs Manual, and an appeal within the same agency, decided under the same practice, could not have produced a different result.

124. There is no administrative appeal, motion, or other procedure by which a petitioner may compel USCIS to adjudicate a pending Form I-129F, or by which a petitioner may contest the administrative closure of a K-3 case by the National Visa Center or the refusal of a K-3 application under section 221(g) of the INA on the ground that the Form I-130 has been approved.

EQUAL ACCESS TO JUSTICE ACT

125. Plaintiffs will seek attorney's fees and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412, upon prevailing in this action.

CLAIMS FOR RELIEF

COUNT ONE

Agency Action in Excess of Statutory Authority, Contrary to Law, and Arbitrary and Capricious — The Closure Practice 5 U.S.C. § 706(2)(A), (C); 28 U.S.C. §§ 2201-2202 (On behalf of Plaintiffs and the Closure Class)

126. Plaintiffs repeat and reallege each preceding paragraph as though fully set forth herein.

127. The closure practice, as set out in 9 FAM 502.7-3(C)(2) and in USCIS's published guidance and as applied by the National Visa Center, is final agency action within the meaning of 5 U.S.C. § 704. It marks the consummation of

Defendants' decision-making as to the effect of a Form I-130 approval on a K-3 petition, and it determines the rights of every member of the Closure Class by directing the disposition of their petitions and applications without adjudication on the merits. The instruction is binding in practice and has been applied: the National Visa Center and consular officers apply it without individualized judgment, and USCIS has applied it to deny a Form I-129F on that ground alone. As to Plaintiff Komutrattananon, the decision of March 20, 2026 denying his Form I-129F is itself final agency action: it marks the consummation of USCIS's decision-making on that petition, and the loss of the petition is the legal consequence that flows from it.

128. The closure practice is contrary to 8 U.S.C. § 1101(a)(15)(K)(ii), which admits the K-3 spouse to await both the approval of the petition and the availability of an immigrant visa, and to 8 U.S.C. § 1184(r)(3), which enumerates the events that terminate K-3 admission and does not include approval of the Form I-130.

129. The closure practice is contrary to 8 C.F.R. § 214.2(k)(11), which enumerates the events terminating K-3 status and does not include approval of a Form I-130; to 8 C.F.R. § 214.2(k)(10)(ii), which expressly provides for extension of K-3 status after a Form I-130 has been approved; and to 8 C.F.R. § 214.2(k)(7), which conditions eligibility on a Form I-130 having been filed.

130. Defendants are bound by the regulations they have promulgated. Agency action that contradicts the agency's own regulations is not in accordance

with law within the meaning of 5 U.S.C. § 706(2)(A), whether or not the regulation could lawfully have been written otherwise.

131. The closure practice is in excess of statutory authority within the meaning of 5 U.S.C. § 706(2)(C). No statute confers authority to extinguish a petition, or to refuse an application based on it, on a ground Congress did not specify.

132. The closure practice is arbitrary, capricious, and an abuse of discretion within the meaning of 5 U.S.C. § 706(2)(A). It rests on a premise — that approval of the Form I-130 leaves the K-3 classification with no function — that is false for the population the classification exists to serve, and Defendants have never considered that aspect of the problem.

133. No deference is owed to Defendants' construction of 8 U.S.C. § 1101(a)(15)(K)(ii). Whether Defendants have acted within the authority Congress gave them is a question for this Court's independent judgment.

134. An actual controversy exists between Plaintiffs and Defendants concerning whether approval of a Form I-130 terminates, moots, or authorizes the administrative closure of a Form I-129F seeking K-3 classification or the refusal of the K-3 application based on it. That controversy is live as to Plaintiff Jimenez, whose approved petitions are now subject to the practice; as to Plaintiff Komutrattananon, whose Form I-129F has been denied under it; and as to every member of the Closure Class.

135. Plaintiffs and the Closure Class are entitled to a declaration that the closure practice is unlawful, to an order setting it aside, and to an injunction restraining Defendants from closing, returning, or declining to process any Form I-129F seeking K-3 classification, or any K-3 visa application based on it, and from instructing consular officers to refuse any such application, on the ground that the corresponding Form I-130 has been approved.

COUNT TWO

Agency Action Without Observance of Procedure Required by Law — The Closure Practice
5 U.S.C. §§ 553, 706(2)(D)
(On behalf of Plaintiffs and the Closure Class)

136. Plaintiffs repeat and reallege each preceding paragraph as though fully set forth herein.

137. The closure practice imposes a binding substantive limitation on eligibility for a statutory classification. It is a legislative rule within the meaning of 5 U.S.C. § 553, not an interpretive rule, a general statement of policy, or a rule of agency organization, procedure, or practice.

138. The closure practice also amends 8 C.F.R. § 214.2(k). It adds to the events that terminate K-3 eligibility an event — approval of the Form I-130 — that the regulation omits from § 214.2(k)(11) and that § 214.2(k)(10)(ii) expressly treats as compatible with continued K-3 status. A regulation adopted through notice-and-comment rulemaking may be amended only through the same procedure.

139. The Department of State, which publishes the Foreign Affairs Manual, has no authority to amend a regulation of the Department of Homeland Security by any procedure. The Department of Homeland Security, which has adopted the practice in its own guidance, could amend its regulation only by notice-and-comment rulemaking and has not done so. The rule governs petitions filed by United States citizens with a domestic agency and the processing of those petitions by a domestic office; it is not a military or foreign affairs function of the United States within the meaning of 5 U.S.C. § 553(a)(1).

140. Defendants adopted the closure practice without publishing notice of proposed rulemaking in the Federal Register, without affording interested persons an opportunity to comment, and without publishing a final rule with a concise general statement of its basis and purpose.

141. The closure practice was therefore adopted without observance of procedure required by law within the meaning of 5 U.S.C. § 706(2)(D), and Plaintiffs and the Closure Class are entitled to an order setting it aside on that ground.

COUNT THREE

Agency Action Unlawfully Withheld and Unreasonably Delayed — The Delay Practice
5 U.S.C. §§ 555(b), 706(1), 706(2)(A)
(On behalf of Plaintiff [redacted] and the Delay Class)

142. Plaintiffs repeat and reallege each preceding paragraph as though fully set forth herein.

143. The APA requires that "within a reasonable time, each agency shall proceed to conclude a matter presented to it." 5 U.S.C. § 555(b). The APA directs a reviewing court to "compel agency action unlawfully withheld or unreasonably delayed." 5 U.S.C. § 706(1).

144. Adjudication of a properly filed Form I-129F is a discrete agency action that Defendants are required to take. Defendants have a non-discretionary duty to adjudicate each Form I-129F filed by a member of the Delay Class. While Defendants possess discretion as to the outcome of that adjudication, they possess none as to whether to adjudicate at all.

145. Defendants have withheld adjudication of the petitions of the Delay Class representatives and of every member of the Delay Class for longer than Defendants' own published national median for the fiscal year of filing, and for longer than the 180-day period within which Congress has declared that the processing of an immigration benefit application should be completed. 8 U.S.C. § 1571(b).

146. The delay is the product of the practice, described above, of withholding adjudication of a Form I-129F seeking K-3 classification until the corresponding Form I-130 is adjudicated. That practice is a uniform course of conduct applied to every member of the Delay Class. It is arbitrary and capricious within the meaning of 5 U.S.C. § 706(2)(A), because it defeats the only function of the petition it governs, rests on no reasoned explanation, and disregards the regulatory design under which the Form I-129F is to be adjudicated while the Form I-130 is pending.

147. No rule of reason governs the pace of Defendants' handling of those petitions. Defendants' own published estimate of the time such adjudications take has receded by half a month for every month the petitions have aged.

148. The interests prejudiced by the delay are of the highest order. They are the interests of United States citizens in living with their spouses, and of families in being together. Because the members of the Delay Class are overwhelmingly married to nationals of countries outside the Visa Waiver Program, the delay does not postpone a convenience; it produces continuous separation.

149. The delay defeats the purpose of the classification itself. Congress created the K-3 to shorten the separation caused by adjudicative delay. A K-3 petition that outlives the delay it was enacted to cure has been rendered a nullity. Defendants have offered no explanation for the delay, and expedition of these petitions would not prejudice any higher or competing agency priority, because the

Form I-129F is the one petition Congress designed to be adjudicated ahead of the Form I-130.

150. Defendants' failure to adjudicate the Forms I-129F of the Delay Class is agency action unlawfully withheld and unreasonably delayed within the meaning of 5 U.S.C. § 706(1).

COUNT FOUR

Mandamus
28 U.S.C. § 1361
(On behalf of Plaintiff [redacted] and the Delay Class)

151. Plaintiffs repeat and reallege each preceding paragraph as though fully set forth herein.

152. This Court has original jurisdiction of any action in the nature of mandamus to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff. 28 U.S.C. § 1361.

153. Plaintiff [redacted] and each member of the Delay Class have a clear right to the adjudication of the petitions they filed, in accordance with law. Defendants owe them a clear, non-discretionary duty to adjudicate those petitions.

154. No other adequate remedy is available. There is no administrative appeal from a failure to act, and Defendants bar petitioners from submitting even an inquiry until a petition has been pending approximately fifteen months.

155. Defendants do not possess unfettered discretion to consign the beneficiaries of petitions filed with them to indefinite limbo. Plaintiff [redacted] and

the Delay Class are entitled to a writ of mandamus compelling Defendants to adjudicate their Forms I-129F.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, on behalf of themselves and the classes, respectfully request that this Court:

a. Assume jurisdiction over this action;

b. Certify the Closure Class and the Delay Class under Fed. R. Civ. P. 23(a) and 23(b)(2), appoint Plaintiffs as class representatives, and appoint Plaintiffs' counsel as class counsel under Fed. R. Civ. P. 23(g);

c. Declare that approval of a Form I-130 does not terminate, moot, or authorize the administrative closure of a Form I-129F seeking K-3 classification, or the refusal, return, or non-processing of a K-3 visa application based on it;

d. Declare that Defendants' closure practice, including 9 FAM 502.7-3(C)(2) insofar as it directs the refusal or closure of K-3 cases by reason of the approval of the Form I-130, and the corresponding USCIS guidance, is contrary to law, in excess of statutory authority, arbitrary and capricious, and adopted without observance of procedure required by law, and set it aside;

e. Enjoin Defendants from administratively closing, terminating, returning, or declining to process any Form I-129F seeking K-3 classification, or any K-3 visa application based on it, and from instructing consular officers to refuse any such application, on the ground that the corresponding Form I-130 has

been approved, and order Defendants to process to completion the K-3 cases of Plaintiff Jimenez and of every member of the Closure Class, including those previously closed or refused on that ground;

f. Set aside the decision of March 20, 2026 denying the Form I-129F of Plaintiff Komutrattananon and order Defendants to adjudicate that petition on its merits;

g. Declare that Defendants' failure to adjudicate the Forms I-129F of the Delay Class within a reasonable time constitutes agency action unlawfully withheld and unreasonably delayed within the meaning of 5 U.S.C. § 706(1), and that Defendants' practice of withholding adjudication of a Form I-129F seeking K-3 classification until the corresponding Form I-130 is adjudicated is arbitrary and capricious and set it aside;

h. Compel Defendants to adjudicate the Form I-129F of Plaintiff [redacted] within thirty days of this Court's order, and to adjudicate the Form I-129F of every member of the Delay Class within thirty days of this Court's order or of the date on which the petition has been pending longer than the national median processing time published by USCIS for the fiscal year of filing, whichever is later, or within such other period as the Court finds reasonable;

i. Issue a writ of mandamus under 28 U.S.C. § 1361 compelling Defendants to perform their duty to adjudicate those petitions;

j. Retain jurisdiction to ensure compliance with this Court's order;

k. Award Plaintiffs their costs and reasonable attorney's fees under the Equal Access to Justice Act; and

l. Grant any other and further relief which this Court deems just and proper.

Dated: October 19, 2026

Respectfully submitted,

LAW OFFICE OF SIMONE BERTOLLINI

/s/ Simone Bertollini
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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

[redacted] **JIMENEZ,** [redacted], **JASON KOMUTRATTANANON, and** [redacted], on behalf of themselves and all others similarly situated, Plaintiffs,	)	
v.	)	Civil Action No.
MARKWAYNE MULLIN, Secretary of Homeland Security;	)	3:26-cv-01384-OAW
JOSEPH B. EDLOW, Director, U.S. Citizenship and Immigration Services;	)	
DIRECTOR, USCIS CALIFORNIA SERVICE CENTER;	)	
MARCO RUBIO, Secretary of State;	)	
U.S. DEPARTMENT OF HOMELAND SECURITY;	)	
U.S. CITIZENSHIP AND IMMIGRATION SERVICES; and	)	
U.S. DEPARTMENT OF STATE, Defendants.	)	

PLAINTIFFS' MOTION FOR CLASS CERTIFICATION AND APPOINTMENT OF CLASS COUNSEL

Plaintiffs [redacted] Jimenez, [redacted], Jason Komutrattananon, and [redacted], on behalf of themselves and all others

ORAL ARGUMENT REQUESTED

similarly situated, respectfully move under Rules 23(a), 23(b)(2), 23(c)(1), and 23(g) of the Federal Rules of Civil Procedure for an order:

(1) certifying a Closure Class consisting of all United States citizens who have filed, or will file, a Form I-129F seeking K-3 classification for a spouse, and whose Form I-129F, or the K-3 visa application based on it, has been or will be administratively closed, refused under section 221(g) of the Immigration and Nationality Act, returned, denied, or otherwise disposed of by reason of the approval of the corresponding Form I-130;

(2) certifying a Delay Class consisting of all United States citizens who have filed a Form I-129F seeking K-3 classification for a spouse that has been pending with U.S. Citizenship and Immigration Services, without adjudication, for longer than the national median processing time for Form I-129F published by USCIS for the fiscal year in which the petition was filed;

(3) appointing Plaintiffs Jimenez, [redacted], and Komutrattananon as representatives of the Closure Class and Plaintiff [redacted] as representative of the Delay Class;

(4) appointing Simone Bertollini, Law Office of Simone Bertollini, as class counsel under Rule 23(g) or, in the alternative, designating him interim class counsel under Rule 23(g)(3), in either case subject to such

further orders as the Court deems appropriate under Rule 23(g)(1)(E); and

(5) providing that certification relates back to August 27, 2026, the date on which the original Complaint was filed.

Excluded from both classes are Defendants, their officers and employees, and the judicial officers to whom this action is assigned and their immediate families.

The classes are defined in the First Amended Class Action Complaint, ¶¶ 110–112. Each class satisfies the requirements of Rule 23(a): its members are so numerous that joinder is impracticable; its claims turn on questions of law and fact common to every member, because each practice challenged is applied uniformly to every Form I-129F seeking K-3 classification, the closure practice by written instruction and the delay practice by a uniform course of conduct; the claims of the named Plaintiffs are typical of those of the class; and the named Plaintiffs and their counsel will fairly and adequately protect the interests of the class. Each class satisfies Rule 23(b)(2): Defendants have acted and refused to act on grounds that apply generally to the class, and a single declaration and injunction will afford relief to every member.

Plaintiffs move at this early stage because the claims of both classes are inherently transitory. Defendants control the timing of the event that moots each member's individual claim, and did so here: every petition Plaintiff Jimenez filed

was approved after he commenced this action and before any Defendant appeared. Rule 23(c)(1)(A) directs the Court to decide certification at an early practicable time, and the relation-back doctrine preserves the claims of the class notwithstanding the mooting of a representative's individual claim.

The grounds for this motion are set forth in the accompanying Memorandum of Law and in the Declarations of Simone Bertollini, [redacted] Jimenez, [redacted], Jason Komutrattananon, with Exhibits A–H, and [redacted], all filed herewith. A proposed order is submitted with this motion.

No Defendant has appeared in this action. Counsel has not conferred with the Office of the United States Attorney for the District of Connecticut concerning this motion.

WHEREFORE, Plaintiffs respectfully request that the Court grant this motion and enter the proposed order.

Dated: October 19, 2026

Respectfully submitted,

LAW OFFICE OF SIMONE BERTOLLINI

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Counsel for Plaintiffs and the Proposed Classes

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

[redacted] **JIMENEZ,** [redacted], **JASON KOMUTRATTANANON, and** [redacted], on behalf of themselves and all others similarly situated,	)	
Plaintiffs,	)	
v.	)	Civil Action No.
MARKWAYNE MULLIN, Secretary of Homeland Security;	)	3:26-cv-01384-OAW
JOSEPH B. EDLOW, Director, U.S. Citizenship and Immigration Services;	)	
DIRECTOR, USCIS CALIFORNIA SERVICE CENTER;	)	
MARCO RUBIO, Secretary of State;	)	
U.S. DEPARTMENT OF HOMELAND SECURITY;	)	
U.S. CITIZENSHIP AND IMMIGRATION SERVICES; and	)	
U.S. DEPARTMENT OF STATE,	)	
Defendants.	)	

MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS' MOTION FOR CLASS CERTIFICATION AND APPOINTMENT OF CLASS COUNSEL

PRELIMINARY STATEMENT

Congress created the K-3 classification so that the spouse of a United States citizen could wait in the United States, with her husband or wife, for two things: approval of the immigrant petition filed on her behalf and the availability of an immigrant visa. 8 U.S.C. § 1101(a)(15)(K)(ii). Defendants administer the classification under two practices that defeat that purpose for every person it was meant to serve. First, they hold the K-3 petition until the immigrant petition is decided. Second, once the immigrant petition is approved, they close the K-3 case for that reason alone, whether or not an immigrant visa is actually available to the spouse. Neither practice depends on anything about the individual petitioner. Each is applied nationwide, to every Form I-129F seeking K-3 classification: the closure practice by written instruction, the delay practice by a uniform course of conduct.

Plaintiffs ask the Court to certify two classes under Rule 23(b)(2): a Closure Class of citizens whose K-3 petitions or visa applications are closed because the Form I-130 was approved, and a Delay Class of citizens whose K-3 petitions have been pending longer than Defendants' own published median for the year of filing. Both classes challenge uniform agency conduct and seek a single declaration and a single injunction. That is the paradigm of a Rule 23(b)(2) class.

Plaintiffs also ask the Court to decide certification now, and to hold that it relates back to the filing of the Complaint. The reason is already on this docket. Plaintiff Jimenez sued on August 27, 2026, after his K-3 petition had been pending

more than a year. Before any Defendant appeared, Defendants approved every petition he had filed, the K-3 petition included, and thereby routed his wife into the very closure practice the Complaint challenges. Defendants control the timing of the event that moots each member's individual claim. Claims of that kind are inherently transitory, and the law of this Circuit is that the class claim survives them.

STATEMENT OF FACTS

A. The K-3 classification and the two practices

The facts are set out in the First Amended Class Action Complaint ("FAC") and in the accompanying declarations, and are summarized here. The K-3 classification admits the spouse of a United States citizen who "seeks to enter the United States to await the approval of such petition and the availability to the alien of an immigrant visa." 8 U.S.C. § 1101(a)(15)(K)(ii); FAC ¶¶ 20–21. The statute makes approval of the Form I-130 and availability of the immigrant visa two separate conditions, and the regulation implementing the classification lists the events that terminate K-3 eligibility without including approval of the Form I-130 among them. 8 C.F.R. § 214.2(k)(11); FAC ¶¶ 24–25.

Defendants nonetheless instruct, in the Foreign Affairs Manual and on the websites of USCIS and the Department of State, that when the Form I-130 is approved before the K-3 visa issues, the K-3 case is to be administratively closed and any K-3 application refused under INA § 221(g). FAC ¶¶ 30–32. The

instruction turns on one fact, approval of the Form I-130, and admits no exception. Defendants also adjudicate the Form I-129F in sequence with, rather than independently of, the Form I-130, so that the K-3 petition is routinely decided only when its approval can no longer lead to a visa. FAC ¶¶ 40, 41, 82. USCIS applies the same rule itself. It has denied a Form I-129F on no stated ground other than that the Form I-130 was "no longer pending," quoting the statute and concluding that the beneficiary "no longer requires the issuance of a K-3 nonimmigrant visa." Komutrattananon Decl. ¶ 6 & Ex. D.

B. The named Plaintiffs

Plaintiff [redacted] Jimenez is a United States citizen, a Connecticut police detective and a veteran, who resides in [redacted]. FAC ¶¶ 63, 65; Jimenez Decl. ¶¶ 2–3. He married [redacted], a citizen of [redacted], on July 25, 2025, and on August 15, 2025 filed both a Form I-130 and a Form I-129F seeking K-3 classification for her. FAC ¶¶ 70–72; Jimenez Decl. ¶ 4. When he filed, Defendants' published national median processing time for the Form I-129F was 7.7 months. FAC ¶ 74. Twelve months later nothing had been decided, and he commenced this action. Jimenez Decl. ¶¶ 6–7.

After suit was filed, and before any Defendant appeared, Defendants approved all four of Plaintiff Jimenez's petitions, including the Form I-129F. FAC ¶ 79; Jimenez Decl. ¶ 8. Under Defendants' instruction, the approval of the Form I-130 now requires the National Visa Center to close the K-3 case and requires any

consular officer to refuse the K-3 application, although no immigrant visa is available to his wife: she has not completed National Visa Center processing, and she is a national of a country to which the Department of State suspended immigrant visa issuance in January 2026, a suspension that remains the subject of a pending appeal. FAC ¶¶ 84, 86, 87; Jimenez Decl. ¶¶ 9–10.

Plaintiff [redacted] is a United States citizen residing in [redacted], Connecticut, whose Forms I-130 and I-129F, filed in July and August 2026, are pending; by its terms, Defendants' written instruction will close her K-3 case on the day the Form I-130 is approved. FAC ¶ 97; [redacted] Decl. ¶¶ 4–5. Plaintiff [redacted] is a United States citizen residing in [redacted], New Jersey, whose Form I-129F has been pending approximately fifteen and a half months, twice Defendants' published median for the year of filing, without a decision. FAC ¶ 101; [redacted] Decl. ¶¶ 4–6.

Plaintiff Komutrattananon is a United States citizen residing in [redacted], California, whose Form I-130 for his wife, a citizen of [redacted], was approved on November 20, 2025, and whose Form I-129F, filed in December 2024, USCIS denied on March 20, 2026 on the sole ground that the Form I-130 was no longer pending. FAC ¶ 92; Komutrattananon Decl. ¶¶ 3–6 & Ex. D. No immigrant visa has issued to his wife: the Embassy in [redacted] refused her application under INA § 221(g) under the same January 2026 suspension and, by letter of June 1, 2026, found her ineligible under INA § 212(f) pursuant to a Presidential Proclamation, a

finding that remains under review for a national interest exception. FAC ¶ 93; Komutrattananon Decl. ¶ 7.

C. The classes

The Closure Class consists of all United States citizens who have filed, or will file, a Form I-129F seeking K-3 classification for a spouse, and whose Form I-129F, or the K-3 visa application based on it, has been or will be administratively closed, refused under section 221(g) of the Immigration and Nationality Act, returned, denied, or otherwise disposed of by reason of the approval of the corresponding Form I-130. FAC ¶ 110. The Delay Class consists of all United States citizens who have filed a Form I-129F seeking K-3 classification for a spouse that has been pending with U.S. Citizenship and Immigration Services, without adjudication, for longer than the national median processing time for Form I-129F published by USCIS for the fiscal year in which the petition was filed. FAC ¶ 111. Excluded from both classes are Defendants, their officers and employees, and the judicial officers to whom this action is assigned and their immediate families. FAC ¶ 112.

USCIS receives tens of thousands of Forms I-129F each year and does not publish how many of them seek K-3 classification; both practices apply to every one that does. FAC ¶¶ 104, 108. Within five days of counsel's establishing a website about this action, fifty-three petitioners or beneficiaries of pending K-3 petitions came forward from twenty-three States. FAC ¶ 106; Bertollini Decl. ¶¶ 8–10.

ARGUMENT

I. THE STANDARD FOR CERTIFICATION

A class may be certified when the four prerequisites of Rule 23(a) are met and the action falls within one of the categories of Rule 23(b). *Marisol A. v. Giuliani*, 126 F.3d 372, 375–76 (2d Cir. 1997). The movant must establish each requirement by a preponderance of the evidence, and the court must resolve any factual dispute relevant to a requirement, even one that overlaps the merits. *Teamsters Local 445 Freight Div. Pension Fund v. Bombardier Inc.*, 546 F.3d 196, 202 (2d Cir. 2008); *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 350–51 (2011). Within that framework, "Rule 23 is given liberal rather than restrictive construction, and courts are to adopt a standard of flexibility." *Marisol A.*, 126 F.3d at 377 (quotation omitted). The failure to apply the correct legal standard, such as requiring that joinder be impossible rather than impracticable, is itself an abuse of discretion. *Robidoux v. Celani*, 987 F.2d 931, 935 (2d Cir. 1993).

II. EACH CLASS SATISFIES RULE 23(a)

A. Numerosity

Rule 23(a)(1) requires that the class be "so numerous that joinder of all members is impracticable." Impracticable does not mean impossible. *Robidoux*, 987 F.2d at 935. Numerosity is presumed at forty members. *Consolidated Rail Corp. v. Town of Hyde Park*, 47 F.3d 473, 483 (2d Cir. 1995). "Courts have not required evidence of exact class size or identity of class members to satisfy the

numerosity requirement." *Robidoux*, 987 F.2d at 935. And the inquiry "depends on all the circumstances surrounding a case, not on mere numbers," including judicial economy, the geographic dispersion of the members, their ability to sue individually, and the nature of the relief sought. *Id.* at 936.

Robidoux is this case. Three Vermont applicants whose public-assistance applications had been delayed past regulatory deadlines sought to certify a Rule 23(b)(2) class of "current and future" applicants. The district court denied certification because the plaintiffs "ha[d] only shown three people who may be affected," and later dismissed the action as moot after all three received benefits. The Second Circuit held the denial of certification an abuse of discretion, vacated the judgment, and remanded with directions to certify. The agency's own reports, showing between twenty-two and 133 delayed cases a month, satisfied numerosity; the agency "cannot prevail by claiming that delays are due to applicant fault and meanwhile fail to document its claim"; and the class of future applicants was properly before the court. 987 F.2d at 934–36.

Here the numbers are larger and the uniformity greater. Defendants receive tens of thousands of Forms I-129F a year and apply the challenged practices to every one that seeks K-3 classification; the membership of each class is fixed by Defendants' own records and by no one else's. FAC ¶¶ 104, 114. The Department of State publishes the number of K-3 visas it issues each year, and every K-3 case closed or refused after a Form I-130 approval is a Closure Class event. FAC ¶ 105.

Without any notice to the class, fifty-three petitioners or beneficiaries from twenty-three States identified themselves within five days of a single website going live. Bertollini Decl. ¶¶ 8–10. By October 17, 2026, 121 persons had come forward. *Id.* ¶ 9. That alone clears the forty-member presumption, and it is, as in *Robidoux*, a fraction of a class that grows with every petition filed. The members are dispersed across the country and their spouses across the world; the relief sought is a single declaration and injunction against a nationwide instruction; and the alternative, thousands of individual mandamus actions in every district, is precisely the waste Rule 23(b)(2) exists to prevent. Joinder is impracticable.

B. Commonality

Rule 23(a)(2) requires "questions of law or fact common to the class." The members' claims "must depend upon 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." *Dukes*, 564 U.S. at 350. What matters is not the raising of common questions but "the capacity of a class-wide proceeding to generate common answers." *Id.* (emphasis and quotation omitted). The requirement is most readily met where, as here, the members "allege that their injuries derive from a unitary course of conduct by a single system." *Marisol A.*, 126 F.3d at 377.

The Closure Class presents the common contention in its purest form. Every member's claim turns on whether Defendants may treat approval of the Form I-130

as extinguishing K-3 eligibility, a question of statutory and regulatory construction whose answer is the same for every petitioner. FAC ¶ 115. The practice is written. It is applied by the National Visa Center and by consular officers on a single stated ground, without any individualized judgment. USCIS applies it too, denying the Form I-129F outright once the Form I-130 is approved, on the same ground and in the same words. Komutrattananon Decl. ¶ 6 & Ex. D. The deficiency *Dukes* identified, a class of discretionary decisions made by thousands of different managers with no common policy, 564 U.S. at 355–56, is the opposite of this record: there is one instruction, and the only question is whether it is lawful.

The Delay Class presents common questions as well: whether Defendants maintain a practice of withholding adjudication of the Form I-129F until the Form I-130 is adjudicated, whether they owe a non-discretionary duty to adjudicate the K-3 petition within a reasonable time, and whether a delay exceeding their own published median for the fiscal year of filing is unreasonable in light of the purpose of the classification. FAC ¶ 116. Defendants will say that unreasonable delay is a case-by-case inquiry. But the class definition fixes the only individual variable, the length of the delay, by reference to Defendants' own yardstick, and the facts that drive the inquiry for every member, the source and nature of the delay, the interests prejudiced by it, and the agency's competing priorities, are agency-wide facts about a single form processed under a single practice. *Robidoux* required certification of a

class of delayed applicants over the agency's unproven claim that individual applicants were to blame. 987 F.2d at 935–36, 939.

C. Typicality

Typicality "is satisfied when each class member's claim arises from the same course of events, and each class member makes similar legal arguments to prove the defendant's liability." *Marisol A.*, 126 F.3d at 376 (quotation omitted). The commonality and typicality requirements "tend to merge." *Id.* Plaintiff Jimenez's Form I-130 has been approved before any K-3 visa issued to his wife, so the written instruction applies to his K-3 case by its terms, on the same ground and in the same way as to every other Closure Class member. FAC ¶ 84. Plaintiff [redacted] holds a pending Form I-130 and a pending Form I-129F to which the same written instruction will apply, by its terms, the day the Form I-130 is approved. Plaintiff Komutrattananon's Form I-129F has been denied under the same instruction, applied by USCIS itself, so that his claim presents the practice as a consummated agency action. Plaintiff [redacted] holds a Form I-129F pending beyond the published median, subject to the same hold, and asserts the same claims under 5 U.S.C. §§ 555(b) and 706(1) and 28 U.S.C. § 1361 as every Delay Class member. No Plaintiff is subject to a unique defense arising from the petition itself: no petition has been questioned on its merits, and each is otherwise approvable, already approved, or denied on the challenged ground alone. The consular finding under the Proclamation as to Plaintiff Komutrattananon's wife is not a defense to his

claim, which challenges the denial of his petition, not any consular decision; it bears, if at all, on when a visa may issue, and it is under review for a national interest exception. FAC ¶ 94. The named Plaintiffs' claims are the class claims.

D. Adequacy

Rule 23(a)(4) requires that "class counsel is qualified, experienced, and generally able to conduct the litigation," and that there be no conflict of interest between the named plaintiffs and the class. *Marisol A.*, 126 F.3d at 378 (quotation omitted). Each named Plaintiff has the same interest as every member, a lawful adjudication of the K-3 petition and an end to the closure practice, and seeks only declaratory and injunctive relief that will benefit all members alike. Each understands the duties of a class representative and has undertaken to perform them. Jimenez Decl. ¶ 10; [redacted] Decl. ¶ 7; Komutrattananon Decl. ¶ 8; [redacted] Decl. ¶ 8. Counsel has litigated actions under the Administrative Procedure Act and the Mandamus Act against these Defendants in multiple districts, has studied the K-3 classification and the practices at issue for more than a year, represents the named Plaintiffs without charge, and has committed the resources necessary to carry the action to judgment. Bertollini Decl. ¶¶ 2–7.

III. EACH CLASS SATISFIES RULE 23(b)(2)

Rule 23(b)(2) permits certification where "the party opposing the class has acted or refused to act on grounds that apply generally to the class, so that final

injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole." The rule applies when "a single injunction or declaratory judgment would provide relief to each member of the class," and does not apply where each member would be entitled to a different injunction or to individualized monetary relief. *Dukes*, 564 U.S. at 360–61. Civil-rights and public-benefits challenges to a uniform governmental practice are the model (b)(2) action. *Marisol A.*, 126 F.3d at 376, 378; *Robidoux*, 987 F.2d at 934–36.

Both classes seek indivisible relief. The Closure Class seeks a declaration that the closure instruction is unlawful and an injunction against applying it; a single order sets the instruction aside for everyone. The Delay Class seeks a declaration that Defendants' hold on K-3 petitions is unlawful and an order that the petitions be adjudicated on their own timeline, within a fixed period; one order governs every petition. FAC ¶ 119. No Plaintiff seeks damages. Defendants act on a ground that applies generally to the class, by definition: the instruction applies to every K-3 petition because of the kind of petition it is, not because of anything about the petitioner.

IV. THE CLAIMS ARE INHERENTLY TRANSITORY, AND CERTIFICATION SHOULD RELATE BACK TO THE FILING OF THE COMPLAINT

A class action is not mooted by the expiration of the named plaintiff's individual claim where the claim is "so inherently transitory that the trial court will not have even enough time to rule on a motion for class certification before the

proposed representative's individual interest expires." *U.S. Parole Comm'n v. Geraghty*, 445 U.S. 388, 399 (1980) (citing *Gerstein v. Pugh*, 420 U.S. 103, 110 n.11 (1975)); *County of Riverside v. McLaughlin*, 500 U.S. 44, 51–52 (1991); *Sosna v. Iowa*, 419 U.S. 393, 402 n.11 (1975). In such cases certification "relates back" to the filing of the complaint, and the class claim survives. *Riverside*, 500 U.S. at 52; *Geraghty*, 445 U.S. at 399, 404; *Sosna*, 419 U.S. at 402 n.11. The exception applies not only where the claim expires by its own nature but where, as here, the defendant controls the timing of the event that moots it.

The Second Circuit applies the doctrine to exactly this situation. In *Salazar v. King*, 822 F.3d 61 (2d Cir. 2016), borrowers sued the Department of Education under the Administrative Procedure Act on behalf of a class; after suit, the agency discharged every named plaintiff's loan. The Court of Appeals held that the case "fits into the narrow exception to the mootness doctrine for class action claims that are 'inherently transitory,'" and vacated the dismissal. *Id.* at 64–65. In *Amador v. Andrews*, 655 F.3d 89 (2d Cir. 2011), named plaintiffs had been released from custody while the motion for class certification was pending; "[a]pplying a relation-back theory," the court held that their claims for injunctive and declaratory relief were not moot. *Id.* at 93–94. And in *Robidoux*, the agency's post-suit grant of benefits to all three named plaintiffs did not end the class action; the Second Circuit vacated the judgment of dismissal and remanded with directions to certify the class. 987 F.2d at 934, 938–39.

Plaintiff Jimenez's claims could not illustrate the point more precisely. He sued; Defendants, without appearing, approved every petition he had filed; and the approval of the Form I-130 triggered the closure instruction that is the subject of the Closure Class claim. FAC ¶ 79. Defendants may at any moment do the same to any Delay Class representative, as they did here, and may issue or refuse the K-3 visa of any Closure Class representative before a certification motion can be decided. FAC ¶ 121. A rule that allowed Defendants to end each class action by acting on the representative's petition would place the practice beyond review. Rule 23(c)(1)(A) directs that certification be decided "[a]t an early practicable time," and Plaintiffs have moved at the earliest one. The Court should certify the classes and provide that certification relates back to August 27, 2026.

V. THE COURT SHOULD APPOINT CLASS COUNSEL

Rule 23(g)(1)(A) directs the Court to consider the work counsel has done in identifying and investigating the claims, counsel's experience in handling class actions and claims of the type asserted, counsel's knowledge of the applicable law, and the resources counsel will commit. Counsel identified and investigated the practices at issue, developed the statutory and regulatory theory on which the action rests, built the factual record on processing times from Defendants' own publications, and commenced this action before any other challenge to the closure practice had been brought. Bertollini Decl. ¶¶ 3–5. Counsel's investigation began in May 2025, when he brought *Bertollini v. Scott*, No. 2:25-cv-05919 (D.N.J.), in his

own name, alleging that the K-3 classification had been rendered a dead letter; he voluntarily dismissed that action in January 2026 before any ruling. *Id.* ¶ 4. He has litigated against these Defendants under the same statutes in multiple districts, has tried a federal case to a jury verdict, has argued appeals in the Courts of Appeals for the First, Second, and Third Circuits, and represents Plaintiffs without charge. *Id.* ¶¶ 3–4, 6. He intends to associate co-counsel with more than twenty years of experience in complex civil litigation, including multidistrict litigation on behalf of almost one hundred individual claimants, and will seek the Court's approval under Rule 23(g) and Local Rule 83.1(e) before co-counsel assumes a role. *Id.* ¶ 7. Appointment under Rule 23(g) is warranted.

Counsel has not previously been appointed under Rule 23(g). The classes proposed here are Rule 23(b)(2) classes: they seek no damages, require no notice and no claims process, and present questions of law common to every member, on which counsel has worked since May 2025. *Id.* ¶ 4. Counsel represents the named Plaintiffs and the proposed classes without charge, so no question of fee terms arises under Rule 23(g)(1)(C). *Id.* ¶ 6. Counsel welcomes any condition the Court may attach to the appointment, including a direction to associate experienced class counsel within a time the Court sets, or the appointment of additional class counsel under Rule 23(g)(1)(E). If the Court prefers to defer certification, counsel asks to be designated interim class counsel under Rule 23(g)(3).

VI. SUBCLASSES REMAIN AVAILABLE

Should the Court conclude that any question is not common to a class as a whole, Rule 23(c)(5) permits it to divide the class into subclasses, including a subclass of Closure Class members whose spouses are nationals of countries subject to a suspension of immigrant visa issuance, for whom the K-3 classification is the only available means of reunification. FAC ¶ 122. The availability of subclasses is a reason to certify and manage, not to deny. *Marisol A.*, 126 F.3d at 377–79.

CONCLUSION

The motion should be granted. The Court should certify the Closure Class and the Delay Class under Rule 23(b)(2), appoint Plaintiffs Jimenez, [redacted], and Komutrattananon as representatives of the Closure Class and Plaintiff [redacted] as representative of the Delay Class, appoint Simone Bertollini as class counsel under Rule 23(g), and provide that certification relates back to August 27, 2026.

Dated: October 19, 2026

Respectfully submitted,

LAW OFFICE OF SIMONE BERTOLLINI

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

[redacted] **JIMENEZ,** [redacted]**A,** and [redacted]**K,** on behalf of themselves and all others similarly situated, Plaintiffs,	
v.	Civil Action No. 3:26-cv-01384-OAW
MARKWAYNE MULLIN, Secretary of Homeland Security; **JOSEPH B. EDLOW,** Director, U.S. Citizenship and Immigration Services; **DIRECTOR, USCIS CALIFORNIA SERVICE CENTER;** **MARCO RUBIO,** Secretary of State; **U.S. DEPARTMENT OF HOMELAND SECURITY;** **U.S. CITIZENSHIP AND IMMIGRATION SERVICES; and** **U.S. DEPARTMENT OF STATE,** Defendants.	

DECLARATION OF [redacted] JIMENEZ IN SUPPORT OF PLAINTIFFS' MOTION FOR CLASS CERTIFICATION

I, [redacted] Jimenez, declare as follows:

1. I am a named Plaintiff in this action and the proposed representative of the Closure Class. I make this declaration on personal knowledge.

2. I am a citizen of the United States, born in [redacted], Connecticut, in [redacted]. I reside in [redacted], Connecticut. I have served as a police officer in Connecticut for approximately fifteen years and currently hold the rank of Detective. I served in the United States Army and the Connecticut National Guard for nine years and was honorably discharged in 2016.

3. On July 25, 2025, I married [redacted], a citizen of [redacted], in [redacted]. My wife resides in [redacted] with her two minor children, my stepsons, J.V.F.M. and A.F.M. None of them has been admitted to the United States since our marriage.

4. On August 15, 2025, I filed with USCIS a Form I-130, Petition for Alien Relative, on behalf of my wife, receipt number [redacted], and a Form I-129F, Petition for Alien Fiancé(e), seeking K-3 classification for her, receipt number [redacted]. On June 1, 2026, I filed Forms I-130 on behalf of my two stepsons, receipt numbers [redacted] and [redacted].

5. I filed the Form I-129F so that my wife could join me in the United States while the Form I-130 was pending, which is the purpose for which Congress created the K-3 classification. When I filed it, the national median processing time for Form I-129F that USCIS published for fiscal year 2025 was 7.7 months.

6. Twelve months after filing, none of my petitions had been adjudicated. I had written to USCIS, contacted the USCIS Contact Center, and sought the

assistance of my United States Senator and my Representative in Congress. On August 27, 2026, I commenced this action.

7. After I filed this action, and before any Defendant appeared, USCIS approved all four petitions on the same day, October 9, 2026: the Form I-130 for my wife, the Forms I-130 for my stepsons, and the Form I-129F.

8. As of the date of this declaration, I have received no notice that the K-3 case has been forwarded to the National Visa Center or to the United States Consulate in [redacted], no notice that it has been closed, and no notice scheduling a K-3 interview for my wife.

9. The approval of the Form I-130 has not made an immigrant visa available to my wife. My wife is a national of [redacted], one of the countries to which the Department of State suspended the issuance of immigrant visas in January 2026. We remain separated.

10. I understand that, as a class representative, I would act on behalf of all members of the Closure Class and not only for myself; that I have a duty to protect their interests; that I must remain informed about the litigation and consult with counsel on important decisions; and that I may not settle my own claim in a manner that prejudices the class. I am willing to serve and to fulfil those duties. I know of no interest of mine that conflicts with the interests of any class member.

11. I am represented by Simone Bertollini without charge. I did not retain him to obtain a result for myself alone; I brought this action so that the K-3 classification would work as Congress intended for every family in my position.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 16, 2026, at [redacted] Connecticut.

[redacted]

[redacted] Jimenez

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

[redacted]O JIMENEZ, [redacted]A, and [redacted]K, on behalf of themselves and all others similarly situated, Plaintiffs,	
v.	Civil Action No. 3:26-cv-01384-OAW
MARKWAYNE MULLIN, Secretary of Homeland Security; **JOSEPH B. EDLOW,** Director, U.S. Citizenship and Immigration Services; **DIRECTOR, USCIS CALIFORNIA SERVICE CENTER;** **MARCO RUBIO,** Secretary of State; **U.S. DEPARTMENT OF HOMELAND SECURITY;** **U.S. CITIZENSHIP AND IMMIGRATION SERVICES; and** **U.S. DEPARTMENT OF STATE,** Defendants.	

DECLARATION OF [redacted] IN SUPPORT OF PLAINTIFFS' MOTION FOR CLASS CERTIFICATION

I, [redacted], declare as follows:

1. I am a named Plaintiff in this action and a proposed representative of the Closure Class. I make this declaration on personal knowledge.

2. I am a citizen of the United States by birth. I was born in Hartford, Connecticut, in [redacted]. I reside at [redacted], Connecticut [redacted]. I am temporarily present in Georgia for work; my permanent home remains in [redacted], Connecticut, where I intend to return.

3. On September 26, 2025, I married [redacted], a citizen of [redacted], in [redacted], Connecticut. My husband left the United States on November 8, 2025 and has since resided in [redacted]. He has not been admitted to the United States since that date. [redacted] does not participate in the Visa Waiver Program.

4. On July 2, 2026, I filed with USCIS a Form I-130, Petition for Alien Relative, on behalf of my husband, receipt number [redacted]. On August 3, 2026, I filed a Form I-129F seeking K-3 classification for him, receipt number [redacted].

5. As of the date of this declaration the Form I-130 has been pending more than three months and the Form I-129F more than two months. USCIS has issued no decision on either petition. I filed the Form I-129F so that my husband could join me in the United States while the Form I-130 is pending. I understand from Defendants' published guidance that if the Form I-130 is approved before a K-3 visa has issued to him, the K-3 case will be administratively closed and he will be required to wait abroad for an immigrant visa instead.

6. My husband and I have been separated since January 1, 2026. I have remained in the United States and he has remained in [redacted].

7. I understand that, as a class representative, I would act on behalf of all members of the Closure Class and not only for myself; that I have a duty to protect their interests; that I must remain informed about the litigation and consult with counsel on important decisions; and that I may not settle my own claim in a manner that prejudices the class. I am willing to serve and to fulfil those duties. I know of no interest of mine that conflicts with the interests of any class member.

8. I am represented by Simone Bertollini in this action without charge.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 16, 2026, at Atlanta, Georgia.

[redacted]

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

[redacted] **JIMENEZ,** [redacted]**A,** **JASON KOMUTRATTANANON,** **and** [redacted]**K,** on behalf of themselves and all others similarly situated, Plaintiffs,	
v.	Civil Action No. 3:26-cv-01384-OAW
MARKWAYNE MULLIN, Secretary of Homeland Security; **JOSEPH B. EDLOW,** Director, U.S. Citizenship and Immigration Services; **DIRECTOR, USCIS CALIFORNIA SERVICE CENTER;** **MARCO RUBIO,** Secretary of State; **U.S. DEPARTMENT OF HOMELAND SECURITY;** **U.S. CITIZENSHIP AND IMMIGRATION SERVICES; and** **U.S. DEPARTMENT OF STATE,** Defendants.	

DECLARATION OF JASON KOMUTRATTANANON IN SUPPORT OF PLAINTIFFS' MOTION FOR CLASS CERTIFICATION

I, Jason Komutrattananon, declare as follows:

1. I am a named Plaintiff in this action and a proposed representative of the Closure Class. I am a citizen of the United States. I reside in [redacted] California. I make this declaration on personal knowledge.

2. My wife, [redacted] is a citizen of [redacted] She resides in [redacted] and has not been admitted to the United States since our marriage. [redacted] does not participate in the Visa Waiver Program.

3. On October 17, 2024, I filed with USCIS a Form I-130, Petition for Alien Relative, on behalf of my wife, receipt number [redacted]. A copy of the receipt notice is attached as Exhibit A. On December 9, 2024, I filed a Form I-129F seeking K-3 classification for her, receipt numbe[redacted] which was receipted at the Nebraska Service Center. USCIS charged no fee for it. A copy of the receipt notice, dated December 18, 2024, is attached as Exhibit B. I filed the Form I-129F so that my wife could join me in the United States while the Form I-130 was pending.

4. USCIS issued no request for evidence and no notice of intent to deny on the Form I-129F.

5. On November 20, 2025, USCIS approved the Form I-130 and sent it to the National Visa Center. A copy of the approval notice is attached as Exhibit C. On that date the Form I-129F had been pending more than eleven months, and USCIS had not adjudicated it.

6. By decision dated March 20, 2026, issued by the Vermont Service Center, USCIS denied the Form I-129F. A copy of the decision, with the envelope in which it arrived, is attached as Exhibit D. The decision quotes section 101(a)(15)(K)(ii) of the Immigration and Nationality Act, including the words "to await the approval of such petition and the availability of an immigrant visa," and then states: "Your Form I-129F must be based upon a Form I-130, Petition for Alien Relative, that is currently pending." It continues: "USCIS made a final decision on your Form I-130, Receipt Number [redacted] Since the Form I-130 is no longer pending, the beneficiary no longer requires the issuance of a K-3 nonimmigrant visa to await adjudication of the immigrant visa petition." It concludes: "Therefore, the I-129F petition is denied." The decision identifies no deficiency in the petition, in our marriage, or in the evidence I submitted. I did not appeal the decision.

7. The approval of the Form I-130 has not made an immigrant visa available to my wife. She attended an immigrant visa interview at the United States Embassy in [redacted] on May 12, 2026. At the interview the Embassy issued a notice under section 221(g) of the Act requesting an updated police certificate from [redacted] A copy of that notice is attached as Exhibit G. My wife obtained the certificate and sent it, with her passport, to the Embassy. In June 2026 the Embassy returned her passport with two letters. The first refused the visa under section 221(g) of the Act, stating that effective January 21, 2026 the Department of State was pausing immigrant visa issuance to nationals of seventy-five countries,

including [redacted] A copy of that letter is attached as Exhibit E. The second, dated June 1, 2026, found my wife ineligible under section 212(f) of the Act pursuant to the Presidential Proclamation entitled "Restricting the Entry of Foreign Nationals to Protect the United States from Foreign Terrorists and Other National Security and Public Safety Threats," and stated that the Department of State was reviewing whether to grant a national interest exception. A copy of that letter is attached as Exhibit F. On August 20, 2026, in reply to my inquiry, the Embassy's Immigrant Visa Unit wrote that no additional documents were required, that it was unable to issue visas until the pause is lifted, and that it would contact us when processing resumes. A copy of that exchange is attached as Exhibit H. No visa has issued. My wife remains in [redacted] and we remain separated.

8. I understand that, as a class representative, I would act on behalf of all members of the Closure Class and not only for myself; that I have a duty to protect their interests; that I must remain informed about the litigation and consult with counsel on important decisions; and that I may not settle my own claim in a manner that prejudices the class. I am willing to serve and to fulfil those duties. I know of no interest of mine that conflicts with the interests of any class member.

9. I am represented by Simone Bertollini in this action without charge.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 18, 2026, at [redacted] California.

[redacted]

Jason Komutrattananon

Receipt Number
[redacted]

Case Type
I130 - PETITION FOR ALIEN RELATIVE

Received Date
10/17/2024

Priority Date
10/17/2024

Petitioner
KOMUTRATTANANON, JASON

Notice Date
10/17/2024

Page
1 of 1

Beneficiary
[redacted]

KOMUTRATTANANON, JASON
[redacted]
CA
[redacted]

Notice Type: Receipt Notice
Amount received: $625.00 U.S.
Section: Husband or wife of U.S Citizen, 201(b) INA

This notice confirms that USCIS received your application or petition ("this case") as shown above.
If any of the information in your notice is incorrect or you have any questions about your case, you can connect with the USCIS Contact Center at www.uscis.gov/contactcenter or ask about your case online at www.uscis.gov/e-request. You will need your Alien Registration Number (A-Number) and/or the receipt number shown above.

You can receive updates on your case by visiting www.uscis.gov/casestatus to get the latest status or you can create an account at my.uscis.gov/account and receive email updates for your case.

This notice does not grant any immigration status or benefit, nor is it evidence that this case is still pending. It only shows that the application or petition was receipted on the date shown.
Processing time - Processing times vary by form type.

- Visit www.uscis.gov/processingtimes to see the current processing times by form type and field office or service center.
- If you do not receive an initial decision or update within our current processing time, you can try our online tools available at www.uscis.gov/tools or ask about your case online at www.uscis.gov/e-request.
- When we make a decision on your case or if we need something from you, we will notify you by mail and update our systems.

If this case is an I-130 Petition - Filing and approval of a Form I-130, Petition for Alien Relative, is only the first step in helping a relative immigrate to the United States. The beneficiaries of a petition must wait until a visa number is available before they can take the next step to apply for an immigrant visa or adjustment of status to lawful permanent residence. To best allocate resources, USCIS may wait to process I-130 forms until closer to the time when a visa number will become available, which may be years after the petition was filed. Nevertheless, USCIS processes I-130 forms in time not to delay relatives' ability to take the next step toward permanent residence once a visa number does become available. If, before final action on the petition, you decide to withdraw your petition, your family relationship with the beneficiary ends, or you become a U.S. citizen, call 800-375-5283.
If your address changes - If you move while your case is pending, please visit www.uscis.gov/addresschange for information on how to update your address. Remember to update your address for all your receipt numbers.

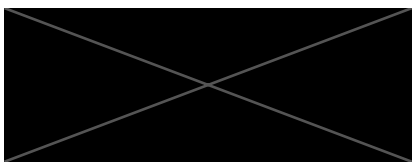
Return of Original Documents - Use Form G-884, Request for the Return of Original Documents, to request the return of original documents submitted to establish eligibility for an immigration or citizenship benefit. You only need to submit one Form G-884 if you are requesting multiple documents contained in a single USCIS file. However, if the requested documentation is in more than one USCIS file, you must submit a separate request for each file. (For example: If you wish to obtain your mother's birth certificate and your parents' marriage certificate, both of which are in the USCIS file that pertains to her, submit one Form G-884 with your mother's information.)

NOTICE: The information you provide on and in support of applications and petitions is submitted under the penalty of perjury. USCIS and the U.S. Department of Homeland Security reserve the right to verify this information before and/or after making a decision on your case so we can ensure that you have complied with applicable laws, rules, regulations, and other legal authorities. We may review public information and records, contact others by mail, the internet or phone, conduct site inspections of businesses and residences, or use other methods of verification. We will use the information obtained to determine whether you are eligible for the benefit you seek. If we find any derogatory information, we will follow the law in determining whether to provide you (and the legal representative listed on your Form G-28, if you submitted one) an opportunity to address that information before we make a formal decision on your case or start proceedings.

Please see the additional information on the back. You will be notified separately about any other cases you filed.
USCIS encourages you to sign up for a USCIS online account. To learn more about creating an account and the benefits, go to https://www.uscis.gov/file-online.

Nebraska Service Center
U.S. CITIZENSHIP & IMMIGRATION SVC
P.O. Box 82521
Lincoln NE 68501-2521

USCIS Contact Center: www.uscis.gov/contactcenter



THIS NOTICE DOES NOT GRANT ANY IMMIGRATION STATUS OR BENEFIT.

NOTICE TYPE		NOTICE DATE
Receipt		December 18, 2024
CASE TYPE		USCIS ALIEN NUMBER
I-129F, Petition for Alien Fiance(e)		
RECEIPT NUMBER [redacted]	RECEIVED DATE December 09, 2024	PAGE 1 of 1
		DATE OF BIRTH [redacted]

JASON KOMUTRATTANANON
[redacted]

NAME AND MAILING ADDRESS

PAYMENT INFORMATION:

Application/Petition Fee:	$0.00
Total Amount Received:	$0.00
Total Balance Due:	$0.00

We have received your form and are currently processing the above case for the following beneficiaries:

Name	Date of Birth	Country of Birth	Class (If Applicable)
[redacted]	[redacted]	[redacted]	

If this notice contains a priority date, this priority does not reflect earlier retained priority dates. We will notify you separately about any other case you filed.

If we determine you must submit biometrics, we will mail you a biometrics appointment notice with the time and place of your appointment.

If you have questions or need to update your personal information listed above, please visit the USCIS Contact Center webpage at uscis.gov/contactcenter to connect with a live USCIS representative in English or Spanish.

USCIS Office Address:
USCIS
Nebraska Service Center
P.O. Box 82521
Lincoln, NE 68501-2521

USCIS Contact Center Number:
(800)375-5283
APPLICANT COPY
[redacted]

[redacted]

If you are visiting a field office and need directions, including public transportation directions, please see **www.uscis.gov/fieldoffices** for more information.

Notice for Customers with Disabilities

To request a disability accommodation:

- Go to uscis.gov/accommodations to make your request online, or
- Call the USCIS Contact Center at 1-800-375-5283 (TTY 1-800-767-1833) for help in English or Spanish.

If you need a sign language interpreter, make your request as soon as you receive your appointment notice. The more advance notice we have of your accommodation request, the better prepared we can be and less likely we will need to reschedule your appointment. For more information about accommodations, visit uscis.gov/accommodationsinfo.

Receipt Number
[redacted]

Case Type
I130 - PETITION FOR ALIEN RELATIVE

Received Date
10/17/2024

Priority Date
10/17/2024

Petitioner
KOMUTRATTANANON, JASON

Notice Date
11/20/2025

Page
1 of 1

Beneficiary
[redacted]

KOMUTRATTANANON, JASON
[redacted]
CA [redacted]

Notice Type: Approval Notice
Section: Husband or wife of U.S Citizen, 201(b) INA

The above petition has been approved. As the petitioner requests, we have sent the petition to the U.S. Department of State National Visa Center (NVC), 32 Rochester Avenue, Portsmouth, NH 03801-2909. The NVC processes all approved immigrant visa petitions that need consular action, including the collection of necessary forms and documents. It also determines which consular post is appropriate to complete visa processing. The NVC will then transfer the approved petition to the consular post once processing has been completed and an interview has been scheduled at the Embassy or Consulate.

The NVC will contact the beneficiary of this petition with further information about immigrant visa processing steps.

You should allow a minimum of 45 days for U.S. Department of State processing before contacting the NVC. If you have not received any correspondence from NVC within 45 days, you may contact the NVC at https://nvc.state.gov/inquiry.

For more information about NVC processing, please visit https://nvc.state.gov.

THIS NOTICE IS NOT A VISA AND MAY NOT BE USED IN PLACE OF A VISA.

The approval of this visa petition does not in itself grant any immigration status and does not guarantee that the beneficiary will subsequently be found to be eligible for a visa, for admission to the United States, or for an extension, change, or adjustment of status.

NOTICE: Although this application or petition has been approved, USCIS and the U.S. Department of Homeland Security reserve the right to verify this information before and/or after making a decision on your case so we can ensure that you have complied with applicable laws, rules, regulations, and other legal authorities. We may review public information and records, contact others by mail, the internet or phone, conduct site inspections of businesses and residences, or use other methods of verification. We will use the information obtained to determine whether you are eligible for the benefit you seek. If we find any derogatory information, we will follow the law in determining whether to provide you (and the legal representative listed on your Form G-28, if you submitted one) an opportunity to address that information before we make a formal decision on your case or start proceedings.

Please see the additional information on the back. You will be notified separately about any other cases you filed.
USCIS encourages you to sign up for a USCIS online account. To learn more about creating an account and the benefits, go to https://www.uscis.gov/file-online.

SCOPS TEXAS FACILITY
U.S. CITIZENSHIP & IMMIGRATION SVC
6046 N BELT LINE RD.
IRVING TX 75038-0001

USCIS Contact Center: www.uscis.gov/contactcenter

[redacted]

Department of Homeland Security
Vermont Service Center
38 River Road
Essex Junction, VT 05479

US OFFICIAL MAIL
$500 Penalty
For Private Use
quadient
FIRST-CLASS MAIL
IMI
$000.74 9
03/18/2026 ZIP 05495
043M32100223
US POSTAGE

U.S. Citizenship and Immigration Services

[redacted]

93065$5318 C002

March 20, 2026

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
38 River Road
Essex Junction, VT 05479-0001

U.S. Citizenship and Immigration Services

JASON KOMUTRATTANANON

[redacted]

[redacted]

RE: [redacted]
I-129F, Petition for Alien Fiance(e)

DECISION

On December 9, 2024, you filed a Form I-129F, Petition for Alien Fiancé(e), to request the beneficiary of a pending spousal petition be issued a visa to come to the United States pursuant to Section 101(a)(15)(K)(ii) of the Immigration and Nationality Act (INA).

INA 101(a)(15)(K)(ii) describes a K-3 nonimmigrant, in part, as an alien who:

> …has concluded a valid marriage with a citizen of the United States who is the petitioner, is the beneficiary of a petition to accord a status under section 201(b)(2)(A)(i) [8 USCS 1151(b)(2)(A)(i)] that was filed under section 204 [8 USCS 1154] by the petitioner, and seeks to enter the United States to await the approval of such petition and the availability of an immigrant visa.

Your Form I-129F must be based upon a Form I-130, Petition for Alien Relative, that is currently pending.

USCIS made a final decision on your Form I-130, Receipt Number [redacted] Since the Form I-130 is no longer pending, the beneficiary no longer requires the issuance of a K-3 nonimmigrant visa to await adjudication of the immigrant visa petition.

In visa petition proceedings, the burden of proof rests upon the petitioner. *Matter of Brantigan*, 11 I&N Dec. 493 (BIA 1966).

Therefore, the I-129F petition is denied.

If you disagree with this decision, you may appeal to the Administrative Appeals Office (AAO) by filing a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. Alternatively, you may use Form I-290B to submit a motion to reopen or reconsider.

USCIS encourages you to sign up for a USCIS online account. To learn more about creating an account and the benefits, go to https://www.uscis.gov/file-online.

For the latest information on filing location, fee, and other requirements, please review the Form I-290B instructions at http://www.uscis.gov/forms, call the USCIS Contact Center at 1-800-375-5283, or visit your local USCIS office. If USCIS does not receive a properly filed appeal, this decision will become final.

Sincerely,

Carrie M. Selby
Acting Associate Director, Service Center Operations
Officer: AD0023

USCIS encourages you to sign up for a USCIS online account. To learn more about creating an account and the benefits, go to https://www.uscis.gov/file-online.

Embassy of the United States

[redacted]

Consular Section, Immigrant Visa Unit

Dear Applicant,

You have been found ineligible for an immigrant visa under Section 221(g) of the Immigration and Nationality Act. Today's decision cannot be appealed. Please be advised that for U.S. visa purposes, including ESTA (see ESTA website), this decision constitutes a denial of a visa.

Effective January 21, 2026, the Department of State is pausing immigrant visa issuances to nationals of 75 countries, including [redacted]

Sincerely

Consular Officer
Immigrant Visa Unit

Embassy of the United States of America

[redacted]

Date: June 1, 2026

Case Number: [redacted]

Visa Symbol: CR1

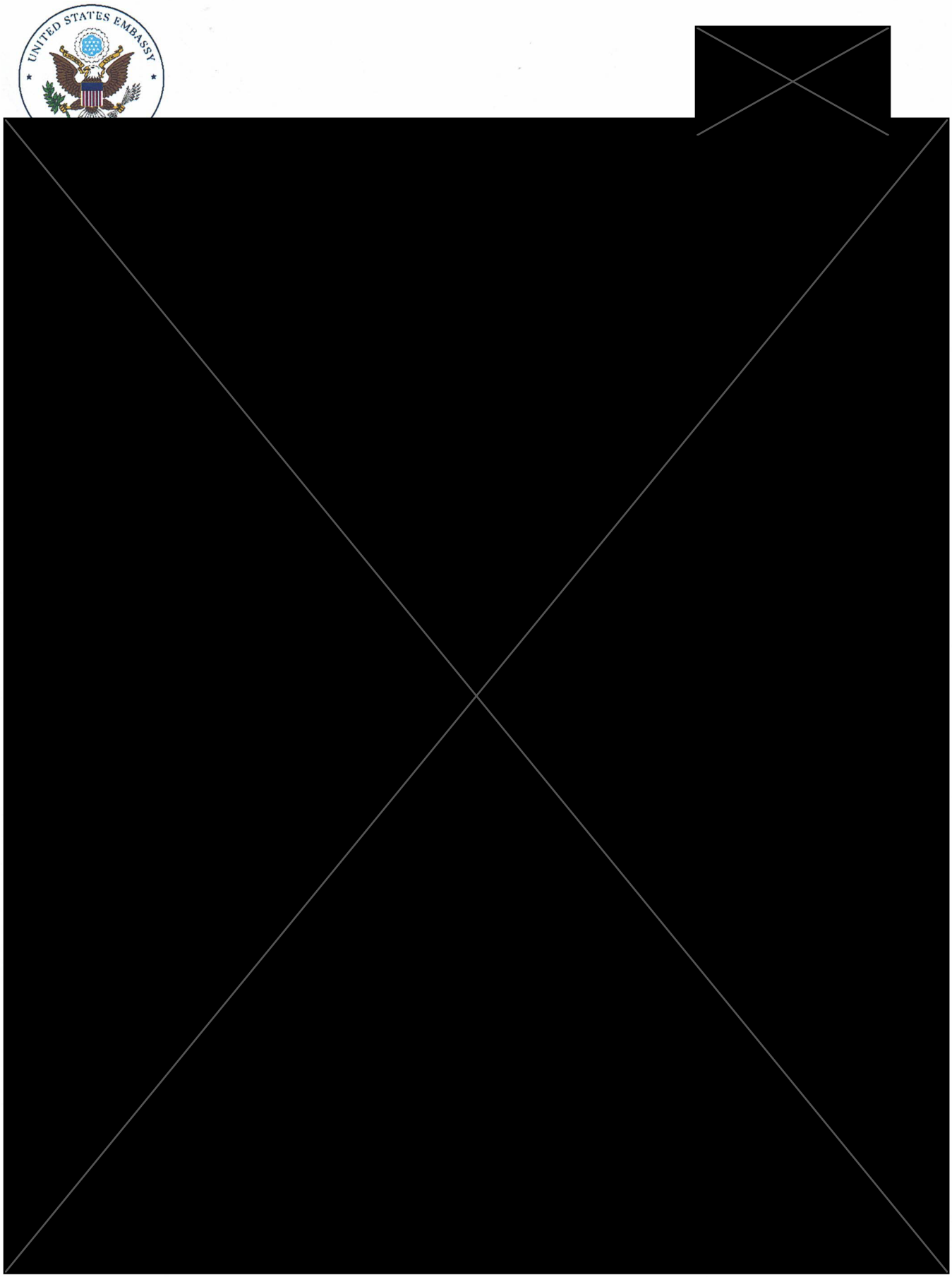
Dear

This is to inform you that a consular officer found you ineligible for an immigrant visa under Section 212(f) of the Immigration and Nationality Act, pursuant to Presidential Proclamation "Restricting the Entry of foreign Nationals to Protect the United States from Foreign Terrorists and Other National Security and Public Safety Threats". Today's decision cannot be appealed.

The State Department is reviewing your case to determine whether to grant a National Interest Exception (NIE) under the Proclamation. This can be a lengthy process, and unless the State Department determines your travel would serve a U.S. national interest and grants an NIE, your visa application will remain refused under Section 212(f). You will be contacted if your case is granted an exception as soon as practicable.

Sincerely,

Consular Officer



DEPARTMENT OF STATE OF THE UNITED STATES OF AMERICA **Date:**

Applicant's Name: **Case Number:** **Visa Symbol:**

Dear Visa Applicant/ เรียนผู้สมัครวีซ่า:

This office regrets to inform you that your visa application has been refused because you have been found ineligible to receive a visa under section 221(g) of the Immigration and Nationality Act. Further consideration will be given to your visa application after you obtain and submit the documents indicated below.

แผนกวีซ่าถาวรขอแจ้งให้ท่านทราบว่า การสมัครวีซ่าของท่านถูกปฏิเสธตามมาตรา 221(g) ของพระราชบัญญัติคนเข้าเมืองและสัญชาติ การสมัครวีซ่าของท่านจะได้รับการพิจารณาเพิ่มเติมหลังจากที่ท่านส่งเอกสารที่ระบุด้านล่างนี้

Applicant ผู้สมัครวีซ่า			Petitioner ผู้ยื่นคำร้อง		
Mail ส่งไปรษณีย์	Upload อัปโหลด	Document เอกสาร (Original/Certified copy and Certified English translation) (ต้นฉบับ/รับรองสำเนาถูกต้องและคำแปลภาษาอังกฤษ)	Mail ส่งไปรษณีย์	Upload อัปโหลด	Document เอกสาร (Original/Certified copy and Certified English translation) (ต้นฉบับ/รับรองสำเนาถูกต้องและคำแปลภาษาอังกฤษ)
☐	☐	Passport หนังสือเดินทาง	☐	☐	Birth certificate สูติบัตร
☐	☐	Online document delivery address's confirmation page (GSS) ใบยืนยันการลงทะเบียนของระบบ GSS	☐	☐	Name change certificate ใบเปลี่ยนชื่อ-นามสกุล
☐	☐	Thai police clearance certificate หนังสือรับรองความประพฤติจากกองบัญชาการตำรวจสันติบาลไทย	☐	☐	Marriage certificate ทะเบียนสมรส
☐	☐	Foreign police clearance certificate หนังสือรับรองความประพฤติจากกองบัญชาการตำรวจต่างชาติ	☐	☐	Divorce certificate ทะเบียนหย่า
☐	☐	Court's records and certified English translation ประวัติการถูกดำเนินคดีและเอกสารแปลภาษาอังกฤษที่ได้รับการรับรองการแปล	☐	☐	Death certificate มรณบัตร
☐	☐	Medical exam report ผลตรวจสุขภาพ	☐	☐	I-864 Affidavit of Support ฟอร์ม I-864 หนังสือรับรองการเงิน
☐	☐	Birth certificate สูติบัตร	☐	☐	I-864A For Household Member ฟอร์ม I-864A สำหรับสมาชิกในครัวเรือน
☐	☐	Name change certificate ใบเปลี่ยนชื่อ-นามสกุล	☐	☐	Copy of U.S. citizenship or resident status สำเนาสัญชาติประเทศสหรัฐฯหรือสถานะผู้พำนัก
☐	☐	Marriage certificate ทะเบียนสมรส	☐	☐	Copy of most recent year's U.S. tax transcript (NOT 1040 Tax return) สำเนาหลักฐานการเสียภาษีให้ประเทศสหรัฐฯ ของปีล่าสุด (ไม่ใช่การคืนภาษี 1040)
☐	☐	Divorce certificate ทะเบียนหย่า	☐	☐	Most recent year's W-2 (W-2 ของปีล่าสุด)
☐	☐	Death certificate มรณบัตร	☐	☐	IRS Verification of Nonfiling letter จดหมายการงดเว้นภาษีจากสำนักงาน IRS
☐	☐	Marital status certificate หนังสือรับรองสถานภาพการสมรส (หนังสือรับรองสถานภาพโสด)			**Joint Sponsor ผู้ค้ำประกันร่วม**
☐	☐	Military record หนังสือรับรองการรับราชการทหารหรือผ่านการเกณฑ์ทหาร	☐	☐	Joint Sponsor I-864 แบบฟอร์ม I-864 ของผู้ค้ำประกันร่วม
☐	☐	Evidence of relationship with Petitioner หลักฐานแสดงความสัมพันธ์	☐	☐	Joint Sponsor copy of U.S. citizenship or resident status สำเนาเอกสารแสดงสัญชาติประเทศสหรัฐฯหรือสถานะผู้พำนักของผู้ค้ำประกันร่วม
			☐	☐	Joint Sponsor copy of most recent year's U.S. tax transcript (NOT 1040 Tax return) สำเนาหลักฐานการเสียภาษีให้ประเทศสหรัฐฯ ของปีล่าสุดของผู้ค้ำประกันร่วม (ไม่ใช่การคืนภาษี 1040)

Other:
เอกสารเพิ่มเติมอื่นๆ: [redacted] police certificate (upload + mail in)

To Mail: Please s[redacted]d your current passport to **DHL eCommerce, Thailand** mail to this address: U.S. Embassy Bangkok (ATTN: CONS/IV) 120-122 Wireless Rd., Lumpini, Patumwan, Bangkok 10330. กรุณาส่งเอกสารและหนังสือเดินเล่มปัจจุบันของท่านผ่านทาง **DHL eCommerce, Thailand** ไปยังที่อยู่นี้: U.S. Embassy Bangkok (ATTN: CONS/IV) 120-122 Wireless Rd., Lumpini, Patumwan, Bangkok 10330.

To Upload: Please **upload** documents into CEAC: https://ceac.state.gov/IV/Login.aspx and notify us via visasbkk@state.gov. กรุณา**อัปโหลด**เอกสารไปยัง CEAC: https://ceac.state.gov/IV/Login.aspx และอีเมลแจ้งแผนกวีซ่าถาวรที่ via visasbkk@state.gov.

*****You must provide your full name and case number with the submitted documents. *****

*****ท่านต้องแจ้งชื่อ-นามสกุลและหมายเลขเคสพร้อมเอกสารแนบมาด้วย *****

Sincerely Yours,
ขอแสดงความนับถือ

American Consular
กงสุลอเมริกัน

Important Notes:
Incomplete submission of the requested documents will further delay your case. A minimum of 10-15 business days is required to process your case, and any status update requests should be made after this period. For further inquiries including retrieving your passport, please e-mail visasbkk@state.gov.

หมายเหตุสำคัญ:
การส่งเอกสารที่ร้องขอไม่ครบถ้วนจะทำให้เคสของท่านล่าช้า การพิจารณาเคสของท่านต้องใช้เวลาอย่างน้อย 10-15 วันทำการ ท่านสามารถติดตามสถานะเคสหลังจากช่วงเวลานี้ หากต้องการสอบถามข้อมูลเพิ่มเติมรวมถึงการขอรับหนังสือเดินทาง กรุณาอีเมลมาที่ visasbkk@state.gov.

***Warning**: if you fail to take the action required within one year following visa denial under section 221(G) of The Immigration and Nationality Act, section 203(G) of the Act requires that your application be cancelled. **คำเตือน**: หากท่านไม่ดำเนินการตามที่กำหนดภายในหนึ่งปีหลังจากการปฏิเสธวีซ่าตามมาตรา 221(G) ตามพระราชบัญญัติตรวจคนเข้าเมืองและสัญชาติ มาตรา 203(G) ของพระราชบัญญัติกำหนด ให้ยกเลิกการสมัครของท่าน*

For more information, please scan below QR Code. (ท่านสามารถหาข้อมูลเพิ่มเติมโดยการสแกนคิวอาร์โค้ดด้านล่างนี้)

Application forms (แบบฟอร์มการสมัครวีซ่า)
DS-160 (แบบฟอร์ม DS-160):

DS-160 frequently asked questions (FAQs) (คำถามที่พบบ่อย):

DS-260 (ฟอร์ม DS-260):

DS-260 frequently asked questions (FAQs) (คำถามที่พบบ่อย):

Consular Electronic Application Center (CEAC) (ระบบการสมัครวีซ่าออนไลน์)

Online document delivery address registration (การลงทะเบียนที่อยู่จัดส่งเอกสารออนไลน์)

Medical examination instructions (คำแนะนำเกี่ยวกับการตรวจสุขภาพ)

How to upload documents on CEAC (การอัพโหลดเอกสารบนระบบ CEAC)

Police records (การขอหนังสือรับรองความประพฤติ)
Thai (ไทย):

Other Foreign Countries (ประเทศอื่นๆ):

Affidavit of Support (หนังสือรับรองการเงิน)

U.S. tax forms or tax transcript (แบบฟอร์มภาษีหรือหลักฐานการเสียภาษีของประเทศสหรัฐฯ):

IRS Verification of Non-filing letter (จดหมายการงดเว้นภาษีจากสำนักงาน IRS):

Affidavit of Support (หนังสือรับรองการเงิน)
I-134 (แบบฟอร์ม I-134):

I-864 (แบบฟอร์ม I-864):

I-864A (แบบฟอร์ม I-864A):

I-864P (Poverty Guidelines) [แบบฟอร์ม I-864P (เกณฑ์มาตรฐานรายได้)]:

Followup: [redacted] CR1/IR-1 Visa Application

From: Jason Komutrattananon [redacted]
To: [redacted]@state.gov>
Cc: [redacted]
Subject: Followup: [redacted]- CR1/IR-1 Visa Application
Date: Tuesday, August 18, 2026 04:04
Size: 2 KB

US Embassy [redacted] [redacted] Immigrant Visa Unit,

I am writing you to you regarding my wife's CR-1/IR-1 Visa application. My name is Jason Komutrattananon, a US Citizen, and petitioner for my wife's CR-1 application. Her name is [redacted].

My wife's case number is [redacted] Her [redacted] passport number is [redacted]

She received a 221(g) administrative processing due to an immigrant visa pause and a 212(f) due to Presidential Proclamation 10998.

It has now been 671 days since October 17, 2024, the priority date of our immigrant visa application. It has been 79 days since the last letter we received from the immigrant visa unit.

Is there any documentation or actions the immigration visa unit needs from myself or my wife to complete adjudication of my wife's visa application?

What is the current status of my wife's visa application?

Has the US state department completed the review of screening and vetting policies of immigrant applications?

I, the petitioner, may be contacted by this email addres [redacted] or my wife, the beneficiary, may be contacted by her email address, [redacted]

Please note, any response, or lack thereof, is part of the administrative record in current litigation in the District of Columbia District Court in case #1:26-cv-00332

Jason Komutrattananon
US Citizen Spouse Petitioner

From: [redacted]@state.gov>
To: Jason Komutrattananon [redacted]
Cc: [redacted]
Subject: RE: [External] Followup: [redacted]- CR1/IR-1 Visa Application
Date: Thursday, August 20, 2026 00:36
Size: 678 KB

Dear Applicant,

Thank you for your email.

We would like to inform you that the issuance of immigrant visas for certain categories and nationalities has been temporarily paused in accordance with Department of State guidance. This includes applicants in the CR-1 (spouse of U.S. citizen) category. **No additional documents are required at this time**, and **we are unable to issue visas until the pause is lifted**.

For the latest information on immigrant visa processing and updates regarding the current pause, please visit:
https://travel.state.gov/content/travel/en/News/visas-news/suspension-of-visa-issuance-to-foreign-nationals-to-protect-the-security-of-the-united-states.html

We will contact you when processing resumes for your case. In the meantime, please monitor the website above for updates.

In addition to the pause policy, please note that Pursuant to the Presidential Proclamation on Restricting the Entry of Foreign Nationals to Protect the United States from Foreign Terrorists and Other National Security and Public Safety Threats, which took effect on June 9, 2025, **the United States is suspending or limiting entry and visa issuance to nationals of certain countries**.

Applicants who are subject to this Presidential Proclamation may be ineligible for visa issuance or admission to the United States. For additional details, visit the link above.

Regards,

Immigrant Visa Unit
U.S. Embassy [redacted]
Consular Section


UNITED STATES *of* AMERICA

SBU - PRIVACY OR PII

-----Original Message-----
From: Jason Komutrattananon [redacted]
Sent: Tuesday, August 18, 2026 6:04 PM
To: [redacted]@state.gov>

Cc [redacted]
Subject: [External] Followup: [redacted] - CR1/IR-1 Visa Application

US Embassy [redacted] Immigrant Visa Unit,

I am writing you to you regarding my wife's CR-1/IR-1 Visa application. My name is Jason Komutrattananon, a US Citizen, and petitioner for my wife's CR-1 application. Her name is [redacted].

My wife's case number is [redacted] Her [redacted] passport number i [redacted]

She received a 221(g) administrative processing due to an immigrant visa pause and a 212(f) due to Presidential Proclamation 10998.

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I, the petitioner, may be contacted by this email address [redacted] r my wife, the beneficiary, may be contacted by her email address, [redacted]

Please note, any response, or lack thereof, is part of the administrative record in current litigation in the District of Columbia District Court in case #1:26-cv-00332

Jason Komutrattananon
US Citizen Spouse Petitioner

IV Pause letter including Myanmar.pdf (106 KB)

212(f) of Immigrant and Nationality Act.pdf (360 KB)

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

[redacted] **JIMENEZ,** [redacted] **A,** **and** [redacted] **K,** on behalf of themselves and all others similarly situated, Plaintiffs,	)	
v.	)	Civil Action No.
MARKWAYNE MULLIN, Secretary of Homeland Security;	)	3:26-cv-01384-OAW
JOSEPH B. EDLOW, Director, U.S. Citizenship and Immigration Services;	)	
DIRECTOR, USCIS CALIFORNIA SERVICE CENTER;	)	
MARCO RUBIO, Secretary of State;	)	
U.S. DEPARTMENT OF HOMELAND SECURITY;	)	
U.S. CITIZENSHIP AND IMMIGRATION SERVICES; and	)	
U.S. DEPARTMENT OF STATE, Defendants.	)	

DECLARATION OF [redacted] IN SUPPORT OF PLAINTIFFS' MOTION FOR CLASS CERTIFICATION

I, [redacted], declare as follows:

1. I am a named Plaintiff in this action and the proposed representative of the Delay Class. I make this declaration on personal knowledge.

2. I am a citizen of the United States. I was born in [redacted], came to the United States in [redacted], and became a United States citizen by naturalization in [redacted]. I reside at [redacted], New Jersey [redacted], where I have lived for more than twenty years. I am a Licensed Clinical Social Worker and have worked in that field for more than ten years.

3. On March 14, 2025, I married [redacted], a citizen of [redacted], in [redacted]. My husband resides in [redacted] and has not been admitted to the United States since our marriage. [redacted] does not participate in the Visa Waiver Program.

4. On May 9, 2025, I filed with USCIS a Form I-130, Petition for Alien Relative, on behalf of my husband, receipt number [redacted]. On July 3, 2025, I filed a Form I-129F seeking K-3 classification for him, receipt number [redacted], which was receipted at the Nebraska Service Center. I filed the Form I-129F so that my husband could join me in the United States while the Form I-130 was pending.

5. When I filed the Form I-129F, the national median processing time for that form that USCIS published for fiscal year 2025 was 7.7 months. As of the date of this declaration the Form I-129F has been pending more than fifteen months, and the Form I-130 more than seventeen months. USCIS has issued no request for evidence, no notice of intent to deny, and no decision on either petition.

6. I have submitted status inquiries to USCIS through its online channels and have repeatedly sought the assistance of the offices of United States Senator Cory Booker and Representative Robert Menendez. On October 28, 2025, my husband's home in [redacted] was damaged by Hurricane Melissa. I then asked USCIS to expedite the petitions. USCIS responded in writing that my request met the minimum criteria for an expedite request and had been forwarded to the office with jurisdiction over the petitions. None of these efforts produced a decision, an explanation, or a date.

7. My husband and I have lived in separate countries since our marriage. I have traveled to [redacted] more than eleven times since we met, most recently on September 19, 2026, because that is the only way we can spend time together as husband and wife.

8. I understand that, as a class representative, I would act on behalf of all members of the Delay Class and not only for myself; that I have a duty to protect their interests; that I must remain informed about the litigation and consult with counsel on important decisions; and that I may not settle my own claim in a manner that prejudices the class. I am willing to serve and to fulfil those duties. I know of no interest of mine that conflicts with the interests of any class member.

9. I am represented by Simone Bertollini in this action without charge.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 16, 2026, at [redacted] New Jersey.

[redacted]

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

[redacted] **JIMENEZ,** [redacted], **JASON KOMUTRATTANANON, and** [redacted], on behalf of themselves and all others similarly situated, Plaintiffs,	
v.	Civil Action No. 3:26-cv-01384-OAW
MARKWAYNE MULLIN, Secretary of Homeland Security; **JOSEPH B. EDLOW,** Director, U.S. Citizenship and Immigration Services; **DIRECTOR, USCIS CALIFORNIA SERVICE CENTER;** **MARCO RUBIO,** Secretary of State; **U.S. DEPARTMENT OF HOMELAND SECURITY;** **U.S. CITIZENSHIP AND IMMIGRATION SERVICES; and** **U.S. DEPARTMENT OF STATE,** Defendants.	

DECLARATION OF SIMONE BERTOLLINI IN SUPPORT OF PLAINTIFFS' MOTION FOR CLASS CERTIFICATION AND APPOINTMENT OF CLASS COUNSEL

I, Simone Bertollini, declare as follows:

1. I am an attorney admitted to practice before this Court (Federal Bar No. ct30065) and counsel of record for Plaintiffs in this action. I submit this declaration in support of Plaintiffs' motion for class certification and for my appointment as class counsel under Fed. R. Civ. P. 23(g). I have personal knowledge of the facts stated here.

Qualifications and experience

2. I am admitted to the bars of the States of New York, New Jersey, Texas, and Missouri; of the Supreme Court of the United States; of the United States Courts of Appeals for the First, Second, and Third Circuits; and of the United States District Courts for the District of Connecticut, the District of Columbia, the District of New Jersey, the Southern, Eastern, Northern, and Western Districts of New York, the Southern District of Texas, the District of Colorado, the Eastern District of Wisconsin, and the Eastern District of Michigan.

3. My practice is devoted to United States immigration law and to federal litigation against the agencies that administer it. I have represented petitioners and applicants in actions under the Administrative Procedure Act and the Mandamus Act against the Department of Homeland Security, U.S. Citizenship and Immigration Services, and the Department of State in United States District Courts, including this Court, where I represented the plaintiff without charge in Demaj v. Zuchowski, No. 3:15-cv-01652, an action under the Administrative Procedure Act against USCIS that I argued in 2016, the District of Columbia, the Southern and

Eastern Districts of New York, and the Southern District of Texas. I have tried a federal criminal case to verdict before a jury in the Eastern District of New York, obtaining acquittal on all felony counts, and argued the ensuing appeal, United States v. Gasperini, 894 F.3d 482 (2d Cir. 2018). I argued Williams v. United States, 858 F.3d 708 (1st Cir. 2017), a petition for a writ of error coram nobis arising from the immigration consequences of a conviction, and Borbot v. Warden Hudson County Correctional Facility, 906 F.3d 274 (3d Cir. 2018), a habeas corpus appeal concerning immigration detention under 8 U.S.C. § 1226(a).

4. I have studied the K-3 nonimmigrant classification, the statutes and regulations that govern it, and the practices challenged in this action for more than a year. In December 2024 I filed a Form I-129F seeking K-1 classification for my fiancée, now my spouse. In May 2025 I brought an action in my own name, Bertollini v. Scott, No. 2:25-cv-05919 (D.N.J.), challenging USCIS's delay in adjudicating a Form I-129F and alleging that the K-3 classification had been rendered a dead letter. Within days of filing it, I asked the Catholic Legal Immigration Network, Inc., which had published an article in August 2023 describing the National Visa Center's practice of closing K-3 cases, to provide litigation support; it answered that, as a membership organization that devotes its resources to supporting nonprofit agencies, it could not, and suggested that I approach the American Immigration Lawyers Association. On January 28, 2026, I voluntarily dismissed the action under Rule 41(a)(1)(A)(i), stating in the notice that

the Department of State's suspension of immigrant visa issuance to nationals of seventy-five countries had mooted my claim. No ruling was issued. That action is the origin of the study described in this paragraph. I am familiar with the published processing data of USCIS, with the Foreign Affairs Manual provision at issue, and with the administrative record of each named Plaintiff.

5. I have no interest adverse to any member of either proposed class. I represent no client whose interests conflict with those of the classes.

The engagement

6. I represent each of the named Plaintiffs without charge. I have agreed to represent the proposed classes on the same basis, reserving only the right to seek an award of fees and costs from Defendants under the Equal Access to Justice Act, 28 U.S.C. § 2412, or any other applicable authority, should the classes prevail.

7. I have committed, and will continue to commit, the time and resources necessary to prosecute this action to judgment. I intend to associate co-counsel to assist in the representation of the classes: an attorney admitted to the bars of New Jersey (2003) and New York (2004), of the United States District Courts for the District of New Jersey and the Eastern District of New York, and of the United States Courts of Appeals for the Second and Third Circuits, who has practised civil litigation for more than twenty years, principally business litigation on behalf of companies, and who has represented almost one hundred individual claimants in multidistrict litigation, including the Zantac and aqueous film-forming foam

proceedings. That attorney is not a member of the bar of this Court; I will move for admission as a visiting attorney under Local Rule 83.1(e), with myself as sponsor, and will seek the Court's approval under Rule 23(g) before co-counsel assumes a role in the representation.

The website and the persons who came forward

8. On or about October 10, 2026, I established a website at which persons affected by the practices challenged in this action could register their interest. The registration form asks for the registrant's first name, e-mail address, telephone number, State of residence, the date on which the Form I-130 was filed, and the date on which the Form I-129F was filed. Both dates are required fields, so that every completed registration describes a pending Form I-129F seeking K-3 classification filed by, or on behalf of, a United States citizen petitioner who has also filed a Form I-130 for the same spouse.

9. Between October 10 and October 14, 2026, fifty-three persons completed the form. They reported residence in twenty-three States; four reported that the petitioner resides abroad. One registrant, Plaintiff [redacted], reported residence in Connecticut. By October 17, 2026, 121 persons had completed the form.

10. I have retained the registrations and will make them available to the Court for review in camera, or to Defendants under an appropriate protective order, if the Court so directs.

The named Plaintiffs

11. I have discussed with each named Plaintiff the nature of a class action, the duties of a class representative, and the course of this litigation. Each has confirmed his or her willingness to serve, to remain informed of the litigation, and to act in the interest of the class as a whole. The facts concerning each Plaintiff's petitions are set out in their respective declarations and in the First Amended Class Action Complaint.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 18, 2026, at St. Petersburg, Florida.



S mone Berto n

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

[redacted] **JIMENEZ,** [redacted], **JASON KOMUTRATTANANON, and** [redacted], on behalf of themselves and all others similarly situated,	)	
Plaintiffs,	)	
v.	)	Civil Action No.
MARKWAYNE MULLIN, Secretary of Homeland Security;	)	3:26-cv-01384-OAW
JOSEPH B. EDLOW, Director, U.S. Citizenship and Immigration Services;	)	
DIRECTOR, USCIS CALIFORNIA SERVICE CENTER;	)	
MARCO RUBIO, Secretary of State;	)	
U.S. DEPARTMENT OF HOMELAND SECURITY;	)	
U.S. CITIZENSHIP AND IMMIGRATION SERVICES; and	)	
U.S. DEPARTMENT OF STATE,	)	
Defendants.	)	

[PROPOSED] ORDER GRANTING PLAINTIFFS' MOTION FOR CLASS CERTIFICATION AND APPOINTMENT OF CLASS COUNSEL

Upon Plaintiffs' Motion for Class Certification and Appointment of Class Counsel, the memorandum of law and declarations submitted in support, and any opposition and reply, and the Court having found that the requirements of Rules

23(a) and 23(b)(2) of the Federal Rules of Civil Procedure are satisfied, it is hereby ORDERED that:

(1) The motion is GRANTED.

(2) The following Closure Class is certified under Rule 23(b)(2): all United States citizens who have filed, or will file, a Form I-129F seeking K-3 classification for a spouse, and whose Form I-129F, or the K-3 visa application based on it, has been or will be administratively closed, refused under section 221(g) of the Immigration and Nationality Act, returned, denied, or otherwise disposed of by reason of the approval of the corresponding Form I-130.

(3) The following Delay Class is certified under Rule 23(b)(2): all United States citizens who have filed a Form I-129F seeking K-3 classification for a spouse that has been pending with U.S. Citizenship and Immigration Services, without adjudication, for longer than the national median processing time for Form I-129F published by USCIS for the fiscal year in which the petition was filed.

(4) Excluded from both classes are Defendants, their officers and employees, and the judicial officers to whom this action is assigned and their immediate families.

(5) Plaintiffs [redacted] Jimenez, [redacted], and Jason Komutrattananon are appointed representatives of the Closure

Class. Plaintiff [redacted] is appointed representative of the Delay Class.

(6) Simone Bertollini, Law Office of Simone Bertollini, is appointed class counsel under Rule 23(g). Within thirty days of this Order, class counsel shall file a notice identifying any co-counsel he proposes to associate and shall move for their admission under Local Rule 83.1(e).

(7) Certification relates back to August 27, 2026, the date on which this action was commenced.

SO ORDERED.

Dated: _____, 2026

Hartford, Connecticut

_____
Omar A. Williams
United States District Judge