IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA

[redacted] **Nezameslami, et al.** Plaintiffs, v. **Department of Homeland Security, et al.** Defendants.	**CIVIL ACTION NO.: 1:26-CV-00151-SDG** **FIRST AMENDED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

I. INTRODUCTION

Plaintiffs hereby amend the original complaint (ECF 1) pursuant to Rule 15(a)(1)(B) to make necessary corrections and add 41 individuals as Plaintiffs.

1. The U.S. Citizenship and Immigration Services ("USCIS") has as its statutory mission, provided by Congress when it was created, to adjudicate immigration applications made in the interior of the United States. 6 U.S.C. § 271(b). For example, it is tasked with "[a]djudications of naturalization petitions," "[a]djudications of asylum and refugee petitions," and "[a]djudications of immigrant visa petitions." Id. In describing its "Purpose and Background," USCIS states that "[t]he Homeland Security Act created USCIS to enhance the security and efficiency of national immigration services by focusing exclusively on the administration of

benefit applications. The law also formed Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP) to oversee immigration enforcement and border security."1 It is, in all respects, an agency dedicated solely to the adjudication of immigration benefit applications made within the United States.

2. USCIS, however, recently taken it upon itself a mission that falls outside of the scope of its authority, and indeed, one that runs directly contrary to the statutes, regulations, and policies that underlie its purpose and operation. USCIS has now decided to "stop" the "flow" of noncitizens from countries that have been determined to have high rates of visa overstays and fraud, which are found in two Presidential Proclamations imposing entry restrictions pursuant to 8 U.S.C. § 1182(f)—Presidential Proclamation 10,949 and 10,998.[2] USCIS is doing this to individuals from 39 countries through several policies: 1) an adjudicative and indefinite, hold on nearly all immigration benefit applications for those from these identified high-risk countries; 2) a "re-review" of all benefit requests that have already been approved for individuals from these countries where those approvals

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[1] U.S. Citizenship & Immigration Servs., *Policy Manual* — Vol. 1, Part A, Ch. 1: Purpose and Background (last updated Nov. 3, 2025), https://www.uscis.gov/policy-manual/volume-1-part-a-chapter-1

[2] U.S. Citizenship & Immigration Servs., Policy Alert PM-602-0194: Pending Applications—Additional High-Risk Countries (Jan. 1, 2026), https://www.uscis.gov/sites/default/files/document/policy-alerts/PM-602-0194-PendingApplicationsAdditionalHighRiskCountries-20260101.pdf

were made on or after January 20, 2021; 3) a re-review of all policies and procedures under which these individuals had their benefit requests approved; and 4) a policy that treats "national origin" as a significant negative discretionary factor for citizens of each of those 39 countries as to whether to approve a given immigration benefit request.[3]

3. USCIS has taken a ban that is solely and exclusively on the *entry* of noncitizens into the United States via a Presidential Proclamation invoking 8 U.S.C. § 1182(f) and extended its reach into the interior of the United States. That statute gives the President the authority to suspend or restrict the entry of individuals from abroad. But, after an entry has been made and the individual is in the United States, neither the President nor USCIS can use nationality as a basis for adjudicating applications. USCIS has not only abrogated its mission and purpose, but it has acted in excess of the President's authority that is limited to the suspension or restrictions on *entry* of noncitizens when specific criteria are met under § 1182(f). Left unchecked, USCIS will hold benefit requests in abeyance to "stop" the "flow" of noncitizens from certain countries. Domestic expansion of § 1182(f) has been universally struck down by all courts that have been faced with the issue. *See, e.g,*

[3] *Id.*; U.S. Citizenship & Immigration Servs., Policy Alert PA-2025-26: Impact of INA §212(f) on USCIS' Adjudication of Discretionary Benefits (Nov. 27, 2025), https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20251127-Discretion.pdf

East Bay Sanctuary Covenant v. Trump, 932 F.3d 742 (9th Cir. 2018) (rejecting reliance on § 1182(f) where the policy "imposes the penalty on aliens already within our borders"). Similarly, nothing permits the President or an agency to override the Immigration and Nationality Act ("INA") and Administrative Procedure Act ("APA") to effectively, and explicitly, cease the processing of immigration benefit requests made domestically for arbitrary, capricious, and unlawful reasons.

4. Plaintiffs are noncitizens who have already been legally admitted and entered the United States, possess valid immigration status, and have requested an immigration benefit from USCIS—whether that be a request to naturalize as a U.S. Citizen, to adjust their status and receive an immigrant visa, thus becoming a permanent resident of the United States, to change or extend the nonimmigrant status that they currently hold, or to receive any number of ancillary immigration benefits, such as work authorization or international travel authorization. Due solely to Defendants' unlawful expansion of § 1182(f) beyond entry to domestic benefit applications for those who have entered, the creation and application of discriminatory adjudicatory criteria and the wholesale abdication of the agencies' roles in upholding and complying with the Immigration and Nationality Act, Plaintiffs now face an indeterminate wait on taking the next steps in their immigration journey, potential loss of employment as statuses expire and work

Border Protection as some of its many component agencies, and through these administers immigration policy.

311. Defendant U.S. Citizenship and Immigration Services ("USCIS") is a component agency within the Department of Homeland Security ("DHS"), 6 U.S.C. § 271, and an agency within the meaning of the Administrative Procedure Act, 5 U.S.C. § 551(1). USCIS is responsible for administering immigration benefits within the United States, including applications for adjustment of status (green cards), asylum, employment authorization, change or extension of nonimmigrant status, and other benefits.

III. JURISDICTION AND VENUE

312. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 (federal question jurisdiction). *Califano v. Sanders*, 430 U.S. 99, 106 (1977).

313. This Court has the authority to grant relief pursuant to the APA, 5 U.S.C. § 701 *et seq.*, and pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201. The United States has waived sovereign immunity pursuant to 5 U.S.C. § 702.

314. Venue in this judicial district is proper under 28 U.S.C. § 1391(e)(1)(C), as Defendants are U.S. agencies, Plaintiffs [redacted], [redacted] and [redacted] reside in this district, and no real property is involved in this action.

315. Joinder is proper in this action because the legal challenge to the hold policies of Defendants present the same questions of law. Plaintiffs are similarly aggrieved because Defendants have treated them the same for purposes of the policies to withhold an adjudication of their benefit applications. Fed. R. Civ. P. 20(a)(1).

316. Plaintiffs have exhausted all administrative remedies required by law.

IV. APA REVIEW AND STANDING

317. Plaintiffs are aggrieved by the final agency action of Defendants by and through the November 27, 2025, December 2, 2025 and January 1, 2026 policy memoranda that are final agency action for which review is provided under 5 U.S.C. § 704.

318. Plaintiffs have Article III and prudential standing to litigate in this Court as (1) they have suffered an "injury in fact," (2) that is "fairly traceable to" the challenged conduct of Defendant, and (3) is "likely to be redressed" by a favorable decision. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61 (1992). Defendants' unlawful implementation of the Presidential Proclamations to hold the adjudication of all immigration benefit requests and implement *de facto* national origin discrimination in the adjudication of any benefit request has injured Plaintiffs in a multitude of ways, ranging from delayed or withheld adjudication of benefit requests for which Plaintiffs have already paid substantial amounts of money. An order

setting aside Defendants' policy alert and memoranda would redress Plaintiffs' injuries.

V. FACTUAL BACKGROUND

319. On November 26, 2025, Rahmanullah Lakanwal, an Afghan national, allegedly drove to Washington, D.C. and opened fire on two National Guard members, killing one and critically injuring another.[4]

320. One day after this regrettable attack, on November 27, 2025, USCIS released a policy alert that adjudicators must immediately "consider relevant country-specific factors," namely whether an individual is from one of the countries identified in Presidential Proclamations restricting entry to the United States under 8 U.S.C. § 1182(f), as "significant negative factors when reviewing immigration requests."[5]

321. USCIS concurrently issued a press release tying this guidance to the National Guard attack, declaring that "U.S. Citizenship and Immigration Services issued new guidance allowing for negative, country-specific factors to be considered

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[4] U.S. Dep't of Justice, U.S. Attorney's Office for the District of Columbia, *Afghan National Charged with the Murder of National Guard Soldier Sarah Beckstrom* (Dec. 2, 2025), https://www.justice.gov/usao-dc/pr/afghan-national-charged-murder-national-guard-soldier-sarah-beckstrom

[5] U.S. Citizenship & Immigration Servs., *USCIS Implements Additional National Security Measures in the Wake of National Guard Shooting by Afghan National* (Nov. 27, 2025), https://www.uscis.gov/newsroom/news-releases/uscis-implements-additional-national-security-measures-in-the-wake-of-national-guard-shooting-by-afghan-national

when vetting aliens from 19 high-risk countries" "in the wake of the shooting of two National Guard service members in Washington, D.C. Wednesday by an Afghan National."

322. Six days after the attack, on December 2, 2025, USCIS released a new policy memorandum, PM-602-0192, which 1) places a hold on all asylum applications, regardless of nationality, pending a comprehensive review of the process, 2) places an indefinite hold on benefit requests for noncitizens from countries listed in Presidential Proclamation 10949, which restricts the entry of noncitizens into the United States from certain countries, and 3) mandates that USCIS "[c]onduct a comprehensive re-review of approved benefit requests for aliens from countries listed in PP 10949 who entered the United States on or after January 20, 2021."[6]

323. Twenty-one days (about 3 weeks) after the attack, on December 16th, 2025, the President announced an expansion as to which countries would be subject to entry restrictions pursuant to 8 U.S.C. § 1182(f). Proclamation No. 10,998, *Restricting and Limiting the Entry of Foreign Nationals to Protect the Security of the United States*, 90 Fed. Reg. 59,717 (Dec. 19, 2025). Concurrently,

[6] U.S. Citizenship & Immigration Servs., Policy Alert PM-602-0192: Pending Applications—High-Risk Countries (Dec. 2, 2025), https://www.uscis.gov/sites/default/files/document/policy-alerts/PM-602-0192-PendingApplicationsHighRiskCountries-20251202.pdf

announcements from leadership of USCIS suggested that upon those entry restrictions' effective date, January 1, 2026, the "negative factors" policy alert and the "benefits pause" policy memo would be extended to these additional countries.[7] That suggestion proved true when USCIS issued a supplemental Policy Memorandum extending the restrictions imposed by Policy Memorandum PM-602-0192, through which USCIS further expanded its ban.[8]

324. The fatal shooting of a member of the National Guard is tragic. However, the snap judgment and breakneck speed by which USCIS implemented sweeping policies and massive changes following this tragedy demonstrates an arbitrary, capricious, and unlawful reaction that is not the product of reasoned decision-making. It took less than 24 hours for the first Policy Alert to be created and implemented. It took less than a week for the Policy Memorandum. While Plaintiffs understand the need for safe and orderly immigration, Defendants may not abrogate their statutory duty in the name of national security.

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[7] U.S. Citizenship & Immigr. Servs. (@USCIS), *Under President Trump and Secretary Noem's decisive leadership, USCIS is ensuring all aliens from high risk countries are vetted and screened to the maximum degree possible. The safety and security of the American people always comes first. USCIS is conducting a comprehensive review of anyone from anywhere who poses a threat to the U.S., including those identified in the President's latest proclamation to restore law and order in our nation's immigration system*, X (Dec. 18, 2025).

[8] *See* U.S. Citizenship & Immigr. Servs., Policy Memorandum PM-602-0194, *Hold and Review of USCIS Benefit Applications Filed by Aliens from Additional High-Risk Countries* (Jan. 1, 2026).

325. And indeed, there is ample evidence that DHS and USCIS have intended large-scale restrictions on lawful immigration pathways for some time, with this tragic shooting simply being a pretextual reason for implementing draconian restrictions.[9] In October 2025, the official DHS account on X.Com posted the word "Remigrate,"[10] and immediately following the tragic shooting, the official account of DHS posted "The stakes have never been higher, and the goal has never been more clear: Remigration now."[11] This phrasing is important, and a stark contrast from wording typically used, such as "removal" or "deportation," as it is linked to dangerous far right ideology and defined as "a soft type of ethnic cleansing under the guise of deportation and segregation."[12]

326. This action challenges three policies: (1) USCIS Policy Alert PA-2025-26, which directs USCIS officers to consider "relevant country-specific facts" as "significant negative factors" in adjudicating discretionary immigration benefits

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[9] *See, e.g,* Department of Homeland Security. (@DHSGov), *X.com* (Nov. 12, 2025) (citing net negative migration as a reason to celebrate, and reviewing several policies restricting lawful migration pathways, such as termination of Temporary Protected Status and restricted validity for Employment Authorization Documents, as positive policy changes under the same thread). https://x.com/DHSgov/status/1988759137044382119

[10] Department of Homeland Security, (@DHSGov), *X.com* (Oct. 14, 2025) https://x.com/DHSgov/status/1978175527329358094.

[11] Department of Homeland Security, (@DHSGov), *X.com* (Nov. 28, 2025) https://x.com/DHSgov/status/1994445836915253664.

[12] José Ángel Maldonado, Manifestx: Toward a Rhetoric Loaded with Future, 17 *Communication and Critical/Cultural Studies* 104 (2020).

requests filed by aliens from the 19 countries enumerated in Presidential Proclamation 10949 ("Negative Factors Policy Alert");[13] (2) USCIS Policy Memorandum 602-0192's "hold on pending benefits requests" for nationals from the same 19 countries (hereinafter "the benefits ban"); and (3) USCIS Policy Memorandum PM-602-0194, which extends policies (1) and (2) to the 20 additional countries identified in Presidential Proclamation 10998.[14]

327. Plaintiffs similarly challenge the collateral consequences that additional mandates in the Policy Memoranda bring, such as the added delays that Plaintiffs will face as policies and procedures undergo a wholesale re-review and the re-adjudication of benefit requests for Plaintiffs and similarly situated individuals approved on or after January 20, 2021.

328. Presidential Proclamations 10998 and 10949 were issued on June 4, 2025, and December 16, 2025, respectively, and jointly prohibit *entry* of foreign nationals from the 39 countries listed.[15] The Proclamations do not, however, directly

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[13] Afghanistan, Myanmar, Chad, the Republic of Congo, Equatorial Guinea, Eritrea, Haiti, Iran, Libya, Somalia, Sudan, Yemen, Burundi, Cuba, Laos, Sierra Leone, Togo, Turkmenistan and Venezuela.

[14] Burkina Faso, Mali, Niger, South Sudan, Syria, Angola, Antigua and Barbuda, Benin, Cote d'Ivoire, Dominica, Gabon, The Gambia, Malawi, Mauritania, Nigeria, Senegal, Tanzania, Tonga, Zambia, and Zimbabwe.

[15] The impacted countries are: Afghanistan, Myanmar, Chad, the Republic of Congo, Equatorial Guinea, Eritrea, Haiti, Iran, Libya, Somalia, Sudan, Yemen, Burundi, Cuba, Laos, Sierra Leone, Togo, Turkmenistan and Venezuela from PP 10949 and Burkina Faso, Mali, Niger, South Sudan, Syria, Angola, Antigua and Barbuda, Benin, Cote d'Ivoire, Dominica, Gabon, The Gambia, Malawi,

prevent those foreign nationals from obtaining immigration benefits if they have already entered the United States and are therefore within the U.S. when making their requests. Those latter restrictions on stateside immigration benefits stem from the three policies mentioned above. Accordingly, this action does not challenge Presidential Proclamations 10998 and 10949 restrictions on visa issuance and entry of foreign nationals.

329. USCIS employs Presidential Proclamations 10998 and 10949 as its basis for the negative factors policy alert, the benefits ban, and the subsequent extension of those two policies to 20 countries. *See* U.S. Citizenship & Immigr. Servs., Policy Alert PA-2025-26, *Impact of INA 212(f) on USCIS' Adjudication of Discretionary Benefits* (Nov. 27, 2025) ("U.S. Citizenship and Immigration Services (USCIS) is issuing policy guidance in the USCIS Policy Manual addressing the President's recent exercise of his authority under section 212(f) of the Immigration and Nationality Act (INA) through Presidential Proclamation 10949, 'Restricting the Entry of Foreign Nationals To Protect the United States from Foreign Terrorists and Other National Security and Public Safety Threats' (PP 10949) and its impact on USCIS adjudications.") (emphasis added); U.S. Citizenship & Immigr. Servs., Policy Memorandum PM-602-0192, *Hold and Review of All Pending Asylum*

Mauritania, Nigeria, Senegal, Tanzania, Tonga, Zambia, and Zimbabwe from PP 10998

Applications and All USCIS Benefit Applications Filed by Aliens from High-Risk Countries (Dec. 2, 2025) ("[T]his memorandum directs U.S. Citizenship and Immigration Services (USCIS) personnel to . . . [p]lace a hold on pending benefit requests for aliens from countries listed in *Presidential Proclamation (PP) 10949, Restricting the Entry of Foreign Nationals To Protect the United States From Foreign Terrorists and Other National Security and Public Safety Threats* . . . In light of identified concerns and the threat to the American people, USCIS has determined that a comprehensive re-review, potential interview, and re-interview of all aliens from high-risk countries of concern who entered the United States on or after January 20, 2021 is necessary."). *See also* U.S. Citizenship & Immigr. Servs., Policy Memorandum PM-602-0194, *Hold and Review of USCIS Benefit Applications Filed by Aliens from Additional High-Risk Countries* (Jan. 1, 2026) (". . . the flow of aliens from countries with high overstay rates, significant fraud, or both must stop. To address potential vulnerabilities, USCIS will place an adjudicative hold on all pending benefit requests submitted by or for aliens from the high-risk countries identified in PP 10998.").

330. While this action does not contest the restrictions on *entry* imposed by Presidential Proclamations 10998 and 10949, this action does challenge USCIS' subsequent application of Presidential Proclamations 10998 and 10949 to stateside immigration benefits. We therefore turn our attention to the underlying legal

rationale of Presidential Proclamations 10998 and 10949, which restrict entry to the United States under 8 U.S.C. § 1182(f), before then examining the three policies at issue.

VI. LEGAL BACKGROUND

A. The President's Authority to Suspend or Restrict The Entry of Noncitizens

331. 8 U.S.C. § 1182(f) (Section 212(f) of the Immigration and Nationality Act) allows the President to "suspend the entry of all aliens or any class of aliens as immigrants or nonimmigrants" or "impose on the entry of aliens any restrictions he may deem to be appropriate" "[w]henever the President finds that the entry of any aliens or of any class of aliens into the United States would be detrimental to the interests of the United States." This provision endows the President with broad authority to prevent specific groups of foreign nationals from entering the U.S., subject only to the restrictions that the President must (1) first find that these nationals' entry would be detrimental to the U.S. and (2) that the entry ban not be indefinite. *Trump v. Hawaii*, 585 U.S. 667, 686 (2018) ("We agree with plaintiffs that the word 'suspend' often connotes a 'defer[ral] till later'.").

332. This authority operates only within its "sphere." *Hawaii*, 585 U.S. at 680. Specifically, the "plain language" of 8 U.S.C. § 1182(f) permits bans on the "entry of alien into the United States," which necessarily implies that 8 U.S.C. § 1182(f) may only be used to "define[] the universe of aliens who are admissible into

the United States (and therefore eligible to receive a visa)," where "admissible" refers to whether a foreign national may lawfully enter the U.S. *Hawaii*, 585 U.S. at 686-87 (citing 8 U.S.C. § 1101(a)(13)(A) to define admission). The spheres of immigration law that govern noncitizens prior to entry into the United States and those who have already entered the United States are significant, and the Supreme Court is clear that, especially for those *already in the U.S.*, courts should "assume that § 1182(f) does not allow the President to expressly override particular provisions of the INA." *Hawaii*, 585 U.S. at 682.

333. Courts applying § 1182(f) have consistently declined to extend the statutory language to apply to the adjudication of stateside immigration benefits. *U.S. East Bay Sanctuary Covenant*, 932 F.3d at 773 (§ 1182(f) could not provide legal authority for a rule barring foreign nationals who illegally entered the U.S. from applying for asylum because it "imposes the penalty on aliens already within our borders," which does not "concern the suspension of entry or otherwise 'impose on the entry of aliens . . . restrictions [the President] deem[s] to be appropriate.'"); *Refugee & Immigrant Ctr. for Educ. & Legal Servs. v. Noem*, No. 25-cv-306 (RDM), 2025 WL 1825431, at 73 (D.D.C. July 2, 2025) (rejecting the arguments that 1182(f) endows the Executive with "implied authority" over deportation proceedings and that "the President's authority under § 1182(f) is delegable to USCIS."); *President & Fellows of Harvard Coll. v. DHS*, 78 F. Supp. 3d. 182, 196 (D. Mass. June 23,

2025) (preliminarily enjoining an 1182(f) travel ban on international students seeking to attend Harvard University because "the statute's purpose is to regulate and influence conduct abroad, rather than at home" and noting that courts have "expressed skepticism that the President's authority under § 1182(f) is as extensive when it is aimed at domestic policy.").

334. "[O]ur immigration laws have long made a distinction between those aliens who have come to our shores seeking admission . . . and those who are within the United States after an entry, irrespective of its legality. In the latter instance, the Court has recognized additional rights and privileges not extended to those in the former category who are merely 'on the threshold of initial entry.'" *Leng May Ma v. Barber*, 357 U.S. 185, 187 (1958) (emphasis added); *see also Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) ("The distinction between an alien who has effected an entry into the United States and one who has never entered runs throughout immigration law. . . . [O]nce an alien enters the country, the legal circumstance changes, for the Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent."). Foreign nationals already present within the U.S. can thus apply for a panoply of immigration benefits, each of which are governed by statutory schemes outside § 1182(f)'s reach.

B. Immigration Process within the United States

335. Once a noncitizen has entered the United States, their immigration status and immigration benefits depend on the classification of immigrant or nonimmigrant they were admitted as or have adjusted to while in the U.S. Congress has decided, as a matter of policy, to allow individuals in the United States to apply for benefits after entry. The process through which they apply for immigration benefits similarly depends on what benefit is being requested. Relevant to this litigation are the following major categories.[16]

i. Naturalization

336. To naturalize as a U.S. citizen, an applicant must satisfy certain eligibility criteria under the INA and its implementing regulations. *See generally* 8 U.S.C. §§ 1421-1458; 8 C.F.R. §§ 316.1-316.14.

337. Applicants must prove that they are at least 18 years of age, have resided continuously in the United States for at least five years after being lawfully admitted to the United States—in other words, must have been a lawful permanent resident of the United States for at least five years—and have been physically present in the United States for at least half of that time. 8 U.S.C. § 1427(a)(1). Similarly,

[16] Please note that in addition to the main categories listed here, there are numerous ancillary benefits that require application with USCIS, such as applications for work authorization (I-765), applications for travel authorization (I-131), applications for "Temporary Protected Status" and various forms of deferred action or humanitarian parole. While Plaintiffs list these four major immigration benefit requests, this case challenges the pause to any and all benefit pauses that Plaintiffs are experiencing as a result of the policy memoranda.

applicants must demonstrate "good moral character" for the five years preceding the date of application, attachment to the "principles of the Constitution of the United States" and a favorable disposition toward the "good order and happiness of the United States." 8 C.F.R. § 316.2(a)(7).

338. Once an individual submits an application for naturalization, USCIS conducts a background check, which includes a full criminal background check by the Federal Bureau of Investigation. 8 U.S.C. § 1446(a); 8 C.F.R. §§ 335.1-335.2. After completing the background check, USCIS must schedule a naturalization examination at which the applicant meets with a USCIS examiner for an interview.

339. In order to avoid inordinate processing delays, naturalization applications are one of the few application categories for which Congress has set express statutory timeframes. Not only has Congress expressed the generalized "sense of Congress" that the processing of an immigration benefit application "should be completed not later than 180 days after the initial filing of the application," 8 U.S.C. § 1571(b), but also USCIS is tasked with either granting or denying a naturalization application within 120 days of the date of the examination. 8 U.S.C. § 1447(b) (permitting *de novo* judicial hearings for naturalization applications for which over 120 days have elapsed since the examination); 8 C.F.R. § 335.3.

340. Importantly, there is no discretion in the adjudication of a naturalization application. If the applicant has complied with all requirements for naturalization, federal regulations state that USCIS "*shall* grant the application." 8 C.F.R. § 335.3(a) (emphasis added).

341. Furthermore, courts have long recognized that "Congress is given power by the Constitution to establish a uniform Rule of Naturalization . . . And when it establishes such uniform rule, those who come within its provisions are entitled to the benefit thereof as a matter of right. . . ." *Schwab v. Coleman*, 145 F.2d 672, 676 (4th Cir. 1944); *see also Marcantonio v. United States*, 185 F.2d 934, 937 (4th Cir. 1950) ("The opportunity having been conferred by the Naturalization Act, there is a statutory right in the alien to submit his petition and evidence to a court, to have that tribunal pass upon them, and, if the requisite facts are established, to receive the certificate.") (quoting *Tutun v. United States*, 270 U.S. 568, 578 (1926))).

342. Once an application is granted, an applicant must attend an oath ceremony, and upon giving the oath of allegiance at such a ceremony, is officially a citizen of the United States.

ii. Adjustment of Status

343. Federal law similarly allows for certain noncitizens to "adjust their status" from a given nonimmigrant status to that of a lawful permanent resident ("LPR") of the United States.

344. These could be, among others, individuals for whom a family member has filed a petition for their permanent residence, or for whom an employer has filed a petition for their permanent residence. 8 U.S.C. § 1255(a); 8 C.F.R. § 245.1.

345. A noncitizen who is the beneficiary of such an approved petition (an "immigrant visa petition") and who is physically present in the United States may adjust their status to that of an LPR if he or she "makes an application for such adjustment," was "inspected and admitted or paroled" into the United States, is eligible for an immigrant visa, is admissible to the United States, and an immigrant visa is immediately available to the applicant at the time the application is filed. 8 U.S.C. §§ 1255(a)(1)-(3); 8 C.F.R. § 245.1.

346. An adjustment of status applicant may be found inadmissible, and therefore ineligible to become an LPR, if certain conditions, such as serious criminal history, past immigration violations, or fraud or misrepresentations to a U.S. government official, are found. *See* 8 U.S.C. § 1182(a). Further, adjustment of status is explicitly a discretionary benefit by statute. 8 U.S.C. § 1255(a) ("The status of [an eligible noncitizen] *may* be adjusted by the Attorney General, in his discretion and under such regulations as he may prescribe, to that of an alien lawfully admitted for permanent residency.").

347. The process for obtaining LPR status in this manner begins with the filing of an application to adjust status (8 C.F.R. § 245.2(a)(1)), followed by

biometrics and background checks on the applicant conducted by USCIS,[17] and culminates in an in-person interview with a USCIS adjudicator. 8 C.F.R. § 245.6. Upon approval of this individual's application after interview (or where interview is waived), the individual becomes a lawful permanent resident of the United States and will receive a card evincing such status (a "green card").[18]

348. While no explicit statutory deadline is given for the adjudication of such applications, Congress has expressed that it is the sense of Congress that such immigration benefit applications be processed within 180 days. 8 U.S.C. § 1571(b).

iii. Change and Extension of Nonimmigrant Status

349. Certain noncitizens within the United States are similarly able to apply to either change the nonimmigrant status under which they were initially admitted, extend that status, or, where required, amend the terms of that nonimmigrant status.

350. Formal immigration statuses are many. Nonimmigrant visa classifications range from the letter A to the letter V, with subcategories under nearly all classifications. *See* 8 U.S.C. § 1101(a)(15)(A)-(V). These statuses range from the F-1 "student" status to the H-2A "agricultural worker" status to the O-1

[17] USCIS Policy Manual, Vol. 1, Pt. C, Ch. 2 (Biometrics Collection)

[18] USCIS Policy Manual, Vol. 7, Pt. A, Ch. 1 (Purpose and Background) ("USCIS issues a permanent resident card (Form I-551) (commonly called a green card) to the successful adjustment applicant as proof of such immigrant status.").

"extraordinary ability" status. There are also statuses created by treaty, such as the "Trade National" TN status that accompanies NAFTA (now the U.S. Mexico Canada Agreement), 8 U.S.C. § 1184(e)(1), and statuses designated by executive action, such as Temporary Protected Status (TPS). 8 U.S.C. § 1254a(b)(1), 8 C.F.R. § 244.2(a), (f).

351. These statuses are almost all time-limited, with an expiration on the specific amount of time being provided by the Department of Homeland Security that a noncitizen may be in that status before being required to depart the United States or apply to extend their status. The availability and requirements for such extensions are governed by the regulations underlying those particular statuses, 8 C.F.R. § 214.2, but are generally done by filing a form with the USCIS, having biometrics taken, and ultimately having an adjudicator working at one of USCIS's Service Centers giving final approval of the extension of status.[19]

352. Changes of status follow a similar path, where an applicant complies with the regulatory requirements for the immigration classification, filing the requisite petition and evidence, and then, after the relevant biometrics and background checks are taken, having an adjudicator at a USCIS Service Center

[19] U.S. Citizenship & Immigr. Servs., Policy Manual, Vol. 2, Pt. A, Ch. 4 (Extension of Stay or Change of Status).

deciding the Change of Status petition.[20] If approved, the individual's immigration status within the United States is officially changed to the new classification, and the rights, benefits, and responsibilities that accompany the new status take effect.

353. Importantly, an approved change in nonimmigrant status or extension of nonimmigrant status that one already holds does not require travel outside of the United States. 8 C.F.R. § 248.1(a) ("any alien lawfully admitted to the United States," subject to certain exceptions, "may be accorded nonimmigrant status in the United States."); U.S. Citizenship & Immigr. Servs., Policy Manual, Vol. 2, Pt. A, Ch. 4 (Extension of Stay or Change of Status) ("Generally, certain nonimmigrants present in the United States admitted for a specified period of time, or their petitioners, may request an extension of their admission period in order to continue to engage in those activities permitted under the nonimmigrant classification in which they were admitted."). In other words, there is no new entry requirement for an individual who has been approved for a change or extension of status, and therefore entry restrictions tied to INA § 212(f), 8 U.S.C. § 1182(f), do not apply.

354. While no explicit statutory deadline is given for the adjudication of nonimmigrant applications, Congress has expressed that it is the sense of Congress

[20] U.S. Citizenship & Immigr. Servs., Policy Manual, Vol. 2, Pt. A, Ch. 4 (Extension of Stay or Change of Status); *see also* 8 U.S.C. § 1258; 8 C.F.R. § 248.1.

that such immigration benefit applications be processed within 30 days. 8 U.S.C. § 1571(b).

iv. Asylum

355. Asylum applications are made in two manners: affirmative asylum applications and defensive asylum applications. As relevant to this litigation, affirmative asylum applications are made directly with USCIS, and are impacted by the challenged policies, whereas defensive asylum applications are made in immigration court at the Executive Office for Immigration Review, under the Department of Justice, and are not impacted by the challenged policies.

356. Generally speaking, asylum is a form of protection provided by the Refugee Act of 1980, which was thereafter incorporated into the INA. Pub. L. No. 96-212, 94 Stat. 102 (1980). This benefit provides protection and lawful immigration status to those who are able to demonstrate that they possess a "well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion" in their country of origin. 8 U.S.C. §§ 1101(a)(42); 1158(b)(1)(A); *see also* 8 C.F.R. §§ 208.1, 1208.1. Once granted asylum, an individual generally cannot be deported to their country of origin or to any other country absent subsequent unlawful conduct, evidence of fraud in the asylum application, or a fundamental change in country conditions. 8 U.S.C. § 1158(c)(2); 8 C.F.R. §§ 208.24, 1208.24.

357. Further, once an individual is granted asylum, they are generally eligible to adjust their status to that of a lawful permanent resident by application so long as they 1) have been physically present in the United States for at least one year after being granted asylum; 2) continue to meet the requirements for their asylum grant (in other words, they still meet the legal definition of "refugee"); 3) have not resettled in any foreign country; and 4) are admissible to the United States as an immigrant. 8 U.S.C. § 1159(b).

358. The application process for receiving asylum status can be a long one, however. For an "affirmative" asylum application, an individual first makes an application with the USCIS, providing the reason for which they are claiming asylum on the requisite form, and providing evidence as to how they meet the qualifications for asylum set forth above. U.S. Citizenship & Immigr. Servs., *Affirmative Asylum Procedures Manual* (Feb. 2025). Current backlogs on affirmative asylum applications exceed one million, with the Office of the Inspector General specifically flagging that such backlogs mean that "eligible affirmative asylum applicants will be delayed in obtaining not only asylum, but also related immigration benefits, such as lawful permanent residency and citizenship."[21] While

[21] U.S. Dep't of Homeland Sec., Office of Inspector Gen., *USCIS Faces Challenges Meeting Statutory Timelines and Reducing Its Backlog of Affirmative Asylum Claims*, Report No. OIG-24-36 (July 3, 2024), https://www.oig.dhs.gov/sites/default/files/assets/2024-07/OIG-24-36-Jul24.pdf

official statistics on wait times for affirmative asylum applicants are not provided by the government, independent sources suggest wait times in excess of six years between the time an application is made and the time an interview notice is received.[22]

359. Congress has set statutory timetables for the adjudication of affirmative asylum applications, stating that, absent extraordinary circumstances, initial interviews or hearings "shall commence not later than 45 days after the date an application is filed" and that final adjudication of the application, excluding appeal, "shall be completed within 180 days after the date an application is filed." 8 U.S.C. § 1158(d)(5)(A). That said, courts have routinely found that massive backlog and rate of asylum applications made are sufficiently extraordinary circumstances, and that the timetable set by Congress is not mandatory on the agency as a result. *See, e.g., Fangfang Xu v. Cissna*, 434 F Supp. 3d 43 (S.D.N.Y. 2020).

C. "Negative Factors" Policy Alert

360. Many immigration benefits require the applicant to both meet the statutory eligibility criteria and separately establish that the applicant "merits a favorable exercise of discretion." U.S. Citizenship & Immigr. Servs., Policy Manual, Vol. 1, Pt. E, Ch. 8 (Discretionary Analysis). Requests with a discretionary

[22] Hum. Rts. First, *Saving Lives, Ending Inefficiencies: Steps to Strengthen the U.S. Asylum Adjudication System* 1 (2024)

component include applications to extend or change nonimmigrant status, obtain asylum, obtain some work authorizations, and adjust status. *Id*.

361. Prior to the "Negative Factors" Policy Alert, the factors used in this discretionary analysis related to an applicant's individual conduct and circumstances. Factors used in this discretionary analysis included, for example, an applicant's ties to family members in the United States, value and service to the community, history of employment, and history of taxes paid. *Id*.

362. On November 27, 2025, USCIS issued Policy Alert PA-2025-26, which updated the USCIS Policy Manual to add "[r]elevant country-specific facts and circumstances, such as insufficient vetting and screening information" to this list of discretionary factors. *Id*. These country-specific facts are to be considered "as a significant negative factor when making an individual assessment in weighing discretion." *Id*.

363. Unlike the above-mentioned discretionary factors, which relate to an applicant's conduct, these "significant negative factors" are based on practices by the government of an applicant's birth country, reminiscent of the Chinese Exclusion bans of the Nineteenth Century. For example, the Policy Manual provides that a "significant negative factor" applicable to migrants from "Afghanistan, Eritrea, Libya, Somalia, Sudan, Yemen, and Venezuela" is that their governments "lack a competent or central authority for issuing passports and civil documents." U.S.

Citizenship & Immigr. Servs., Policy Manual, Vol. 1, Pt. E, Ch. 8 (Discretionary Analysis). Since submission of such civil documents is a required part of many immigration benefit applications, *see* 8 C.F.R. § 103.2(b)(1), the Policy Manual necessarily implies that nationals of Afghanistan, Eritrea, Libya, Somalia, Sudan, Yemen, and Venezuela are automatically deemed to have a "significant negative factor" attached to the adjudication of their application because of their birthplace.

364. Additionally, the Policy Manual appears to instruct officers to deny applications because a person's documentation from certain countries may be deemed unreliable, which government's "directly relates to USCIS' ability to meaningfully assess eligibility for benefit requests." U.S. Citizenship & Immigr. Servs., Policy Manual, Vol. 1, Pt. E, Ch. 8 (Discretionary Analysis) (emphasis added). This specific logic was used, despite the fact that these individuals are already lawfully in the United States, presuming that some officials, either at USCIS or the Department of State already reviewed these identity documents and were satisfied as to their authenticity.

365. USCIS subsequently confirmed that this section of the Policy Manual treats inability to "establish their identity as outlined in PP 10949" as part of its now-standard "thorough review" "to assess benefits eligibility" for foreign nationals of the 39 countries. U.S. Citizenship & Immigr. Servs., Policy Memorandum PM-602-0192, *Hold and Review of All Pending Asylum Applications and All USCIS Benefit*

Applications Filed by Aliens from High-Risk Countries (Dec. 2, 2025) (emphasis added).

366. Similarly, the Policy Manual provides that "country-specific concerns relate[d] to a high rate of overstay" "may impact an officer's determination of likelihood that a particular individual may overstay." U.S. Citizenship & Immigr. Servs., Policy Manual, Vol. 1, Pt. E, Ch. 8 (Discretionary Analysis). Of course, certain applicants subject to the policy have already remained in the United States and obtained permanent residency or other forms of nonimmigrant status that provide a pathway to a permanent residency or naturalization. And those with pending status changes or applications have already proven they do not intend to overstay by making applications to the USCIS that would *prevent* their overstay.

367. Eligibility for immigration benefits already requires showing that one has not committed fraud, a disqualifying criminal offense, and provision of civil documents. Because failure to establish eligibility is and has always been a wholly sufficient basis to deny an application, it is unclear what function the above "discretionary" guidance serves beyond creating a pathway and incentives to deny applications based on statutory eligibility grounds under the guise of discretion.

368. Apart from the factors enumerated in the Policy Manual, USCIS notes that it will "consider any country-specific facts and circumstances outlined" in either (1) Presidential Proclamation 10949, including any amendments or (2) any

subsequent exercise of Presidential authority under INA § 212(f). U.S. Citizenship & Immigr. Servs., Policy Manual, Vol. 1, Pt. E, Ch. 8 (Discretionary Analysis), at Footnote 76. Each pathway provides additional factors adjudicators are directed to consider.

369. First, Presidential Proclamation 10949 declares that the "foreign policy, national security, and counterterrorism objectives of the United States" require that the President "fully restrict" or "partially restrict" the "entry of nationals" from 19 countries based on these countries' "screening and vetting capabilities, information sharing policies, and country-specific risk factors—including whether each country has a significant terrorist presence within its territory, its visa-overstay rate, and its cooperation with accepting back its removable nationals." Proclamation No. 10,949, *Restricting the Entry of Foreign Nationals To Protect the United States From Foreign Terrorists and Other National Security and Public Safety Threats*, 90 Fed. Reg. 24,497 (June 10, 2025).

370. Second, the President issued Presidential Proclamation 10998 on December 16, 2025, imposing an INA § 212(f) travel ban on 20 additional countries. Proclamation No. 10,998, *Restricting and Limiting the Entry of Foreign Nationals to Protect the Security of the United States*, 90 Fed. Reg. 59,717 (Dec. 19, 2025). Some country-specific facts and circumstances alleged as bases for this travel ban—which the above-cited USCIS guidance instructs officers to "consider" in their

discretionary analysis—include (1) that "foreign nationals from countries named in this proclamation have been involved with crimes that include murder, terrorism, embezzling public funds, human smuggling, human trafficking, and other criminal activity"; (2) vetting deficiencies, including "poor civil documentation and recordkeeping practices, widespread corruption and fraud, unreliable or inaccessible criminal records, and unreliable government travel documents"; and (3) that "some of these countries have offered Citizenship by Investment (CBI) without residency, which poses challenges for screening and vetting purposes." *Id*.

371. Relatedly, USCIS extended the "significant negative factors" memo to the 20 additional countries identified in Presidential Proclamation 10998, declaring USCIS' intent to "stop" the "flow of aliens from countries with high overstay rates, significant fraud, or both" through "an adjudicative hold on all pending benefit requests submitted by or for aliens from the high-risk countries identified in PP 10998." Policy Memorandum PM-602-0194, *Hold and Review of USCIS Benefit Applications Filed by Aliens from Additional High-Risk Countries* (Jan. 1, 2026). The memo then elaborates that "[m]any of these restricted high-risk countries experience widespread corruption, unreliable or fraudulent civil documents and criminal records, and lack effective birth registration systems, which systematically hinder accurate vetting and identity verification. Officers must consider these country-specific factors." *Id*. But, again, all of the Plaintiffs are already inside the

US, having had their documents vetted by the Department of State, or previously by the USCIS.

372. Despite announcing its intent to "stop" the "flow of aliens from countries with high overstay rates, significant fraud, or both," USCIS nonetheless maintains that "[t]he mere fact that an individual is from a country subject to INA 212(f) restrictions on entry or admission, however, is not by itself a significant negative factor." U.S. Citizenship & Immigr. Servs., Policy Manual, Vol. 1, Pt. E, Ch. 8 (Discretionary Analysis).

D. "Benefits Pause" Policy Memoranda And Vetting Process

373. Prior to the issuance of the Policy Memoranda banning immigration benefits from the 39 countries listed in Presidential Proclamation 10998, USCIS relied on a lengthy "vetting" process to adjudicate immigration benefit applications. First, as noted *supra*, USCIS routinely collects biometric information from applicants for immigration benefits. This biometric information is used to "conduct background and security checks, adjudicate immigration and naturalization benefits, and perform other functions related to administering and enforcing the immigration and naturalization laws." 8 C.F.R. 103.16(a).

374. Second, USCIS runs the applicant's name and biometric information through a variety of security-related checks, which include "conducting fingerprint-based background checks, requesting a name check from the Federal Bureau of

Investigation (FBI), and other DHS or inter-agency security checks." U.S. Citizenship & Immigr. Servs., Policy Manual, Vol. 1, Pt. C, Ch. 1 (Purpose and Background).

375. These security checks are largely automatic. The DHS notes that it developed a "platform called ATLAS to automate and streamline the screening of biographic and biometric information received from immigration benefit applicants," which "has the ability to compare application information against customs, immigration, terrorism, and counterterrorism information held in U.S. Government systems using **computer automation**, rather than manual system checks, to identify potential derogatory information that matches entries in DHS vetting systems **as new information is discovered**, and to **preemptively notify USCIS personnel** with a role in the immigration vetting process." U.S. Dep't of Homeland Sec., U.S. Citizenship & Immigr. Servs., Privacy Impact Assessment for Continuous Immigration Vetting (CIV), DHS/USCIS/PIA-076 (Feb. 2019) (emphasis added).[23]

376. The 'derogatory information' refers to anything indicating "potential fraud, public safety, and national security concerns." *Id.* at 23. ATLAS is integrated with ATS, a Customs and Border Protection tool which "compares traveler, cargo,

[23] https://www.dhs.gov/sites/default/files/publications/pia-uscis-fdnsciv-february2019_0.pdf

and conveyance information against law enforcement, intelligence, and other enforcement data using risk-based scenarios and assessments." *Id*.

377. Third, if ATLAS identifies a fraud or national security concern, the case is escalated to USCIS' Fraud Detection and National Security unit. This step is initially automatic: ATLAS issues a database inquiry, "filters the results through its rules engine to identify possible national security concerns, and then transmits the completed results to the end-user in the form of a SGN [system generated notification] viewable in the FDNS-DS system." *Id*. at 7. The subsequent step is manual: FDNS then "manually review[s] each hit to confirm the validity, relevancy, and accuracy of information and to determine if the information is actionable." *Id*. at 8. Subsequent action by USCIS and ICE personnel is then coordinated by FDNS. *Id*.

378. On December 2, 2025, USCIS issued Policy Memorandum PM-602-0192, modifying the above process by directing agency personnel to (1) place an immediate hold on all Form I-589 regardless of applicant's nationality; (2) place an immediate hold on all immigration benefits applications filed by nationals of the 19 countries listed in Presidential Proclamation 10949; and (3) re-review previously approved immigration benefits for nationals of the countries listed in Presidential Proclamation 10949 who entered the U.S. on or after January 20, 2021. U.S. Citizenship & Immigr. Servs., Policy Memorandum PM-602-0192, *Hold and*

Review of All Pending Asylum Applications and All USCIS Benefit Applications Filed by Aliens from High-Risk Countries (Dec. 2, 2025).

379. This adjudicatory hold encompasses, for example, adjustment of status applications, employment authorization extensions, and other case types filed by nationals of designated countries regardless of how long they lived in the United States. USCIS has made it clear that no final decisions will be issued on these cases until further notice.

380. Notably, this USCIS hold policy applies to cases under USCIS's purview, including affirmative asylum applications and other domestic benefit adjudications, but it does not directly control asylum cases being heard in the Immigration Courts. In practice, however, the memorandum's across-the-board hold has profound effects on both affirmative and defensive asylum processing. Many asylum seekers begin by applying affirmatively with USCIS, yet under this policy those cases will not be decided or referred onward to the Immigration Court, leaving applicants in legal limbo with no forum to have their claims heard.

381. The review and/or re-review stage consists of four prongs, which are:

1. The alien is listed in the Terrorist Screening Dataset (TSDS) as a Known or Suspected Terrorist (KST) under Tier 1 or Tier 2 classifications or is included in Tier 3 or Tier 4 of the TSDS with significant derogatory information related to the alien.

2. The alien is connected to prior, current, or planned involvement in, or association with, an activity, individual, or organization described in sections 212(a)(3)(A), (B), or (F), or 237(a)(4)(A) or (B) of the Immigration and Nationality Act (INA).
3. The alien is linked to prior, current, or planned involvement in, or association with, an activity, individual, or organization that may pose a risk of serious harm or danger to the community, including criminal conduct described in INA 101(a)(43), 212(a)(1)(A)(iii), 212(a)(2), 237(a)(2), or 237(a)(4)(A)(ii).
4. The alien is unable to establish their identity as outlined in PP 10949.*Id.*

382. Each of the four prongs is described as an example of how agency personnel should "**assess benefit eligibility**" to "ensure that all asylum applicants and aliens from high-risk countries of concern who entered the United States do not pose a threat to national security or public safety." *Id.* (emphasis added).

383. Despite the Policy Memorandum's declaration that these four prongs are to be used to "assess benefits eligibility," the basis for benefits eligibility is already specified in the statute and regulations:

384. Prong 1 is governed by INA § 212(a)(3)(B), 8 U.S.C. § 1182(a)(3)(B), (deeming inadmissible an alien who "has engaged" or "is likely to engage" in "terrorist activity," who an adjudicator "knows" "or has reasonable grounds to

believe" will do the same, is a "representative" of a "terrorist organization," is a member of a "terrorist organization," "endorses or espouses terrorist activity," has "received military-type training" from a "terrorist organization," or is the spouse of child of anyone who did the above).

385. Prong 2 notes the statutory criteria it is governed by—INA § 212(a)(3)(A), (B), or (F), 8 U.S.C. § 1182(a)(3)(A), (B) or (F); or 237(a)(4)(A) or (B), 8 U.S.C. § 1227(a)(3)(A), (B), or (F)—which refers to aliens whom an adjudicator "knows or has reasonable ground to believe" will engage in espionage, sabotage, export of sensitive technology or information, unlawful activity, or the overthrow of the U.S. government.

386. Prong 3 "includes" (but does not limit) its application to security-related inadmissibility grounds: INA § 101(a)(43), 8 U.S.C. § 1101(a)(43), (aggravated felony), § 212(a)(1)(A)(iii), 8 U.S.C. § 1182(a)(1)(A)(iii), (physical or mental disorder), § 212(a)(2), 8 U.S.C. § 1182(a)(2), (convicted of, or who admits the essential acts constituting, a crime, § 237(a)(2), 8 U.S.C. § 1227(a)(2), (conviction for a crime involving turpitude), or § 237(a)(4)(A)(ii), 8 U.S.C. § 1227(a)(4)(A)(ii), (having "engaged" in "other criminal activity which endangers public safety or national security.").

387. Prong 4's concern regarding identity documents is governed by 8 USC § 1182(a)(7)(A)(i), deeming "inadmissible" aliens without a "valid unexpired passport."

388. The Policy Memorandum effectively modifies these statutory criteria with capacious phrases undefined by statute or regulation:

389. Prong 1 appears to bar immigration benefits for those who are on "Tier 3 or Tier 4 of the Terrorism Screening Dataset" when there is "significant derogatory information." There does not appear to be any public information regarding how determinations for placement onto Tiers 1 through 4 of the Terrorism Screening Dataset are conducted, raising questions as to whether and how these Terrorism Screening Dataset lists comport with the terrorism inadmissibility grounds. In any event, USCIS does not define the phrase "significant derogatory information," so it is unclear how the Policy Memorandum interacts with the statutory grounds of inadmissibility.

390. Prong 2 appears to broaden national security inadmissibility grounds to include anyone who is "**connected to** an organization" which has engaged in or will engage in espionage, sabotage, violation of export controls, unlawful activity, or the overthrow of the U.S. government. The phrase "connected to" is not a statutory or regulatory term of art, and its capacious definition is not limited by the Policy Memorandum.

391. Prong 3 appears to broaden criminal inadmissibility grounds to anyone who is "linked to" or "associated with" any individual who has committed such criminal offenses. Again, these phrases are not statutory or regulatory terms of art, and their capacious definitions are not narrowed by the Policy Memorandum.

392. Prong 4 appears to expand the lack-of-documentation inadmissibility ground to include applicants whose "unexpired passports" do not meet Presidential Proclamation 10998's newly announced expectations regarding identity documents. It appears USCIS's stance is that individuals from countries which Presidential Proclamation 10998 declares do not issue reliable identity documents *cannot* establish eligibility for many immigration benefits.

393. On January 1, 2026, USCIS issued Policy Memorandum PM-602-0194, directing agency personnel to extend PM-602-0192's directives to (1) place a hold on immigration benefits and (2) review yet-to-be-adjudicated benefits requests and re-review previously approved benefits requests from the 20 additional countries listed in Presidential Proclamation 10998. U.S. Citizenship & Immigr. Servs., Policy Memorandum PM-602-0194, *Hold and Review of USCIS Benefit Applications Filed by Aliens from Additional High-Risk Countries* (Jan. 1, 2026).

394. Additionally, PM-602-0194 adds a new directive that agency personnel "[c]onduct a comprehensive review of all policies, procedures, and screening and

vetting processes for benefit requests for aliens from countries listed in PP 10998." *Id*.

395. It thus appears that USCIS's "hold" on immigration benefits is four, sequential components. First, USCIS will identify which cases to "prioritize" for "review, interview, and re-interview" "[w]ithin 90 days of this memorandum issuance." Second, USCIS will conduct a "comprehensive review of all policies, procedures, and screening and vetting processes for benefits requests for aliens from the" 39 "countries listed in PP 10998." Third, once that review has been completed and any modifications of USCIS vetting policy are implemented, USCIS will apply updated vetting policy to the 39 countries identified in Presidential Proclamation 10998. *Id*. Finally, USCIS will review not-yet-adjudicated benefits and re-review approved benefits request from nationals of the 39 countries. *Id*.

396. It appears that the only step in this process with a defined timeframe is step one. Neither PM-602-0194 nor any other public-facing USCIS document explain when this "comprehensive review" of "all policies" will be completed. Nor can how long it will take to complete the subsequent review of cases be surmised from the publicly available materials. Indeed, USCIS notes that it may "extend this review and re-interview process to aliens who entered the United States outside of this timeframe, when appropriate." *Id*.

VIII. CLAIMS FOR RELIEF

FIRST CAUSE OF ACTION

APA – Arbitrary, Capricious, and Unlawful Final Agency Action

397. Plaintiffs incorporate paragraphs 1 through 410 in support of the first cause of action.

398. Under the APA, courts must set aside agency action "found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).

399. An action is arbitrary and capricious if the agency "entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise." *Nat'l Ass'n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (*quoting Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).

400. The APA thus "sets forth the procedures by which federal agencies are accountable to the public and their actions subject to review by the courts." *Franklin v. Massachusetts*, 505 U.S. 788, 796 (1992).

401. "It requires agencies engage in 'reasoned decision-making.'" *Dep't of Homeland Security v. Regents of the Univ. of Cal.*, 591 U.S. 1 (2020), (*quoting Michigan v. EPA*, 576 U.S. 743, 750, (2015)).

402. Defendants' hold policy is arbitrary, capricious, and contrary to law.

403. As an initial matter, the hold policy is final agency action under the APA.

404. First, the action "marks the consummation of the agency's decision-making process," and "second, the action" is "one by which rights or obligations have been determined, or from which legal consequences will flow." *Bennett v. Spear*, 520 U.S. 154, 177-78, 117 S. Ct. 1154 (1997) (quotation marks and citations omitted).

405. The hold policy established a mandatory USCIS policy, rescinded prior guidance, and created a new, formal process to not adjudicate applications for all immigration benefits for noncitizens of 19, and now 39, countries. U.S. Citizenship & Immigr. Servs., Policy Memorandum PM-602-0192, *Hold and Review of All Pending Asylum Applications and All USCIS Benefit Applications Filed by Aliens from High-Risk Countries* (Dec. 2, 2025). https://www.uscis.gov/sites/default/files/document/policy-alerts/PM-602-0192-PendingApplicationsHighRiskCountries-20251202.pdf (Dec. 2, 2025); PM-602-0194-PendingApplicationsAdditionalHighRiskCountries-20260101.pdf (Jan. 1, 2026)

406. The hold policy also satisfies the second prong of the *Bennett* test because the policy creates concrete obligations for USCIS officers.

407. The policy mandates and instructs officers on "[t]he adjudicative hold, procedural requirements, and processes for the rereview, interview, or re-interview of affected aliens." *Id*.

408. "USCIS personnel are instructed to prioritize national security and public safety concerns and ensure compliance with all applicable laws and regulations during the adjudication process." *Id*.

409. "All findings must be documented in accordance with established protocols to support any subsequent determinations or actions." *Id*.

410. The hold policy therefore constitutes a final agency action subject to review under Section 704 of the APA.

411. Applicable law imposes a mandatory, nondiscretionary duty to adjudicate immigrant visa petitions and applications in accordance with statutory criteria within a reasonable time. 8 U.S.C. § 1154(b); 8 C.F.R. 103.3(a); 5 U.S.C. § 555(b).

412. The hold policy directly bears upon the duty and obligations of USCIS and cannot escape judicial review. *Judulang v. Holder*, 565 U.S. 42, 45 (2011) ("When an administrative agency sets policy, it must provide a reasoned explanation for its action.").

413. USCIS failed to offer a reasoned explanation for adopting the hold policy and they failed to consider relevant factors .

414. Other than referring to the government's interest in protecting the homeland and citing to two instances where immigrants from Afghanistan had committed heinous crimes after becoming lawful permanent residents, the policy memo reveals no more about why the hold policy was created or what factors or evidence USCIS considered before deciding to select this approach for adjudicating immigration applications for individuals from 39 countries who already applied for benefits, which could be reviewed within the rules already in place, including those for additional security checks. Indeed, that the policy was released less than a week after the tragic November 26, 2025 shooting suggests that they did not consider all relevant factors, including whether the rules already provided tools to review applications without discriminating against individuals on the basis of national origin.

415. There is no indication from USCIS as to whether it balanced the additional administrative burdens on United States citizens and beneficiaries who paid for an adjudication and the strong interest that exists in family unification and pursuing lawful status against the national security benefits. *See, e.g.*, *Motor Vehicle Mfrs. Ass'n*, 463 U.S. at 43 ("[T]he agency must examine the relevant data and articulate a satisfactory explanation for its action including a 'rational connection between the facts found and the choice made.'") (*quoting Burlington Truck Lines, Inc. v. United States*, 371 U.S. 156, 168, 83 S. Ct. 239 (1962).

416. The hold policy has stalled the adjudication of benefits for applicants, thereby leaving applicants out of status, out of work, and in administrative limbo within the United States.

417. There is no evidence USCIS considered whether leaving individuals without status or their cases in this zombie-like status increases the threat to national security versus alternative processing methodologies, such as expediting applications of those who present threats or are statutorily ineligible based on the evidence submitted or information already within the control of the government.

418. The hold policy thus appears to be at odds with the public announcement by the President, his staff, and cabinet officials that they are actively and expeditiously seeking to remove "the worst of the worst."

419. This is a significant problem that USCIS apparently did not consider.

420. APA review "involves more than a court rubber-stamping action based on bare declarations from the agency amounting to 'trust us, we had good national security reasons for what we did.'" *Kirwa v. U.S. Dep't of Def.*, 285 F. Supp. 3d 257, 270 (D.D.C. 2018).

421. The alleged increased need to protect national security are compromised by USCIS's policy to stop adjudicating applications for noncitizens already present in the U.S. based solely on where a beneficiary was born.

422. USCIS failed to rationally explain its basis for implementing the hold policy to all applicants for any immigration benefit, indicate what data, evidence, or factors the agency considered before doing so other than the two incidents that occurred in July and November 2025 by lawful permanent residents who were born in Afghanistan, and consider important aspects of the problem, including the nondiscretionary duty to complete processing of benefits which involves an individualized review of the person's background and whether a complete stop or pause adjudications for all applicants actually increases the threat to national security.

SECOND CAUSE OF ACTION

Administrative Procedure Act – Unreasonable Delay or Unlawful Withholding

423. Plaintiffs incorporate paragraphs 1 through 410 for purposes of this second cause of action.

424. The APA provides for the judicial review when a person is adversely affected by agency action. 5 U.S.C. § 702. Agency action includes an agency's failure to act. 5 U.S.C. § 551(13). As the APA mandates, a court "*shall* compel agency action unlawfully withheld or unreasonably delayed." 5 U.S.C. § 706(1).

425. Defendant USCIS has a non-discretionary duty to decide Plaintiffs' pending applications and petitions in accordance with law, whether those are naturalization applications, adjustment of status applications, asylum applications,

or other immigration benefit requests. USCIS is required to give notice of an approval or denial for all properly filed benefits requests. *See* 8 C.F.R. § 103.3(b)(19) (defining procedures for notification of approvals); 8 C.F.R. § 103.3 (defining procedures for denials).

426. "With due regard for the convenience and necessity of the parties or their representative and within a reasonable period of time, each agency *shall proceed to conclude a matter presented to it*." 5 U.S.C. § 555(b) (emphasis added). "[B]y using the term 'shall' in requiring that the courts compel agency action unlawfully withheld or unreasonably delayed, Congress imposes a mandatory duty in that regard." *Saini v. U.S. Citizenship & Immigr. Servs.*, 553 F. Supp. 2d 1170, 1176 (E.D. Cal. 2008).

427. Defendant USCIS' duty to adjudicate an application or petition in accordance with law and within the bounds of the constitution is a discrete, ministerial act that applicants pay for in advance and that USCIS must complete within a reasonable period of time. USCIS sets appropriate fees for these applications and petitions based on the resources it will require to make those adjudications.

428. Courts often evaluate whether an agency's delay is unreasonable by applying the six factors identified by the D.C. Circuit in *Telecomms. Rsch. & Action Ctr. v. FCC* ("TRAC"):

> (1) the time agencies take to make decisions must be governed by a 'rule of reason'; (2) where Congress has provided a timetable or other indication of the speed with which it expects the agency to proceed in the enabling statute, that statutory scheme may supply content for this rule of reason; (3) delays that might be reasonable in the sphere of economic regulation are less tolerable when human health and welfare are at stake; (4) the court should consider the effect of expediting delayed action on agency activities of a higher or competing priority; (5) the court should also take into account the nature and extent of the interests prejudiced by delay; and (6) the court need not 'find any impropriety lurking behind agency lassitude in order to hold that agency action is unreasonably delayed.'

Telecomms. Rsch. & Action Ctr. v. FCC, 750 F.2d 70, 80 (D.C. Cir. 1984) (citations omitted).

429. *First*, an unlawful rule of reason cannot constitute a rule of reason for TRAC factor purposes. And USCIS is prohibited from extending an entry ban under 8 U.S.C. § 1182(f) to a ban on domestic immigration benefit processing. *See SEC v. Chenery Corp., 318 U.S. 80, 87 (1943)* (agency action may be upheld, if at all, only on lawful grounds invoked by the agency); *Refugee & Immigrant Ctr. for Educ. & Legal Servs. v. Noem*, No. 25-cv-306 (RDM), 2025 WL 1825431, at 73 (D.D.C. July 2, 2025) (rejecting the argument that 1182(f) endows the Executive with "implied authority" over deportation proceedings and that "the President's authority under § 1182(f) is delegable to USCIS.").

430. *Second*, for many of these application types, Congress has, in fact, set forth statutory timetables by which the agency is meant to process these benefit

requests. *See, e.g.,* 8 U.S.C. § 1447(b); 8 U.S.C. § 1158(d)(5)(A). For all others, Congress has expressed an expectation that immigration benefit applications will take no longer than 180 days to adjudicate. 8 U.S.C. § 1571(b). While this is not a statutory command, it does provide a measuring stick by which the Court can gauge when a delay becomes unreasonable under the APA.

431. *Third and Fifth*, USCIS' delay in deciding Plaintiffs' applications and petitions impacts human health and welfare, not merely economic interests. USCIS' withholding of adjudications and resultant delays in processing Plaintiffs' applications and petitions has resulted in them being stuck in a legal limbo, unable to create stable plans professionally or for their families as they face an uncertain future.

432. Further, the hold police will force many Plaintiffs to lose their immigration status in the United States simply because of the pause on the adjudication of their benefit application requests, which will put them at risk of being placed in deportation proceedings and detention. Others are in the midst of critical research—often cutting-edge medical research—and will have to stop these research efforts, injuring not just themselves due to a lack of employment, but all those who would benefit from their scientific achievements. Still others have extremely young children, who are often U.S. Citizens, but are, or soon will be, unable to care for those children due to a lack of income, lack of health insurance, or other lacking

support. Others are unable to care for their disabled, veteran spouses due to their inability to obtain lawful status.

433. These Plaintiffs have built lives in the United States, and all have been injured by Defendants' unreasonable delay, and outright refusal, in adjudicating their applications and petitions.

434. *Fourth*, Plaintiffs do not seek to jump the line or otherwise "speed up" the adjudication of their applications beyond those filed by similarly situated individuals. *Cf. Mashpee Wampanoag Tribal Council, Inc. v. Norton*, 336 F.3d 1094, 1100 (D.C. Cir. 2003) (in describing when the D.C. Circuit declined to find unreasonable delay due to the importance of competing priorities in assessing administrative delays, "[t]here was no evidence that the agency had treated the petitioner differently from anyone else, or that 'officials not working on [the petitioner's] matter . . . [were just] twiddling their thumbs.'"). Here, Plaintiffs have secured their spot in line, and they will happily wait in that line until it is time for their application or petition to be adjudicated so long as the line is moving forward.

435. *Sixth*, the Court need not find any impropriety from the agency in order to determine that an unreasonable delay has occurred, and none is alleged.

436. However, the adoption of a hold policy based on national origin is immoral and un-American. Discrimination is an evil this country has defeated time and now it is time to do it again.

437. USCIS' refusal to adjudicate Plaintiffs' petitions and applications constitutes an unreasonable delay. Further, Defendants' policy to re-open and re-adjudicate Plaintiffs' already-approved benefit applications serves only to further delay Plaintiffs in taking the next steps on their immigration journeys, with any such re-adjudication necessarily coming with increased costs, emotional and financial stress, and risk of arbitrary decision making because of their national origin.

438. Plaintiffs have no alternative remedy available to them and are suffering irreparable harm from Defendants' refusal to adjudicate their applications and petitions.

439. Separately, even beyond a simple delay in adjudicating Plaintiffs' immigration benefit requests, Defendants benefits pause acts as a wholesale, and unlawful, withholding of adjudication of Plaintiffs' requests. Plaintiffs have complied with the instructions with which they have been provided in making their applications, paid hundreds of dollars per benefit request, and have patiently waited in line for those requests to be adjudicated. There is nothing in the Immigration and Nationality Act, the Administrative Procedure Act, or any other statute that would permit USCIS to unilaterally stop processing immigration benefit requests from a class of noncitizens.

440. Further, the Policy Memoranda require that Defendants conduct a wholesale re-review of not just Plaintiffs' and similarly situated individuals

previously approved benefit requests, but even the policies and procedures under which those benefit requests were approved. Put differently, Defendants are several steps away from even *starting* the review of the submitted benefit requests, as the policies required for doing that review do not yet exist. While dressing their actions up as policy reviews, national security vetting, and extra scrutiny, Defendants have implemented a *de facto* ban on the adjudication of nearly all benefit requests from countries subject to a § 1182(f) entry restriction. With no benefit applications processed, or even processable under these new restrictions, Defendants have squarely taken Plaintiffs' cases from one of unreasonable delay to one of unlawful withholding.

441. Under these new policies, the Court should therefore "compel agency action unlawfully withheld or unreasonably delayed." 5 U.S.C. § 706(1).

THIRD CAUSE OF ACTION

Ultra Vires Executive Action - Violation of 8 U.S.C. § 1152(a)(1)(A)

442. Plaintiffs incorporate paragraphs 1 through 410 for purposes of this third cause of action.

443. The INA, as enacted and amended by Congress, imposes limits on the executive's authority to classify and exclude aliens. Section 1152(a)(1)(A) of Title

8, U.S. Code (INA § 202(a)(1)(A)), provides that, with narrowly defined exceptions, "no person shall . . . be discriminated against in the issuance of an immigrant visa because of the person's race, sex, nationality, place of birth, or place of residence." 8 U.S.C. § 1152(a)(1)(A).

444. This provision, a part of the Immigration Act of 1965, was a landmark reform intended to eliminate the national origin quota system and ensure that immigrant visas are issued based on neutral criteria and not based on an applicant's nationality or ethnicity.[24]

445. In the present case, certain Plaintiffs are applicants for immigrant visas in the form of adjustment of status applications—procedurally they are obtaining their immigrant visas and permanent residency at the same time by adjusting their status to an immigrant under the relevant immigrant visa classification rather than first obtaining an immigrant visa at a U.S. consulate or embassy and then entering the United States using that visa. *See* 8 U.S.C. § 1255(a).

446. The interplay between the issuance of an immigrant visa where a § 1182(f) ban is in effect—and the potential unlawful discrimination that such actions carry—is not one new to the judiciary. Indeed, in *Trump v. Hawaii*, 585 U.S. 667 (2018), this issue was discussed at length. *Id.* at 686-87 In holding that a § 1182(f)

[24] Nat'l Archives, Fifty Years Later: A Brief History of the Immigration Act of 1965 (Sept. 17, 2015), https://www.archives.gov/publications/prologue/2015/fall/immigration-act-of-1965

ban based on nationality alone does not run afoul of the prohibition on national origin discrimination in § 1152(a)(1)(A) in the context of entry restrictions, the Court stated:

> Sections 1182(f) and 1152(a)(1)(A) thus operate in different spheres: Section 1182 defines the universe of aliens who are admissible into the United States (and therefore eligible to receive a visa). Once § 1182 sets the boundaries of admissibility into the United States, § 1152(a)(1)(A) prohibits discrimination in the allocation of immigrant visas based on nationality and other traits. The distinction between admissibility—to which § 1152(a)(1)(A) does not apply—and visa issuance—to which it does—is apparent from the text of the provision, which specifies only that its protections apply to the "issuance" of "immigrant visa[s] without mentioning admissibility or entry.

Hawaii, 585 U.S. at 686.

447. The logical corollary is that where there *is* no issue relating to entry or admissibility, § 1152(a)(1)(A)'s prohibition on national origin discrimination is in full effect. In the case of an adjustment of status applicant, a § 1182(f) ban has no bearing on their application, as they have already entered the U.S. and are therefore beyond the bounds of its restrictions. *Refugee & Immigrant Ctr. for Educ. & Legal Servs. v. Noem*, No. 25-cv-306 (RDM), 2025 WL 1825431, at 73 (D.D.C. July 2, 2025). All that remains is the typical admissibility analysis to determine whether the applicant has run afoul of any of the disqualifying criteria found in 8 U.S.C. § 1182(a)—none of which refer to a § 1182(f) entry restriction. Without admissibility

being implicated, and with entry already being effectuated prior to the application, § 1152(a)(1)(A)'s prohibition on national origin discrimination is in full effect and USCIS is compelled to follow it.

448. Because the "Benefits Pause" Memorandum specifically prohibits USCIS from adjudicating immigrant visa applications made within the United States through the adjustment of status process for individuals from any of the impacted countries, it is *ultra vires*, and "otherwise not in accordance with law" as applied to those Plaintiffs seeking immigrant visas, including those seeking to adjust status in the United States, 5 U.S.C. § 706(2)(A) or "short of statutory right" 5 U.S.C. § 706(2)(C). The Court should therefore "hold unlawful and set aside" the Benefits Pause memorandum and any implementing guidance as applied to Plaintiffs.

FOURTH CAUSE OF ACTION

Unlawful Legislative Rule

449. Plaintiffs incorporate paragraphs 1 through 410 for purpose of this fourth cause of action.

450. The APA requires legislative rules to pass through the statutorily prescribed notice-and-comment process. 5 U.S.C. § 553(a)-(c); *Warshauer v. Solis*, 577 F.3d 1330, 1337 (11th Cir. 2009).

451. First, the agency must publish a "[g]eneral notice of proposed rulemaking" in the Federal Register. 5 U.S.C. § 553(b).

452. Second, the agency must "give interested persons an opportunity to participate in the rule making through submission of written data, views, or arguments," *id.* § 553(c), then "consider and respond to significant comments received." *See Perez v. Mortg. Bankers Ass'n*, 575 U.S. 92, 96 (2015).

453. Last, when the final version of the rule is promulgated, the agency must include along with is "a concise general statement of [its] basis and purpose." 5 U.S.C. § 553(c).

454. An agency may only forego notice and comment if the rule is not legislative, but instead qualifies as (1) "interpretive rules," (2) "general statements of policy," or (3) rules of agency organization, procedure, or practice." *See* 5 U.S.C. § 553(b)(A).

455. Defendants' policy memoranda and policy alerts, while purportedly impacting only the discretionary analyses, are being implemented to promote discriminatory treatment or applicants by a beneficiary's birthplace and undermine the equal treatment of applicants as provided under the law and implementing regulations.

456. The Policy Manual now provides that a government's unreliability in issuing civil documents "directly relates to USCIS' ability to meaningfully assess

eligibility for benefit requests." U.S. Citizenship & Immigr. Servs., Policy Manual, Vol. 1, Pt. E, Ch. 8 (Discretionary Analysis) (emphasis added).

457. A change to the adjudicatory standard for assessing eligibility requirements for applicants goes beyond discretionary criteria and falls squarely into the definition of a legislative rule as it changes the legal rights and obligations of the applicant.

458. Because Defendants failed to engage with the rulemaking process in any way, this Court should declare this legislative rule unlawful.

459. To the extent Defendants have actually commenced the implementation and enforcement of these policies at the time judgment is entered by the Court, any such enforcement should be held to be in excess of statutory jurisdiction, authority, or limitations, or short of statutory right, and this Court should "hold unlawful and set aside" the agency actions, findings, and conclusions made pursuant to this new policy, including any denials of applications and ancillary consequences flowing from a heightened eligibility standard being imposed upon applicants, such as loss of work authorization or determinations that an individual has failed to maintain their status. 5 U.S.C. § 706.

IX. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request that this Court grant the following relief:

A. Take jurisdiction over this matter;

B. Declare that Defendants have violated the Administrative Procedure Act by unreasonably delaying and unlawfully withholding the adjudication of Plaintiffs' pending immigration benefit requests;

C. Declare that Policy Alert PA-2025-26, Policy Memorandum PM-602-0192, and Policy Memorandum 602-0194 are arbitrary and capricious, exceed Defendants' statutory authority, or are otherwise contrary to law or procedure;

D. Set aside and enjoin each policy and compel Defendants to apply the adjudicatory process, standards of review, and burdens of proof, in effect prior to the enactment of these policies to Plaintiffs.

E. Enter an order requiring Defendants to expeditiously decide Plaintiffs' pending and future immigration benefit requests due to the arbitrary, capricious, and unlawful delay imposed due to the policies that have placed a hold on their benefit requests;

F. Award Plaintiffs' counsel reasonable attorneys' fees and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412(d), 5 U.S.C. § 504, or any other applicable law; and

G. Enter and issue any other relief that this Court deems just and proper.

Respectfully submitted this 29th day of January, 2026,

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