IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

VIACHESLAV IVANOV, *et al.,*
(*See* **Addendum A: Caption Pages**)

Plaintiffs,

v.

DONALD J. TRUMP, *in his official capacity as the President of the United States*
1600 Pennsylvania Avenue NW
Washington, DC 20500

STEPHEN N. MILLER, *in his official capacity as White House Deputy Chief of Staff for Policy and U.S. Homeland Security Advisor,*
Executive Office of the President
1600 Pennsylvania Avenue NW
Washington, DC 20500

MARCO A. RUBIO, *in his official capacity as U.S. Secretary of State*
The Executive Office
Office of Legal Advisor, Suite 5.600
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Washington, D.C. 20522

JOSEPH B. EDLOW, *in his official capacity as Director of U.S. Citizenship and Immigration Services*;
USCIS Office of the Chief Counsel
5900 Capital Gateway Drive
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KRISTI LYNN ARNOLD NOEM, *in her official capacity as Secretary of U.S. Department of Homeland Security,*
U.S. Department of Homeland Security
Office of the General Counsel
2707 Martin Luther King Jr. Ave., SE
Washington D.C., 20528-0485

Civil Action No.: 1:26-cv-915

PLAINTIFFS' COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF AND PETITION FOR WRIT OF MANDAMUS

PAMELA J. BONDI, *in her official capacity as U.S. Attorney General*,
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530-0009

Defendants.

TABLE OF CONTENTS

INDEX OF EXHIBITS ii

NATURE OF ACTION 2

JURISDICTION 4

VENUE 5

PARTIES 5

STATUTORY AND REGULATORY BACKGROUND 7

- I. The Diversity Visa Program 7
- II. Defendants' Mandatory Duty to Adjudicate Plaintiffs' Applications 21

STATEMENT OF FACTS 22

- I. Defendants' Barriers and Schemes to End DV Program 23
- II. Harm to Plaintiffs 27
- III. Dire Negative Impacts 30

LAW AND ARGUMENT 32

- I. Separation of Powers, Nondelegation Doctrine, and Major Questions Doctrine 32
- II. Violation of the APA 34
- III. Defendants' Mandatory Duty Owed to Plaintiffs 37

CAUSES OF ACTION 39

- COUNT ONE: Violation of the Constitution 39
- COUNT TWO: Violation of 5 U.S.C. § 706(2)(B) 40
- COUNT THREE: Violation of 5 U.S.C. § 706(2)(A) 42
- COUNT FOUR: Violation of 5 U.S.C. § 706(2)(C) 44
- COUNT FIVE: Violation of 5 U.S.C. § 706(2)(D) 45
- COUNT SIX: Violation of 5 U.S.C. §§ 555(b) & 706(1) et seq. 46
- COUNT SEVEN: Violation of the 5th Amendment 52
- COUNT EIGHT: Violation of the 5th Amendment 53
- COUNT NINE: Violation of 5 U.S.C. § 706(2) 54
- COUNT TEN: 28 U.S.C. § 1361, Mandamus Act 56

PRAYER FOR RELIEF 59

<u>INDEX OF EXHIBITS</u>

Exhibit A	Dec. 19, 2025 USCIS Policy Memorandum PM-602-0193 ("**USCIS DV Hold**")
Exhibit B	Dec. 23, 2025 U.S. Dep't of State, *Diversity Visa Issuance Updated Guidance* ("**DOS DV Pause**")
Exhibit C	Feb. 2, 2026 U.S. Dep't of State, *Immigrant Visa Processing Updates for Nationalities at High Risk of U.S. Public Benefits Reliance* ("**DOS 75-Country Pause**")
Exhibit D	*Expressed Intent*
Exhibit E	*DOS Cable*, 26 STATE 3740
Exhibit F	*Articles Disproving Public Charge Justification*

Plaintiffs, FY-2026 Diversity Visa ("DV") Selectee Families, by and through the undersigned counsel, respectfully bring this Petition for Writ of Mandamus and Complaint for Declaratory and Injunctive Relief to compel Defendants DONALD J. TRUMP ("Defendant Trump"), STEPHEN N. MILLER ("Defendant Miller"), MARCO A. RUBIO ("Defendant Rubio"), JOSEPH B. EDLOW ("Defendant Edlow"), KRISTI LYNN ARNOLD NOEM ("Defendant Noem"), and PAMELA J. BONDI ("Defendant Bondi") (collectively "Defendants"), and those acting under them, to cease the application of the following barriers to the adjudication of Plaintiffs' immigration benefits applications, including Form I-485, *Application to Register Permanent Residence or Adjust Status* ("I-485") (collectively "Plaintiffs' Applications"):

a. the section of the December 19, 2025 Policy Memorandum **PM-602-0193**, the subject of which is "Hold and Review of Pending USCIS Adjustment of Status Applications Filed by Aliens Under the Diversity Immigrant Visa Program" that places "a hold on all pending adjustment of status, ancillary benefits, and associated waiver applications, for aliens who are applying to adjust to lawful permanent resident status under the Diversity Immigrant Visa (DV) Program pending a comprehensive review[.]" USCIS PM-602-0193, at 1, ¶ 1 ("**USCIS DV Hold**", attached as **Exhibit A**);

b. the State Department's December 23, 2025 policy to "pause[] all visa issuances to diversity immigrant visa applicants." U.S. Dep't. of State, *Diversity Visa Issuance Updated Guidance* ("**DOS DV Pause**", attached as **Exhibit B**);

c. the State Department's February 2, 2026 policy to "pause all visa issuances to immigrant applicants who are nationals" of 75 different countries. U.S. Dep't. of State, *Immigrant Visa Processing Updates for Nationalities at High Risk of U.S. Public Benefits Reliance* ("**DOS 75-Country Pause**", attached as **Exhibit C**).[1]

Further, Plaintiffs ask the Court to compel Defendants, and those acting on their behalf, to adjudicate Plaintiffs' applications before September 30, 2026.

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[1] The listed barriers are collectively referred to herein as the "Trump Administration Barriers", or "Defendants' Barriers".

NATURE OF ACTION

1. This is an action to compel Defendants and those acting under them to take all appropriate action immediately and forthwith to proceed with the adjudication of Plaintiffs' applications which were, or will be, properly filed by 1,622 Plaintiffs based on their selection in the 2026 Diversity Visa Program ("DV-2026"), and received by Defendants, U.S. Citizenship and Immigration Services ("USCIS") of the U.S. Department of Homeland Security ("DHS"), and the Department of State ("DOS") (collectively "the Departments").

2. Processing for Plaintiffs' applications has been indefinitely suspended, and their adjudications have been unlawfully withheld as a result of Defendants' policies, procedures, and practices devised and implemented by Defendants.

3. Specifically, Defendants' Barriers have unlawfully suspended adjudication of immigration benefits applications for DV selectees and their families who each face an unwavering expiration date. By statute, DV applicants must have their immigrant visas adjudicated and issued before midnight on September 30, 2026. 8 U.S.C. § 1151-53.

HOW TRUMP ADMINISTRATION BARRIERS IMPACT PLAINTIFFS	
AOS FAMILIES	**CONSULAR PROCESSING FAMILIES**
65 Plaintiff families are impacted by USCIS DV Hold	**673 Plaintiff families** impacted by DOS DV Pause
	557 of those 673 Consular Processing Families also impacted by DOS 75-Country Pause

4. As demonstrated above, Plaintiffs are **738 DV-2026 selectee families** impacted by Defendants' Barriers including: **65 Plaintiff families** currently within the U.S. who are subject to the USCIS DV Hold ("AOS Families"); and **673 Plaintiff families** outside the U.S. who are all

subject to the DOS DV Pause ("Consular Processing Families"), with **557 of the Consular Processing Families** also facing the DOS 75-country Pause.

5. For all Plaintiffs, the stakes are high and a matter of extreme urgency. If Defendants do not issue Plaintiffs' visas and adjudicate their adjustment of status before this deadline, Plaintiffs will lose their once-in-a-lifetime opportunity to immigrate to the U.S. through the DV program.

6. Defendants' Barriers are in direct violation of the Immigration Nationality Act ("INA"), the Administrative Procedure Act ("APA"), as well as well-settled legal precedent. Plaintiffs hereby challenge Defendants' Barriers giving rise to the Departments' policies, procedures, and practices subjecting Plaintiffs to the unlawful withholding and unreasonable delay of adjudication.

7. Due to Defendants' intent divorced from national security concerns and disregard for the severe negative economic and humanitarian consequences, Defendants' Barriers exceed the Congress's delegation of authority. Moreover, the State Department continues to conflate an entry ban with a visa issuance ban which is arbitrary and capricious, not in accordance with law and in excess of statutory authority – and notably, a policy that this Court has previously enjoined. *See Rai v. Biden*, 567 F. Supp. 3d 180 (D.D.C. 2021).

8. If Defendants continue to refuse to process Plaintiffs' applications by September 30, 2026, Plaintiffs will fail to receive statutorily mandated adjudication of their applications, including their adjustment of status which can only occur when a visa number is issued by the State Department.

9. Plaintiffs' immigrant visa applications remain within the jurisdiction of Defendants, who have improperly withheld action on them to the extreme detriment of Plaintiffs' rights and privileges.

10. Plaintiffs seek an order compelling Defendants to set aside the Trump Administration's barriers, including USCIS policy memorandum and DOS pause policies, which withhold and delay the processing and adjudication of Plaintiffs' immigration benefits applications and suspends the issuance of their visas.

11. Additionally, Plaintiffs seek an order from this Court compelling Defendants and those acting under them to immediately and forthwith take all appropriate action to fulfill their mandatory, non-discretionary duty to provide final adjudications and issue decisions on Plaintiffs' applications before September 30, 2026.

JURISDICTION

12. This case arises under the INA, 8 U.S.C. § 1101 *et seq.*; and the APA, 5 U.S.C. § 555(b) and § 701 *et seq*.

13. This Court has jurisdiction pursuant to 28 U.S.C. § 1361. ("The district courts shall have 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.")

14. Jurisdiction is further conferred by 8 U.S.C. § 1329 (jurisdiction of the district courts) and 28 U.S.C. § 1331 (federal subject matter jurisdiction).

15. This Court also has authority to grant relief under 28 U.S.C. § 2201, 2202 and 5 U.S.C. § 702.

16. There exists an actual and justiciable controversy between Plaintiffs and Defendants requiring resolution by this Court. Plaintiffs have no adequate remedy at law.

VENUE

17. Pursuant to 28 U.S.C. § 1391(e), venue is proper in this judicial district on the following grounds: this is a civil action in which (1) Defendants are officers or employees of the United States acting in their official capacity or an agency of the United States; (2) Defendants reside in this judicial district; and (3) a substantial part of the events or omissions giving rise to the claim occurred in part in this judicial district.

PARTIES

I. Plaintiffs

18. Plaintiff Viacheslav Ivanov is a national of Russia and a FY-2026 DV program selectee. KCC assigned Plaintiff Viacheslav Ivanov the case number **2026EU[redacted]**. Plaintiff [redacted] is the spouse of Plaintiff Viacheslav Ivanov and the derivative beneficiary of the DV selectee. *Also see:* **Addendum B: Plaintiffs' Parties Section**.

II. Defendants

19. Defendant Trump is the President of the United States of America and sued in his official capacity.

20. Defendant Rubio is the Secretary of the U.S. Department of State and the Acting National Security Advisor of the White House National Security Council ("NSC") and Homeland Security Council ("HSC"). 50 U.S.C. §§ 3021(e)(1). As Secretary, Defendant Rubio is responsible for the overall administration of the State Department, including the Bureau of Consular Affairs, which is responsible for the issuance of immigrant visas under the immigration laws of the United States, and supervision over the U.S. Embassies and Consulates. As National Security Advisor, he advises the President with respect to the integration of domestic, foreign, and military policies relating to the national security. Defendant Rubio is sued in his official capacity.

21. Defendant Miller is the White House Deputy Chief of Staff for Policy, and the HSC Advisor on the NSC within the Executive Office of the President. 50 U.S.C. §§ 3021(c)(2). In these roles, Defendant Miller serves as the senior aide, principal advisor, and assistant to the President on homeland security and counterterrorism issues, and exercises substantial authority over the development, coordination, and direction of homeland security policy, including policies implemented by DHS and its component agencies.[2] Defendant Miller is sued in his official capacity.

22. Defendant Noem is the Secretary of Homeland Security responsible for DHS, a federal executive department of the U.S. government responsible for implementing and enforcing the INA. DHS contains the agency USCIS and is "charged with the administration and enforcement of … laws relating to the immigration and naturalization of" noncitizens. As the Secretary of DHS, she is responsible for the general administration and enforcement of the immigration laws of the U.S. as well as overseeing the actions of DHS, including its adjudication of Form I-485 Applications. Defendant Noem's role in the implementation of homeland security policy, including the Policy Memorandum, is at the behest and direction of Defendant Miller. Defendant Noem is sued in her official capacity.

23. Defendant Edlow is the Director of USCIS, an agency of the federal government within DHS that is responsible for the administration of laws and statutes governing immigration and the adjudication of petitions for immigration benefits, including petitions for noncitizens. 6

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[2] *National Security Presidential Memorandum/NSPM-1: Organization of the National Security Council and Subcommittees*, Jan. 20, 2025, The White House, at § A (Functions, Responsibilities, and Chairs; NSC Staffing; Membership & Invitees) (on file at The White House), reprinted in *Organization of the National Security Council and Subcommittees*, White House (Jan. 20, 2025), available at https://www.whitehouse.gov/presidential-actions/2025/01/organization-of-the-national-security-council-and-subcommittees/ (last accessed Mar. 14, 2026).

U.S.C. § 271. As such, he is charged with the duty of administration and enforcement of all the functions, powers, and duties of USCIS nationally. Defendant Edlow is sued in his official capacity.

24. Defendant Bondi is the Attorney General of the United States. Pursuant, *inter alia*, to 8 U.S.C. § 1103, she is charged with controlling the determination of all issues of law pertaining to immigration and with representing the U.S. in various legal matters. Defendant Bondi is sued in her official capacity.

STATUTORY AND REGULATORY BACKGROUND

I. The Diversity Visa Program

25. The Immigration Act of 1990 created a new immigration category, the DV Program, to increase diversity in the U.S. immigrant population by providing 55,000 Diversity visas to nationals of countries that have had low immigration rates to the United States. Public Law 101-649; 8 U.S.C. § 1153(c).

26. The DV Program has led to a broader mix of nationalities represented in the U.S. immigrant population, making the U.S. better equipped to understand and relate to the diversity of the world abroad and incorporate the skills of a diverse workforce.

27. The Congressionally mandated program issues visas specifically for immigrants who are natives of countries and regions from where fewer than 50,000 immigrants came to the United States over the previous five years.

28. Congress has allocated 55,000 “diversity” immigrant visas (visas allowing admission as a lawful permanent resident, 8 U.S.C. § 1101(a)(20)) each year to randomly selected individuals from countries with historically low levels of immigration. *See id*. §§ 1151(e), 1153(c)(1)(A).

29. Each fiscal year, DOS grants approximately 55,000 diversity immigrant visas to individuals from countries underrepresented in the immigration process, which allows recipients

who are granted admission to enter the U.S. as lawful permanent residents who may live and work in the United States indefinitely. *See* 8 U.S.C. §§ 1151(e), 1153(c)(1).[3]

30. Eligible applicants enter a selection held once each fiscal year. 8 U.S.C. § 1153(c); 22 C.F.R. § 42.33.

31. Far more than 55,000 entries are received every year: more than 20 million entries were submitted for the FY-26 selection. U.S. Dep't of State, *Visa Bulletin*, Vol. XI, No. 8 (November 2025).

32. DOS looks at data and conditions each year to estimate how many selectees might be needed to meet the statutory limit of 55,000 immigrants.

33. Hopeful immigrants must submit entries during the application period, and from those entries, DOS then chooses eligible selectees to apply for immigrant visas.

34. In 2025, the State Department selected and registered approximately 129,516 prospective applicants reasoning that, "this larger figure should ensure that all DV-2026 numbers can be used during fiscal year 2026." *Id*.

35. With millions of entrants each year, there is less than a one percent chance to be selected to apply for the visa. The probability of being selected twice is approximately 0.00025%.

36. Each fiscal year, the Department must grant allocated diversity immigrant visas to eligible individuals from countries underrepresented in the immigration process, which allows recipients who are granted admission to enter the U.S. as lawful permanent residents. *See* 8 U.S.C. §§ 1151(e), 1153(c)(1).

[3] In 2025, around 3000 visas were deducted from the 55,000 to be allocated and made available to the Nicaraguan Adjustment and Central American Relief Act (NACARA). This meant DV applicants only had access to approximately 52,000 visas.

37. A diversity visa selectee is entitled to apply for an immigrant visa only during the fiscal year for which the entry was submitted. *See* INA § 204(a)(1)(I)(ii)(II).

A. Selection and the KCC

38. In the first week of May, entrants must login to the Entrant Status Check (ESC) to find out if their entry has been selected for the DV program.

39. If selected, the DV entrant receives the notification letter on the ESC instructing them to submit a visa application to be processed at the State Department's Kentucky Consular Center ("KCC"). 9 FAM 502.6-4(c)(1), *KCC Role*.[4]

40. KCC will hold the case until those selected are entitled to make a formal application for a visa at a U.S. consular office abroad. 9 FAM 502.6-4(c)(1)(b). Further, if the selectee follows the instructions provided online via Entrant Status Check, KCC *will* process the case until those selected are instructed to appear for visa interviews at a U.S. embassy or consulate.

41. The INA and the Department's own policies clearly establish the timing in which these duties must be undertaken.

42. First, the INA sets an unyielding deadline of the end of the fiscal year for the yearly allocation of diversity visas. 8 U.S.C. § 1154(a)(1)(I)(ii)(II) (qualifying noncitizens "shall remain eligible only through the end of the specific fiscal year for which they were selected.")

[4] The Foreign Affairs Manual ("FAM") and associated handbooks are internal sources for the Department of State's organization structures, policies, and procedures that govern the operations of the State Department. The FAM (generally policy) and the FAHs (generally procedures) together convey internal policies to Department of State staff and contractors so they can carry out their responsibilities. Department policies and procedures in the FAM are enforceable pursuant to the Accardi Doctrine. *Tolymbekova v. United States Sec'y of State Marco Rubio*, No. 25-cv-295, 2025 U.S. Dist. LEXIS 173894, at *15 (D.D.C. Sep. 5, 2025) (citing *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954).)

43. Second, the Department's own policies make clear that "[e]ach month visa numbers will be allocated to applicants who are within the applicable rank cut-off for that month and have completed processing at KCC" and that "KCC will schedule interviews once (1) the selectee has submitted a complete DS-260; (2) the designated post has made an appointment available; (3) KCC has completed its processing of the selectee's case; and (4) the Visa Office has allocated a visa number to the selectee and, if any, the selectee's derivatives, and the selectee's case is the next case in the selection order." 9 FAM 502.6-4(c)(2)(c); 9 FAM 502.6-4(c)(1)(b); *see also* 9 FAM 503.4-4(A)(b) ("The monthly allotment of IV numbers is close to the maximum permissible.")

B. DS-260 Submission and Interview Scheduling

44. Upon selection, a selectee "will be notified electronically via Entrant Status Check and instructed to complete Form DS-260, Online Application for Immigrant Visa and Alien Registration." 9 FAM 502.6-4(d)(1)(a). All DV applicants must submit the DS-260. *Id.*

45. If the selectee follows "the instructions provided online via Entrant Status Check, the Department of State's KCC *will* process the case until those selected are instructed to appear for visa interviews at a U.S. embassy or consulate."

46. "Applicants are considered "documentarily qualified" for purposes of visa appointment scheduling when KCC confirms that the applicant has properly completed and submitted the DS-260." FAM 502.6-4(c)(2)(c).

47. The State Department promulgates a monthly bulletin for the purposes of tracking and communicating visa allotments.

48. The monthly bulletin "summarizes the availability of immigrant visa numbers" for DV applicants.

49. "Each month visa numbers will be allocated to applicants who are within the applicable rank cut-off [reflected on the visa bulletin] for that month and have completed processing at KCC." 9 FAM 502.6-4(c)(2)(c) (demonstrating a monthly pace of adjudication for applicants).

50. Department policy states that "KCC *will* schedule an appointment for a documentarily qualified applicant when his or her regional lottery rank number is about to become current." FAM 502.6-4(d)(2) (establishing a clear policy for the timeline of adjudication).

51. On February 18, 2022, the FAM was updated to state "KCC will schedule an appointment for applicants that have completed processing at KCC around the time their regional program rank number is current." FAM 502.6-4(d)(2).

52. When scheduling interviews, KCC uses the rank number, as is required by statute, to determine the order in which cases are eligible to be scheduled for appointments.

53. Because the State Department must schedule a DV selectee for an immigrant visa appointment *when his or her visa is about to be current to ensure a timely adjudication*, the Visa Bulletin also shows the available DVs for the forthcoming month. (*e.g.*, a January Bulletin will show diversity allotments for January and February).

54. Recognizing the policy to schedule interviews before their visas are current and the intent of Congress to issue all allotted DVs, appointments are scheduled in consultation with posts around the world about two months in advance of the planned interview dates.

55. Additionally, DOS selects more than 55,000 entries to "ensure that all DV-2026 numbers can be used during fiscal year 2026." U.S. Dep't of State, *Visa Bulletin*, Vol. XI, No. 8 (November 2025).

56. If the Department did not over-select DV participants, it would not be able to use the full allocation of DV numbers.

57. For this reason, DV selectees with a low-rank order, as reflected in their case number, are more likely to get the opportunity to interview, while those with higher numbers are less likely to be scheduled.

58. Selectees who are not scheduled by July 1, 2026, will likely not receive an interview nor an adjudication in time for the September 30th deadline.

C. Adjustment of Status Through USCIS

59. If a diversity visa selectee is physically present in the United States in another nonimmigrant, or temporary, immigration status, and not subject to the bars contained in 8 U.S.C. 245 (a) and (c), they may file a Form I-485 application with USCIS to adjust to permanent resident status. *See USCIS Policy Manual*, Vol. 7, Part G, Ch. 2 – Eligibility Requirements.

60. The Policy Manual States

> Selection for the DV Program does not guarantee issuance of a DV or admission into the United States. Selection for the DV Program also does not guarantee eligibility to apply for and be granted adjustment of status. Unused DVs cannot be carried over from one fiscal year to the next. **Therefore, a selectee applying for adjustment of status must be allocated a visa number by DOS and adjust status by September 30 (the last day) of the fiscal year for which the DV Program selection is valid.**

Id. (emphasis added)

61. Form I-485 applications are approved by furnishing the complete application, necessary fees, and primary evidence, and attending an adjustment of status interview at a USCIS field office.

62. Per the USCIS Policy Manual:

> All adjustment of status applicants must be interviewed by an officer unless the interview is waived by USCIS. The decision to waive the interview should be made on a case-by-case basis. The interview enables USCIS to verify important

> information about the applicant to determine eligibility for adjustment. During the interview, the officer verifies that the applicant understood the questions on the application and provides the applicant with an opportunity to revise any answers completed incorrectly or that have changed since filing the application. Any unanswered questions or incomplete answers on the application are resolved at the interview. If information is added or revised, the applicant should re-sign and date the application at the conclusion of the interview.

See USCIS Policy Manual, Vol. 7, Part A, Ch. 5 – Interview Guidelines, citing 8 C.F.R. §§ 103.2(b)(7), 209.1(d), 209.2(e), 245.6.

63. Per regulations, "if the evidence submitted with the benefit request establishes eligibility, USCIS will approve the benefit request, except in any case in which the applicable statute or regulation makes the approval of a benefit request a matter entrusted to USCIS discretion." 8 C.F.R. § 103.2(b)(8)(i).

64. If the initial evidence is not all submitted or does not demonstrate eligibility, USCIS "may deny the benefit for lack of initial evidence or for ineligibility or request that the missing initial evidence be submitted within a specified period of time as determined by USCIS." 8 C.F.R. § 103.2(b)(8)(ii).

65. Applicants usually have a maximum of 90 days to respond to a Request for Evidence ("RFE"). 8 C.F.R. § 103.2(b)(8)(iv). Any evidence they submit becomes part of the record for the application.

66. An approval of diversity visa adjustment of status application also requires the favorable exercise of USCIS discretion. 7 USCIS-PM A.10(A), citing INA § 245(a).

67. Courts have recognized the strict timeline involved with the DV Program and have issued writs of mandamus to compel the adjudication of unreasonably delayed adjustment of status applications under the DV program before the statutory deadline. *See Ermuraki v. Cuccinelli*, 987 F.3d 384, 385 (5th Cir. 2021), *see also Jaraba v. Blinken*, 568 F. Supp. 3d 720 at **29 (W.D. Tex. 2021), citing *Gomez v. Trump*, 485 F. Supp. 3d 145, 196 (D.D.C. 2020) ("Gomez I") (stating

diversity visas have "an absolute, unyielding deadline by which selectees must receive their visas.")

68. If a Form I-485 adjustment of status application is denied, USCIS must timely issue a denial notice to the applicant. Per USCIS policy:

> [A] denial notice should:
>
> - Provide the reasons for the denial in clear language that the applicant can understand;
> - Cite to the relevant sections of law, regulations, and precedent decisions (if any); and
> - Explain that there is no right to appeal the denial but that the applicant may file a motion to reopen or reconsider.

7 USCIS-PM A.11(C).

69. Congress has made clear what it considers a reasonable time for adjudicating an adjustment of status application. "It is the 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**." *See* 8 U.S.C. § 1571, Pub. L. 106–313, title II, §202, Oct. 17, 2000, 114 Stat. 1262. (Emphasis added.)

D. The Visa Interview and Consular Processing

70. After completing a medical examination, and paying applicable fees, the applicant is interviewed by a consular officer at the beneficiary's applicable U.S. Embassy or consulate. During the interview, the applicant executes Form DS-260 by swearing to or affirming its contents and signing it before a consular officer. *See* 22 C.F.R. §42.67.

71. Every noncitizen executing an immigrant visa application "*must be interviewed by a consular officer* who shall determine on the basis of the applicant's representations and the visa application and other relevant documentation - (1) The proper immigrant classification, if any, of the visa applicant, and (2) The applicant's eligibility to receive a visa." 22 C.F.R. § 42.62 (b).

72. The State Department website instructs that at the end of one's immigrant visa interview at the U.S. Embassy or Consulate, the consular officer will inform the applicant whether their visa application is approved or denied. "If your visa is denied, you will be informed by the consular officer why you are ineligible to receive a visa."[5]

73. At the interview, a consular officer must issue a visa to an eligible applicant.

74. Under 22 C.F.R. § 42.81(a), "when a visa application has been properly completed and executed before a consular officer in accordance with the provisions of the INA and the implementing regulations, the consular officer *must* issue the visa [or] refuse the visa under INA 212(a) or 221(g) or other applicable law."

75. If the applicant is admissible to the United States, the consular officer "shall" issue the selectee an immigrant visa and may only refuse a visa "upon a ground specifically set out in the law or implementing regulations." 22 C.F.R. § 40.6.

76. The FAM reiterates that "[o]nce an application has been executed, you must either issue the visa or refuse it [...]. You cannot temporarily refuse, suspend, or hold the visa for future action. If you refuse the visa, you must inform the applicant of the provisions of law on which the refusal is based, and of any statutory provision under which administrative relief is available." 9 FAM § 504.9-2.

77. If the consular officer determines that a visa should be issued, the officer is required to arrange the appropriate visa documentation and sign and seal the immigrant visa, consistent with the requirements set forth in 22 C.F.R. § 42.73. "The immigrant visa shall then be issued by delivery to the immigrant or the immigrant's authorized agent or representative." *Id*. § 42.73(d).

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[5] U.S. Department of State, *The Immigrant Visa Process*, https://bit.ly/3yNDpAG (last accessed Mar. 14, 2026).

78. Conversely, if the consular officer determines that the visa should be refused, the officer must have a basis for refusal that is "specifically set out in the law or implementing regulations." 22 C.F.R. § 40.6.

79. The officer also must comply with the refusal procedure outlined in 22 C.F.R. § 42.81(b), which mandates, in relevant part, that the "consular officer shall inform the applicant of the provision of law or implementing regulation on which the refusal is based and of any statutory provision of law or implementing regulation under which administrative relief is available."

80. There are no exceptions to the rule that once a visa application has been properly completed and executed before a consular officer, a visa must be either issued or refused. 9 FAM § 504.9-2.

81. Accordingly, any noncitizen to whom a visa is not issued by the end of the working day on which the application is made, or by the end of the next working day if it is normal post procedure to issue visas to some or all applicants the following day, must be found ineligible under one or more provisions of INA 212(a), 212(e), or 221(g). Furthermore, INA 221(g) is not to be used when a provision of INA 212(a) is applicable.

82. State Department guidelines provide additional details regarding the manner in which visa applications should be refused including a requirement that officers notify applicants, orally and in writing, who are refused a visa under INA 212(a) or 221(g). *See* 9 FAM § 504.11-3(A)(1) (setting forth the required contents of 212(a) and 221(g) refusal letters).

83. If the consular officer determines that the visa should be refused, the officer "shall provide the applicant a timely written notice" that states the basis for the denial and lists the specific provisions of the law under which the visa was refused. INA § 212(b), 8 U.S.C. § 1182(b); 22 § C.F.R. 41.121(b).

84. If the consular officer refuses the visa, he or she must inform the applicant orally and in writing, must inform the applicant of the provisions of law on which the refusal is based, and of any statutory provision under which administrative relief is available. 9 FAM 504.1-3(g); *see* 9 FAM § 504.11-2(A)(b).

85. The INA 221(g) refusal letter "***must*** meet the following criteria: (a) State the provision of the law under which the visa is refused [and] (b) Neither encourage nor discourage the applicant from reapplying." 9 FAM 504.11-3(A)(1) (e) (emphasis added).

86. Moreover, the letter "***must*** [i]nclude the following language: (i) Please be advised that for U.S. visa purposes, including ESTA (see the ESTA website), this decision constitutes a denial of a visa. (ii) […] If you fail to take the action requested within one year following visa denial under INA 221(g) of the Immigration and Nationality Act, then your petition will be permanently terminated under INA 203(g)." 9 FAM 504.11-3(A)(1)(e)(c) (emphasis added).

87. If a consular officer determines that additional information is required from an applicant or that a Security Advisory Opinion ("SAO") – known as "administrative processing" – is necessary to determine an applicant's eligibility, the officer must deny the application under INA § 221(g), pending future consideration once additional information is received or administrative processing is concluded. *See* 9 FAM § 504.11-3(B)(2)(a) ("If, after interviewing the applicant, you decide that an advisory opinion is necessary, you must first refuse the alien under INA 221(g),").

88. If at a visa interview, allegedly derogatory information exists about an applicant or someone with a similar name to the applicant as determined by an algorithm, the consular officer receives a "red-light" response to one of the automated lookout systems.

89. When a consular officer encounters a "red light," the consular officer may request the applicant complete and return responses to Form DS-5535, *Supplemental Questions for Visa Applicants* ("DS-5535").[6] The consular officer would use the DS-5535 response to submit a request for SAO, which is handled by one of two divisions of the SAC: the Counterterrorism Division or the Screening Division. As of April 10, 2025, Defendants had a mere 30 analysts addressing a backlog of 61,000 pending requests. Because SAO requests are not addressed or resolved on a "first-in-first-out" basis, there is no queue for providing final adjudications of applications pending the outcome of SAO requests.

90. The State Department's regulations provide that "[w]hen a visa application has been properly completed and executed in accordance with the provisions of the INA and the implementing regulations, the *consular officer* must issue the visa [or] refuse the visa[.]" 22 C.F.R. § 41.121(a) (emphasis added). However, conflictingly, the FAM provides that, in cases in which an Advisory Opinion has been requested, "[u]nder no circumstances may a resolution of the question of eligibility be made before the Department's [Advisory Opinion] is received." 9 FAM 403.10-3(B).

91. Thus, the FAM places resolution of the question of eligibility out of the consular officer's hands, in contravention of 22 C.F.R. § 41.121(a). This conflict is evidence of improper withholding of the adjudication of visa applications, which violates the strictures of 5 U.S.C. § 706(2)."

[6] Form DS-5535, *Supplemental Questions for Visa Applicants*, was created in 2017 to facilitate enhanced vetting related to the Trump administrations series of travel bans targeting Muslim-majority countries. *See* https://www.federalregister.gov/documents/2017/05/04/2017-08975/notice-of-information-collection-under-omb-emergency-review-supplemental-questions-for-visa.

92. The FAM section entitled "If an Advisory Opinion (AO) is Required," has a subsection titled "Procedures in cases requiring an AO." 9 FAM § 504.11-3(A)(1). It states, "The consular section must use a tickler system as a reminder to send a follow-up request for [an Advisory Opinion request] response after a reasonable period has elapsed." 9 FAM 504.11-3(a)(6)(a).

93. Further, DV selectees, whether adjusting their status in the United States or undergoing consular processing abroad, must demonstrate that none of the grounds of inadmissibility set forth in section 212(a) of the INA apply. 8 U.S.C. § 1182 (a)(1)–(10) (including, *e.g.,* grounds related to health, unlawful presence, criminal convictions, national security, and others). One such ground, as explained further below, relates to whether the applicant is likely to become a public charge. The public charge ground of inadmissibility is set forth in 8 U.S.C. § 1182(a)(4), which provides that a noncitizen applicant who, "in the opinion of the consular officer at the time of application for a visa, or in the opinion of the Attorney General at the time of application for admission or adjustment of status, is likely at any time to become a public charge is inadmissible." *Id*. § 1182(a)(4)(A). Where any ground of inadmissibility is present and not waived, the application for admission or adjustment of status will be denied. If the applicant is found eligible and there is no basis for denial, the application for an immigrant visa is approved, and the applicant is issued a lawful permanent resident card, commonly known as a green card.

94. Congress has never authorized categorical bans, wealth tests, or nationality-based presumptions regarding public charge risk. To the contrary, the public charge determination is inherently individualized: immigration officers must evaluate the totality of the applicant's circumstances on a case-by-case basis, including the five factors listed in the INA that a consular officer or the Attorney General must consider when making a determination regarding whether the

applicant is likely to become a public charge: (1) age; (2) health; (3) family status; (4) assets, resources, and financial status; and (5) education and skills. *Id*. § 1182(a)(4)(B)(i); see also 8 C.F.R. § 212.22, and 22 C.F.R. § 40.41. The INA also permits a consular officer or the Attorney General to "consider any affidavit of support" from a financial sponsor.

95. Further, the INA includes a provision—8 U.S.C. § 1201(g) (also referenced as INA § 221(g)), "Nonissuance of visas or other documents"—that instructs consular officers when they cannot issue or must refuse a visa. A consular officer may refuse a visa only if the officer, based on the individual application or the applicant's documents, believes the person is ineligible under one of the specific grounds listed in the INA, such as health-related grounds, certain criminal issues, or national-security concerns. *See also* 22 C.F.R. §§ 40.6, 42.81. That provision of the INA requires consular officers to make case-by-case decisions based on an individual applicant's eligibility. Congress has not authorized blanket denials or refusals based on nationality, geography, or group-based suspensions.

96. If a visa is refused, the application must be reconsidered if "within one year from the date of refusal [the applicant] adduces further evidence tending to overcome the ground of ineligibility on which the refusal was based." 22 C.F.R. § 42.81(e).

97. Because the DV program restarts each fiscal year, diversity visas may not be issued after midnight on September 30th of the fiscal year of the selection. *See* 8 U.S.C. § 1153(c)(1), 1154(a)(1)(I)(ii)(II); 22 C.F.R. § 42.33(a)(1)(d); *see also* 31 U.S.C. § 1102.

98. Importantly, all immigrant visas issued through the DV Program must be issued within the fiscal year in which they were selected and "under no circumstances may a consular officer issue a visa … after the end of the fiscal year." 22 C.F.R. § 42.33(a)(1); 8 U.S.C. § 1154(a)(1)(I)(ii)(II); *see also Mogu v. Chertoff*, 550 F.2d 107, 109 (D.D.C. 2008) (noting that "[a]t

midnight on the last day of the fiscal year, any 'lottery winner' who is not already in possession of an immigrant visa number is no longer eligible to obtain a diversity visa based on her eligibility during the fiscal year.")

II. Defendants' Mandatory Duty to Adjudicate Plaintiffs' Applications

99. The INA and pursuant regulations impose on Defendants a mandatory, affirmative, and non-discretionary duty to adjudicate filed immigrant benefits applications. *See* 8 U.S.C. § 1202(b) ("***All*** immigrant visa applications ***shall*** be reviewed and adjudicated by a consular officer.") (emphasis added); *see also* 22 C.F.R. § 42.62(a), (b) (Every foreign national executing an immigrant visa application "***must*** *be interviewed by a consular officer* who ***shall*** determine on the basis of the applicant's representations and the visa application and other relevant documentation - (1) The proper immigrant classification, if any, of the visa applicant, and (2) The applicant's eligibility to receive a visa."); 22 C.F.R. § 40.6 ("A visa can be refused only upon a ground specifically set out in the law or implementing regulations."); *see* 8 C.F.R. § 245.2(a)(5); 22 C.F.R. § 42.81(a).

100. Additionally, Defendants are not permitted to "discriminate[]" "because of the person's race, sex, ***nationality***, place of birth, or place of residence" when discharging its statutory duty related to "issuance of an immigrant visa." 8 U.S.C. § 1152(a)(1)(A) (emphasis added).

101. Congress has made clear what it considers a reasonable time for adjudicating immigration benefits. "It is the 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, except that a petition for a nonimmigrant visa under section 1184(c) of this title should be processed not later than 30 days after the filing of the petition." *See* 8 U.S.C. § 1571 and (Pub. L. 106–313, title II, § 202, Oct. 17, 2000, 114 Stat. 1262.)

102. Further, the Foreign Affairs Manual ("FAM") requires that once the application is documentarily complete, an immigrant visa ("IV") number can be allotted (if necessary) and an appointment must be scheduled at the consular post. 9 FAM 504.1-2 (b). If the consular officer refuses the visa, he or she must inform the applicant of the provisions of law on which the refusal is based, and of any statutory provision under which administrative relief is available. 9 FAM 504.1-3(g); *see* 9 FAM § 504.11-2(A)(b) ("There is no such thing as an informal refusal or a pending case once a formal application has been made.").

103. Lastly, if a visa is refused, the application must be reconsidered if "within one year from the date of refusal [the applicant] adduces further evidence tending to overcome the ground of ineligibility on which the refusal was based." 22 C.F.R. § 42.81(e).

STATEMENT OF FACTS

104. Plaintiffs include 738 selectee families for the DV-2026 program. Of those, 65 selectees are DV selectees within the US, and 673 selectees are DV selectees outside the US. Of the 673 selectees outside the US, 557 selectees are nationals of one of 75-countries where the State Department has paused all immigrant visa decisions.

105. Plaintiffs are nationals of the following 72 countries: Albania, Algeria, Argentina, Armenia, Australia, Azerbaijan, Bahamas, Bangladesh, Belarus, Burma, Cambodia, Cameroon, Chile, Democratic Republic of Congo, Cyprus, Egypt, Eritrea, Ethiopia, Fiji, France, Georgia, Germany, Ghana, Greece, Guatemala, Hungary, India, Indonesia, Iran, Iraq, Italy, Jordan, Kazakhstan, Kenya, Kosovo, Kuwait, Kyrgyzstan, Lithuania, Malaysia, Mongolia, Morocco, Nepal, Netherlands, New Zealand, North Macedonia, Oman, Peru, Poland, Qatar, Romania, Russia, Rwanda, Saudi Arabia, Serbia, Somalia, South Africa, Spain, Sri Lanka, Sweden, Syria, Republic

of China (ROC), Tajikistan, Tanzania, Thailand, Tunisia, Turkey, Uganda, Ukraine, United Kingdom, and Uzbekistan.

106. Further, Plaintiffs also are being prevented from entering the DV-2027 program, which many would enter if they could as an alternative plan in light of Defendants' Barriers for DV-2026.

107. On or about May 3, 2025, Plaintiffs received their 1st Notification Letter ("1NL"), informing them of their selection for the DV-2026 program, and assigning them each a consular case number.[7]

I. Defendants' Barriers and Schemes to End DV Program

108. This story starts long ago. On November 2, 2017, Defendant Trump declared, "I am calling on Congress to TERMINATE the diversity visa lottery program that presents significant vulnerabilities to our national security."[8] Congress declined.

109. On November 5, 2025, the State Department updated their website with a post headed "Changes to Entry Period for 2027 Diversity Visa (DV) Program," that said:

> The Department is implementing certain changes to the Diversity Visa (DV) entry process. We will announce the start date for the DV-2027 registration period as soon as practicable, as well as the date that DV-2027 selection results may become available through the Entry Status Check (ESC). These changes will not affect the visa application period for individuals selected for DV-2027, which will remain October 1, 2026, to September 30, 2027.

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[7] Some Plaintiffs from the UK only became aware they were selected in October 2025, following a post on the DOS website that was subsequent to litigation filed by the undersigned Plaintiffs' counsel. *Paul v Trump*, DDC Case No. 1:25-cv-01885-CJN; *see* U.S. Dep't of State, *Update on Diversity Visa (DV) Program 2026*, https://travel.state.gov/content/travel/en/News/visas-news/update-on-dv-program-2026.html (last accessed Mar. 14, 2026).

[8] Available at: https://x.com/realdonaldtrump/status/926155393490878464?s=46&t=WdP4DjSzeJlOgq5o_QXILw. (last accessed Mar. 14, 2026).

110. On November 28, 2025, Defendant Trump, via a post on Truth Social, explained he would "permanently pause migration from all Third World Countries […] and deport any Foreign National who is a public charge, security risk, or non-compatible with Western Civilization." **Exhibit D**, *Expressed Intent*.

111. On December 19, 2025, DHS Secretary [9]￼ directed USCIS to pause its role in the DV Program and issue PM-602-0193, placing "a hold on all pending adjustment of status, ancillary benefits, and associated waiver applications" for DV applicants. *See* **Exhibit A**, *USCIS DV Hold*.

112. On December 23, 2025, the State Department announced it would "pause[] all visa issuances to diversity immigrant visa applicants" with "no exceptions to this guidance." *See* **Exhibit B**, *DOS DV Pause*.

113. On January 14, 2026, Defendants announced the 75-Country Pause by retweeting a Fox News article titled, "US Freezes all visa processing for 75 countries, including Somalia, Russia, Iran." The White House (@WhiteHouse), The Trump administration will PAUSE immigrant visa processing from 75 countries until the U.S. can ensure that incoming immigrants will not become a public charge or extract wealth from American taxpayers. (Jan. 14, 2026)[10].

114. The State Department updated the implementation of the 75-Country Pause on their website shortly thereafter, updating on February 2, 2026, when they baselessly claimed the policy was to "ensure that immigrants from high-risk countries do not unlawfully utilize welfare in the United States or become a public charge". *See* **Exhibit C**, *DOS 75-Country Pause*.

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[9] Under Fed. R. Civ. P. 25(d)(1), "[w]hen a public officer is a party to an action in an official capacity and during his pendency … ceases to hold office, the action does not abate and the officer's successor is automatically substituted as a party."

[10] Available at https://x.com/WhiteHouse/status/2011485833472172530?s=20 (last accessed Mar. 14, 2026).

115. On January 14, 2026, Defendant Rubio sent out a cable to all diplomatic and consular posts. **Exhibit E**, DOS Cable, 26 STATE 3740, *Pausing Immigrant Visa Issuances for Nationalities at High Risk of Public Charge*. The cable instructs that "consular officers must refuse under Section 221(g) of the [INA] to all immigrant visa applicants who have not been refused under another ground of ineligibility, if the applicant is a national of the following countries: [lists the 75 countries]." *Id.* (emphasis in original). Defendant Rubio orders consular officers to "continue to conduct interviews and fully assess each applicant for all possible ineligibilities, including INA 212(a)(4), Public Charge." *Id*.

116. Defendants are instructing their consular officers to conduct individualized determinations for public charge, while counterintuitively ordering all visa applications halted for public charge concerns. Indeed, the cable instructs officers to continue to schedule and conduct interviews as normal "including assessing whether an applicant is likely to become a public charge in accordance with guidance in 9 FAM 302 8-2. If an officer believes an applicant is likely to become a public charge […] the officer should refuse the applicant under [INA §212(a)(4)(a)]." *Id*. If an officer does not find any other ground of inadmissibility, the officer "should then refuse the applicant 221(g)." *Id*. Therefore, plaintiffs and other applicants who attend interviews and receive §221(g) refusals and no other referenced ground of ineligibility, have only been refused due to their nationality being listed by Defendants.

117. Both the DOS cable and Defendants' 75-Country Pause list nominal exceptions. As originally created, the only exception for the 75-Country pause is for dual nationals of a second nation not subject to the pause.

118. Unlike entry bans, the 75-Country only invokes § 221(g), codified in 8 U.S.C. § 1201(g), and was not issued alongside a presidential proclamation. *See Thein v. Trump*, No. CV

25-2369 (SLS), 2025 WL 2418402, at *18 (D.D.C. Aug. 21, 2025); *Trump v. Hawaii*, 585 U.S. 667, 678 (2018); 8 U.S.C. § 1182(f).

119. Section 212(a)(4), codified in 8 U.S.C. §1182(a)(4), sets forth the public charge grounds for inadmissibility. It provides that a noncitizen applicant who, "in the opinion of the consular officer at the time of application for a visa, or in the opinion of the Attorney General at the time of application for admission or adjustment of status, is likely at any time to become a public charge is inadmissible." 8 U.S.C. § 1182(a)(4)(A).

120. Congress formatted public charge inadmissibility as an individualized determination: mandating that "in determining whether an alien is inadmissible under this paragraph, the consular officer or the Attorney General shall at a minimum consider the alien's-(I) age; (II) health; (III) family status; (IV) assets, resources, and financial status; and (v) education and skills." 8 U.S.C. § 1182(a)(4)(B); *see also* 8 C.F.R. § 212.22, and 22 C.F.R. § 40.41. The INA also permits a consular officer or the Attorney General to "consider any affidavit of support" from a financial sponsor. 8 U.S.C.§ 1182(a)(4)(B)(ii); *see also* 8 U.S.C. § 1183a.

121. Early judicial interpretations of the original public charge provisions confirmed that Congress intended the public charge exclusion not to apply broadly to noncitizens who relied on any outside assistance, but to instead require a substantial level of lengthy or permanent dependence on the public for subsistence. *See Gegiow v. Uhl*, 239 U.S. 3, 9-10 (1915); *Howe v. United States ex rel. Savitsky*, 247 F. 292, 294 (2d Cir. 1917).

122. The FAM emphasizes public charge inadmissibility must be done under individualized determinations and that these determinations must be based on the totality of the circumstances at the time of assessment. 9 FAM 302.8-2(B)(2).

II. Harm to Plaintiffs

123. As a direct result of Defendants' suspension of the DV program, Plaintiffs have experienced, and will experience severe, particularized, and concrete injury.

124. A diversity visa selectee is entitled to issuance of an immigrant visa during the fiscal year for which the entry was submitted. *See* INA § 204(a)(1)(I)(ii)(II).

125. The fiscal year will end on September 30, 2026, after which any diversity visa that was otherwise available, but not issued before the congressionally imposed deadline, will be lost.

126. Despite all their efforts, Plaintiffs are now facing the harrowing risk of losing their once-in-a-lifetime opportunity to immigrate to the U.S. in less than 200 days.

127. Due to the prolonged delay, Plaintiffs have incurred significant financial, academic, and professional hardships.

128. Lost in this bureaucratic chaos are Plaintiffs' hopes and dreams. With every day that passes, their prospects diminish, and they grow more concerned that the year will pass without adjudication of their applications.

129. The psychological harm that Plaintiffs are experiencing as a result of Defendants' delay is further compounded by the devastating prospect of imminent family separation as some Plaintiffs and their minor children have already immigrated to the United States, leaving other family members awaiting adjudication behind.

130. For example, Plaintiffs [redacted] and [redacted] have both been forced into family separation as they have had to immigrate to the U.S. while their loved ones stayed behind awaiting adjudication. As a result of Defendants' barriers, what was supposed to be a temporary separation has now become an indefinite nightmare.

131. Many Plaintiffs hold professional degrees in fields in which they have many years of practical experience and training. Plaintiff's background and credentials will qualify them to

obtain gainful employment in the United States in many sectors. The delay has also caused irreparable harm to their professional careers as it has delayed their advancement–lost time which they will never be able to recover. Despite their experience and qualifications, they have been forced to forfeit multiple lucrative prospects for employment, and unable to commit to employment offers or even give a definitive timeline to prospective employers due to the uncertainty of their futures.

132. Plaintiffs have spent a considerable amount of money on expenses related to the adjudication of their applications, including, for some, costly travel accommodations to attend their interviews. Though the financial and professional hardships have been significant, Plaintiffs' hardships are further augmented by the emotional and mental turmoil they suffer. The delay in adjudication of Plaintiffs' applications has caused them significant emotional harm and distress, as they placed their entire life on hold while they wait for Defendants to fulfill their mandatory duty to administer the DV program as the Congress intended.

133. Most Consular Processing Plaintiffs also face DOS's 75-Country Pause that subject their applications to an indeterminate suspension of issuance. The DOS states the 75-Country Pause will remain in place as it conducts "ongoing review of all visa vetting protocols and guidance to consular officers, in order to ensure robust enforcement of all U.S. immigration laws." **Exhibit E**, *DOS Cable.* This indefinite period of time is compounded by Defendant Trump's expressed intent to "permanently pause migration from all Third World countries." **Exhibit D**, *Expressed Intent*; *see also Sangster*, 2026 U.S. Dist. LEXIS 15267, at * 6.

134. Plaintiffs are deeply troubled and concerned that Defendants will fail to adjudicate Plaintiffs' applications before the imminent DV-2026 deadline passes. If Defendants fail to

administer their statutory duty, Plaintiffs will have wasted precious time that would have been better spent furthering their academic and employment aspirations.

135. Congress created a timetable of a fiscal year to adjudicate diversity visas because Congress understood that it takes several months for individuals and the agency to work together to complete the adjudication of a diversity visa/adjustment of status for DV selectee or derivative.

136. With only 200 days remaining in the fiscal year, Plaintiffs are in immediate danger of sustaining direct and irreparable injury as a result of Defendants' current policies, practices, acts, and omissions related to the processing of their immigration benefits applications.

137. Courts in this district have already found, that "Plaintiff has established 'dire' prejudice because they 'risk losing their (likely) once-in-a-lifetime opportunity to immigrate to the United States' and have demonstrated how delays in visa adjudication threaten their welfare." *Filazapovich v. Department of State*, 560 F.Supp.3d 203, 237 (D.D.C., 2021) (*citing Gomez III*, 2021 WL 3663535 at *19, *rev'd. on other grounds, Goodluck v. Biden*, 2024 WL 3152507), *rev'd. on other grounds,* 2024 WL 3152507.

138. The low odds of selection, and thus, the unlikelihood of future selection, make it unlikely that Plaintiffs will have this opportunity again. *Gomez v. Trump*, 485 F.Supp.3d 145, 164 n.3; *P.K. v. Tillerson*, 302 F. Supp. 3d 1, 10 (D.D.C. 2017) (finding loss of opportunity to immigrate to the U.S. was irreparable harm); *see also Mohamed v. Pompeo,* No. 1:19-cv-01345-LJO-SKO, 2019 U.S. Dist. LEXIS 167266, at *1 (E.D. Cal. Sept. 27, 2019) (finding that absent injunction, loss of DV opportunity would irreparably harm Plaintiff).

139. Moreover, Defendants have not announced an entry period for the DV-2027 Program, which traditionally has occurred in October-November (the first two months of a fiscal

year), further demonstrating Defendants' abrogation of their non-discretionary duties to carry out the DV Program as Congress directed.

140. While the odds of selection in any given year are less than one percent, the odds of being selected in the subsequent year fall to 0.00025%. The injury to Plaintiffs' employment and educational prospects alone would be sufficient injury to make the lost opportunity adequate for irreparable harm to support Court intervention. *Gomez*, 485 F.Supp.3d at 200; *Ariz. Dream Act Coalition v. Brewer*, 757 F.3d 1053, 1068 (9th Cir. 2014).

141. There is dire prejudice because, absent judicial intervention, Plaintiffs are at risk of losing their once-in-a-lifetime opportunity to receive the immigration benefits for which they are eligible due solely to Defendants' unlawful policies and through no fault of their own.

142. Defendants' delay in adjudication is unreasonable and is causing irreparable injury to Plaintiffs. The physical, financial, and emotional stresses that Plaintiffs have suffered because of Defendants' failure to administer the DV program have exacted a significant toll on Plaintiffs that will not be relieved until the applications are adjudicated in accordance with law.

III. Dire Negative Impacts

143. Although Defendants' Barriers purport to be justified by national security and public charge concerns, those alleged concerns are without any consideration of the issues and contradicted by well-established research. *See* **Exhibit F,** *Articles Disproving Public Charge Justification*.

144. Immigrants use less welfare programs than U.S. nationals. According to the CATO Institute, "[i]mmigrants consumed 24 percent less welfare and entitlement benefits than native-born Americans in 2023" concluding that "immigrants are less likely to enter the welfare system, less likely to remain on welfare for long periods, and less likely to age into the most expensive entitlement programs." *Id.*

145. According to further research,

> A total of 237 foreign-born terrorists were responsible for 3,046 murders on US soil from 1975 through the end of 2024. The chance of a person perishing in a terrorist attack committed by a foreigner on U.S. soil over those 50 years was about 1 in 4.6 million per year. … For instance, the annual chance of being murdered in an attack committed by an illegal immigrant terrorist is zero.[11]

146. Clearly, the existing public charge methodology of individual considerations of a particular applicant is already successful in preventing an undue economic burden. Conversely, all statistics and evidence show that immigration is a net boon to the U.S. economy.

147. Congress has found, and economic studies consistently show, that *increased* immigration levels into the U.S. have had *positive* impacts on the employment levels and incomes of U.S.-born workers.[12] This is because foreign-born workers innovate more, creating jobs and increasing the productivity of U.S. workers;[13] they complement, rather than compete with, U.S.-Born workers in the workforce;[14] and they participate in the economy as consumers, stimulating demand.[15]

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[11] Alex Nowrasteh, *Terrorism and Immigration*, CATO Inst., Pol'y Anal. No. 911, Mar. 10, 2025, available at: https://www.cato.org/policy-analysis/terrorism-immigration-50-years-foreign-born-terrorism-us-soil-1975-2024.

[12] *See, e.g.*, Jacqueline Varas, Am. Action Forum, *How Immigration Helps U.S. Workers and the Economy* (Mar. 20, 2017), https://goo.gl/ovHQEh; U.S. Chamber of Commerce, *Immigration Myths and Facts* (Apr. 14, 2016), https://tinyurl.com/yay4xjm9.

[13] Giovani Peri & Chad Sparber, Global Migration Center, *Presidential Executive Actions Halting High Skilled Immigration Hurt the US Economy*. Website: https://globalmigration.ucdavis.edu/presidential-executive-actions-halting-high-skilled-immigration-hurt-us-economy.

[14] *See, e.g.*, Matthew Denhart, George W. Bush Institute, *America's Advantage: A Handbook on Immigration and Economic Growth* 70, 118 (3d ed., Sept. 2017), https://tinyurl.com/y4ykokn9; Gretchen Frazee, *4 Myths About How Immigrants Affect the U.S. Economy*, PBS NewsHour (Nov. 2, 2018), https://tinyurl.com/yxlwzkth; Maria E. Enchautegui, *Immigrant and Native Workers Compete for Different Low-Skilled Jobs*, The Urban Institute: Urban Wire (Oct. 13, 2015), website: https://tinyurl.com/ycayp6ky; U.S. Chamber of Commerce, *supra* note 18.

[15] Kenneth Megan, Bipartisan Policy Ctr., *Immigration and the Labor Force* (Aug. 25, 2015), https://goo.gl/8p3SP8 ("[A] breadth of research indicates that immigration can be complementary to native born employment, as it spurs demand for goods and services"); Giovanni Peri, *The Effect*

148. Defendants' sweeping barriers, including the hostility to the DV program, are therefore directly and irrationally contrary to decades of congressional judgment. By dramatically limiting the number of foreign nationals entering the U.S. economy at a time when the stagflation is on the horizon, and the U.S. economy is showing significant signs of weakness, Defendants' Barriers hinder economic development.

149. Factors that lower consumer spending by immigrants result in between $40 billion and $60 billion less spending in 2025 than in 2024. In 2026, consumer spending is projected to be further reduced by $10 billion to $40 billion.

150. The American health care system will also suffer a significant negative impact. Workers from 69 of the 75 countries affected by the pause for which data are available make up nearly one in ten (8%) of the U.S. health care workforce. The pause will likely reduce the supply of workers and particularly health care workers in the U.S., which could exacerbate existing health care worker shortages.

151. On balance, the detrimental costs of Defendants' Barriers far exceed any benefits.

LAW AND ARGUMENT

I. Separation of Powers, Nondelegation Doctrine, and Major Questions Doctrine

152. The controlling of immigration to the U.S. has always been Congressional prerogative. Despite not enumerated, the Constitution explicitly grants Congress the exclusive federal plenary power to establish a "uniform Rule of Naturalization", as well as the enumerated power to regulate foreign commerce. U.S. CONST. ART. I, § 8, Cls 3-4.

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of Immigrants on U.S. Employment and Productivity, Fed. Reserve Bank of S.F. Econ. Letter (Aug. 30, 2010), website: https://www.frbsf.org/research-and-insights/publications/economic-letter/2010/08/effect-immigrants-us-employment-productivity/; Buttonwood, *Keep on Trucking*, The Economist (Feb. 11, 2012), https://goo.gl/x8vqaL ("When people work for a living, they earn money. They spend that money on goods and services that are produced by other people.")

153. Such sovereign power is traced as far back as the Alien Enemies Act of 1798, 50 U.S.C.S. § 21. Although ultimately upholding the deeply racist Chinese Exclusion Act of 1882, the Supreme Court also stated that the authority belongs to "the legislative department." *The Chinese Exclusion Case*, 130 U.S. 581, 603, 9 S. Ct. 623, 629 (1889). The Supreme Court provided that "the formulation of these policies is entrusted exclusively to Congress has become about as firmly embedded in the legislative and judicial tissues of our body politic as any aspect of our government[.]" *Kleindienst v. Mandel*, 408 U.S. 753, 767 (1972) (citing *Lem Moon Sing v. United States*, 158 U.S. 538, 547 (1895)); *United States ex rel. Knauff v. Shaughnessy*, 338 U.S. 537, 543, 70 S. Ct. 309, 313 (1950) ("[n]ormally Congress supplies the conditions of the privilege of entry into the United States.")

154. It is the role of Congress, not the Executive Branch, to "exclude aliens altogether or prescribe terms and conditions upon which they may come into or remain in this country." *See Fok Young Yo v. United States*, 185 U.S. 296, 302 (1902). In that role, and pursuant to that power, Congress has crafted a complex and carefully balanced system of immigrant and nonimmigrant visas, and in doing so considered the effects that the issuance of visas and entry of foreign nationals may have on the U.S. economy and labor market, as well as the security risks, if any, to the public.

155. In contrast, the Executive Branch does not have a unilateral power to limit the flow of immigration. U.S. CONST. ART. II. *Contra*. *Knauff*, 338 U.S. at 543.

156. Furthermore, in creating the INA, Congress did not intend for, authorize, nor create a legal mechanism for a blanket withholding of adjudication based upon an applicant's nationality. On the contrary, the INA specifically provides that "no person shall receive any preference or priority or 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).

157. Also, the "issuance of an immigrant visa" in § 1152(a)(1)(A), in the context of the statutory structure of the INA and Supreme Court's interpretation, means the *allocation* of an immigrant visa.

158. Even without invoking the Major Questions Doctrine, Defendants' Barriers exceed the express language of the Statutes (8 U.S.C. §§ 1152 (a)(1)(A), 1182(f)) and the separation of power set by the Constitution. *C.f.*, *Learning Res., Inc. v. Trump*, Nos. 24-1287, 25-250, 2026 U.S. LEXIS 714, at *107 (Feb. 20, 2026) (Kagan, Sotomayor, Jackson, JJ., Concurring).

159. "The major questions doctrine teaches that, to sustain a claim that Congress has granted them an extraordinary power, executive officials must identify clear authority for that power." *Id*., at *45 (Gorsuch, J., Concurring). The Supreme Court has "long expressed 'reluctan[ce] to read into ambiguous statutory text' extraordinary delegations of Congress's powers." *Id*., at *17-18 (internal citation omitted). In *Learning Res., Inc*., the Trump Regime rests their tariff scheme on a single word "regulate". 50 U.S.C. § 1702(a)(1)(B). Whereas in the present case, nowhere in the INA expressly authorizes Defendants to implement these Barriers.

160. Thus, Defendants' Barriers are not only in conflict with the INA but also impermissibly violate the Constitution's separation of powers. Accordingly, this Court should enjoin Defendants' Barriers as invalid, null, and void.

II. Violation of the APA

161. The APA requires Defendants to fulfill their mandatory non-discretionary duty to act within a reasonable time upon matters presented. 5 U.S.C. § 555.

162. Under 5 U.S.C. § 706(2) of the APA, a reviewing court may order agency action unlawfully withheld/unreasonably delayed and further "hold unlawful and set aside" agency action that is "(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; (B) contrary to constitutional right, power, privilege, or immunity; (C) in excess of statutory

jurisdiction, authority, or limitations, or short of statutory right;" or "(D) without observance of procedure required by law[.]" *Norton v. S. Utah Wilderness All.*, 542 U.S. 55, 63, (2004).

163. Agency action includes, in relevant part, an agency rule, order, license, sanction, relief, or the equivalent thereof, or failure to act. 5 U.S.C. § 551. Agency action is valid only if a reasonable basis exists for the agency's decision. *See Marsh v. Or. Nat. Res. Council*, 490 U.S. 360, 375 (1989).

164. Defendants' policies, procedures, and practices suspending adjudication of Plaintiffs' immigrant benefits applications constitute agency action that fails APA standards for several independent reasons.

165. The USCIS DV Hold, DOS DV Pause, and 75-Country Pause are not only arbitrary and capricious, but also in excess of authority and without observance of procedure.

166. Contrary to 8 U.S.C. § 1202 (b), Defendants' policies have denied USCIS and consular officers from performing their rights and duties—that is, Defendants have denied officers the authority to adjudicate immigration benefits applications. Cf. § 1104(a) (denying the Secretary of State of "those powers, duties, and functions conferred upon the consular officers relating to the granting or refusals of visas").

167. Defendants have no legal grounds for their departure from stated policies and regulations that mandate the adjudication of Plaintiffs' applications.

168. The APA also requires agencies to provide a reasoned explanation for their decisions, and the complete absence of any supporting rationale also renders Defendants' Barriers arbitrary and capricious.

169. "A central principle of administrative law is that, when an agency decides to depart from decades-long past practices and official policies, the agency must at a minimum acknowledge

the change and offer a reasoned explanation for it." *Am. Wild Horse Pres. Campaign v. Perdue*, 873 F.3d 914, 923 (D.C. Cir. 2017).

170. The D.C. Circuit has long required a "reasoned analysis indicating that prior policies and standards are being deliberately changed, not casually ignored." *Kirwa v. United States DOD*, 285 F. Supp. 3d 257, 268 (D.D.C. Jan. 11, 2018) (citing *Lone Mountain Processing, Inc. v. Sec'y of Labor*, 709 F.3d 1161, 1164, 404 U.S. App. D.C. 219 (D.C. Cir. 2013) (internal citation omitted)). "Failing to supply such analysis renders the agency's action arbitrary and capricious." *Id.*

171. Defendants have offered no evidence supporting the conclusionary justification that categorical holds/pauses are necessary to protect national security or public charge concerns instead of the individualized review per applicant as proscribed by Congress. Further, Defendants have failed to articulate consideration of alternative options that would address any legitimate security or public charge concerns while preserving applicants' rights.

172. Defendants provide no factual basis or rational connection to support the categorical suspension of adjudications for applicants from designated countries.

173. Defendants did not acknowledge, let alone meaningfully consider the reliance interests of the thousands of DV selectees, including Plaintiffs, harmed by the categorical hold/pauses. Plaintiffs have invested substantial resources in reasonable reliance on the ordinary functioning of the diversity visa and adjustment-of-status process. They have arranged their professional and personal lives around the expectation that their applications would be adjudicated in accordance with law.

174. It is also clear that Defendants did not consider the interests harmed in enacting their policies, as they have already had to make an amendment following a judicial order. On

January 28, 2026, a court in the District of Nevada granted a temporary restraining order enjoining Defendants' from applying the 75-Country Pause on two adopted children of a U.S. citizen mother. *Sangster v. Rubio,* No. 3:25-cv-00447-ART-CSD, 2026 U.S. Dist. LEXIS 15267 (D. Nev. Jan. 28, 2026). After this order Defendants carved out a limited exception for adopted children of U.S. citizens, albeit not the biological children of US citizens. Plaintiffs certainly do not oppose the exception for children being adopted. Rather, Plaintiffs wish to emphasize the absurdly nominal number of exceptions that exist within this clearly flawed policy.

175. Further, Defendants' Barriers constitute agency action made without observance of procedure as required by law. Defendants promulgated the policies, procedures, and practices placing on hold all immigration benefits requests for DV applicants and individuals from designated countries without authority and without notice-and-comment rulemaking. 5 U.S.C. §§ 706(2)(D).

176. Accordingly, Defendants' policies, procedures, and practices suspending the adjudications are reviewable under the APA because the agency is violating the INA and federal regulations.

III. Defendants' Mandatory Duty Owed to Plaintiffs

177. The INA, CFR, and agency policy unequivocally impose the mandatory, affirmative, and non-discretionary duty to adjudicate immigration applications. 8 U.S.C. § 1202(b); 22 C.F.R. §§ 42.62(a), (b), 42.81(a), (e); 40.6; 8 C.F.R. § 245.2(a)(5).

178. Courts have found that the Defendants have a mandatory duty to adjudicate an immigrant benefits application within a reasonable time. *See, e.g., Iddir*, 301 F.3d at 500 (duty to adjudicate applications under the diversity lottery program); *Patel v. Reno*, 134 F.3d 929, 932 (9th Cir. 1997) ("A consular office is required by law to act on visa applications."); *Kai Hoo Loo*, 2007 U.S. Dist. LEXIS 17822, at *13 ("Indeed, numerous courts have found that immigration authorities

have a non-discretionary duty to adjudicate applications."); *Am. Acad. of Religion v. Chertoff*, 463 F. Supp. 2d 400, 421 (S.D.N.Y. 2006) (holding that the regulation stating that consular officials either "issue or refuse" a completed visa creates a duty to adjudicate); *Soneji v. Dep't of Homeland Sec.*, 525 F. Supp. 2d 1151, 1155 (N.D. Cal. 2007) (with respect to an APA claim, finding USCIS' argument that it does not have to adjudicate an adjustment application "not only pushes the bounds of common sense but is also contradicted by a wealth of authority from this and other districts.") (collecting cases); *Nigmadzhanov v. Mueller*, 550 F. Supp. 2d 540, 546 (S.D.N.Y. 2008) (the Attorney General has discretion to grant or deny an application, but does not have discretion to simply never adjudicate an adjustment application); *Labaneya v. United States Citizenship & Immigration Servs.*, 965 F. Supp. 2d 823, 832 (E.D. Mich. 2013) ("[T]he Court also agrees with those courts concluding that the INA and the implementing regulations impose a duty upon the USCIS to adjudicate all properly filed applications.) (collecting cases); *Kim v. Ashcroft*, 340 F. Supp. 2d at 389 ("Whether to adjudicate an adjustment application is not discretionary."); *Irshad v. Napolitano*, 2012 U.S. Dist. LEXIS 142459, 2012 WL 4593391 at *5 (D. Neb. Oct. 2, 2012) ("I find no indication that the USCIS has the discretion to refuse to resolve the applications placed before it, or to delay its decisions indefinitely."); *Alharbi v. Miller*, 368 F. 3d 527, 558 (E.D.N.Y. 2019) (holding that consular officers have a "nondiscretionary binary" duty to issue or refuse visas); *Mohamed v. Pompeo*, No. 1:19-cv-01345-LJO-SKO, 2019 U.S. Dist. LEXIS 167266 (E.D. Cal. Sep. 27, 2019) (issuing a mandatory injunction ordering the DOS to complete adjudications of immigrant visa applications); *Nine Iraqi Allies Under Serious Threat Because of Their Faithful Serv. to the United States v. Kerry*, 168 F. Supp. 3d 268, 293 n. 22, 295–96 (D.D.C. 2016).

179. Adjudication of filed immigration application by a DV applicant is a non-discretionary act for which Defendants have exclusive authority and responsibility. *See Costa v.*

Chertoff, 2007 U.S. Dist. LEXIS 92666, 2007 WL 4456218, at *4; *Kaplan v. Chertoff,* 481 F. Supp. 2d 370, 399 (E.D. Pa. 2007) (quoting *Kim v. Ashcroft,* 340 F. Supp. 2d 384, 393 (S.D.N.Y. 2004) ("[USCIS] simply does not possess unfettered discretion to relegate aliens to a state of 'limbo,' leaving them to languish there indefinitely.")); *Mocanu v. Mueller,* Civ. No. 07-0445, 2007 U.S. Dist. LEXIS 74562, 2007 WL 2916192 (E.D. Pa. Oct. 3, 2007)); *Palamarachouk v. Chertoff*, 568 F. Supp. 2d 460, 467 ("In reading the regulations, it is clear that there is a non-discretionary duty to adjudicate applications. The regulations use mandatory, rather than permissive language.").

180. Defendants owe Plaintiffs a duty to properly, and in good faith, complete processing of their applications and render facially legitimate and bona fide decisions which Defendants have failed to perform.

181. Defendants have also failed to administer the DV-2027 Program as the law requires.

182. Because Defendants have failed to carry out their statutory and regulatory duties, thereby unlawfully withholding agency action to which Plaintiffs are entitled, Plaintiffs seek a writ of mandamus and/or relief under the APA compelling Defendants to adjudicate Plaintiffs' applications forthwith.

CAUSES OF ACTION

COUNT ONE: Violation of the Constitution
Separation of Powers, Nondelegation Doctrine, and Major Questions Doctrine

183. Plaintiffs repeat and incorporate by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.

184. As mentioned above (*supra* § C), Defendants' Barriers are unlawful violations of the nondelegation doctrine and separation of powers guaranteed by the Constitution.

185. The Executive Branch may not "nullify[] Congress's considered judgments on matters of immigration." *See Hawaii v. Trump*, 878 F.3d 662, 685 (9th Cir. 2017), *rev'd on other*

grounds, 138 S. Ct. 2392 (2018); *see Doe v. Trump*, 957 F.3d 1050, 1067 (9th Cir. 2020) at (proclamation at issue "rais[es] serious questions as to whether the President has effectively rewritten provisions of the INA."); *cf. Hawaii*, 138 S. Ct. at 2411 ("We may assume that §1182(f) does not allow the President to expressly override particular provisions of the INA.").

186. Congress has afforded consular officers the authority to issue visas to immigrants "who ha[ve] made proper application therefore." 8 U.S.C. § 1201(a)(1).

187. The court has equity power to enjoin the President to discharge a duty over which he has no discretion. *See e.g., Aviel v. Gor*, No. 25-5105, 2025 U.S. App. LEXIS 13945, at *14 (D.C. Cir. June 5, 2025); *Sierra Club v. Trump*, 929 F.3d 670, 694 (9th Cir. 2019) ("The Supreme Court has 'long held that federal courts may in some circumstances grant injunctive relief against' federal officials violating federal law.") (quoting *Armstrong v. Exceptional Child Ctr., Inc*., 135 S. Ct. 1378, 1384 (2015)); *E.V. v. Robinson*, 906 F.3d 1082, 1090–91 (9th Cir. 2018) (acknowledging freestanding cause of action for "suits alleging that a federal official acted ultra vires of statutorily delegated authority" or "violated the Constitution"); *Trudeau v. Fed. Trade Comm'n*, 456 F.3d 178, 189–190 (D.C. Cir. 2006) ("[J]udicial review is available when an agency acts ultra vires, even if a statutory cause of action is lacking.") (quotation marks omitted).

188. Accordingly, the Court should enjoin Defendants' Barriers as *ultra vires* and in violation of the Constitution's separation of powers and nondelegation doctrine, as well as the major questions doctrine.

COUNT TWO: Violation of 5 U.S.C. § 706(2)(B)
Agency Action That is Contrary to Constitutional Right, Power, Privilege, or Immunity

189. Plaintiffs repeat and incorporate by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.

190. The APA confers to a reviewing court the power to compel agency action that is contrary to constitutional right, power, privilege, or immunity. 5 U.S.C. 706(2)(B).

191. The Executive executes the laws; it does not suspend them. *Kendall v. United States ex rel. Stokes*, 37 U.S. (12 Pet.) 524, 613 (1838).

192. Courts in this district have found that the President does not have authority under INA § 212(f) to suspend the adjudication of immigrant visas. *Rai v. Biden*, 567 F. Supp. 3d 180, 194 (D.D.C. 2021) ("While Proclamations 9984 and 10143 address the entry of immigrants into the country, they say nothing about the issuance and adjudication of visas."); *Nine Iraqi Allies*, 168 F. Supp. 3d at 290-91; *Gomez v. Trump*, 485 F. Supp. 3d 145, 176 (D.D.C. 2020); *Moghaddam v. Pompeo*, 424 F. Supp. 3d 104, 114 (D.D.C. 2020). Thus, what we are seeing now is the President not even bothering to assert that authority.

193. Defendants' Barriers essentially strip the Congressionally mandated entitlements of DV-2026 program selectees and their derivative beneficiaries by rewriting the immigration laws and contradicting the priorities adopted by Congress.

194. The Court has inherent equitable power to enjoin actions by federal officers in excess of their lawful authority.

195. Courts "ordinarily presume that congress intends the executive to obey its statutory commands and, accordingly, that it expects the courts to grant relief when an executive agency violates such a command." *Bowen v. Michigan Acad. of Fam. Physicians,* 476 U.S. 667, 681 (1986).

196. The INA mandates individualized public charge assessments, 8 U.S.C. § 1182(a)(4), prescribes an individualized case-by-case framework for immigrant visa allocation, adjudication,

processing, approvals, and refusals, 8 U.S.C. § 1201(g), and prohibits categorical nationality or country-level discrimination in the issuance of immigrant, 8 U.S.C. § 1152(a)(1)(A).

197. Defendants' Barriers encroach on the inherent power of Congress by being *de facto* laws pausing immigration for nationals deemed undesirable by Defendants based merely on Defendants' own misguided animus.

198. AOS Plaintiffs have a substantive due process and equal protections right to a lawful adjudication of their diversity visa as mandated by the INA. Consular Processing Plaintiffs outside the U.S. are being denied the privilege of a diversity visa application decisions without a statutory basis.

199. Accordingly, the Court should enjoin Defendants' USCIS DV Hold, DOS DV Pause, and DOS 75-Country Pause.

COUNT THREE: Violation of 5 U.S.C. § 706(2)(A)
Agency Action That is Arbitrary, Capricious, an Abuse of Discretion, or Otherwise Not in Accordance with Law

200. Plaintiffs repeat and incorporate by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.

201. A reviewing court shall hold unlawful and set aside agency action, findings, and conclusions found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. 5 U.S.C. 706(2)(A).

202. Agency action is arbitrary and capricious if the agency "has relied on factors which Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, [or] offered an explanation for its decision that runs counter to the evidence before the agency." *Safari Club Int'l v. Zinke*, 433 U.S. App. D.C. 339, 878 F.3d 316 (2017).

203. Under the APA, Defendants must, in addition to demonstrating that there are good reasons for the new policy, offer "a reasoned explanation ... for disregarding facts and

circumstances that underlay or were engendered by the prior policy." *FCC v. Fox Television*, 556 U.S. 502, 515 (2009).

204. Defendants' failure to consider relevant factors or acknowledge the reliance interests of affected applicants and the complete absence of any supporting rationale renders Defendants' Barriers arbitrary and capricious.

205. In suspending adjudication of applications for DV applicants, Defendants have disregarded the concrete reliance interests engendered by Congress for the DV program.

206. In FY2020, the State Department suspended the adjudication of Diversity Visas from March 2020 until a preliminary injunction was issued on September 4, 2020. *Gomez v. Trump,* 485 F. Supp. 3d at 192. The *Gomez* Court found that defendants had no legal basis to reason that presidential proclamations suspending entry permitted the Department of State to suspend adjudication of diversity visas.

207. Similarly, Defendants here have no legal basis to suspend, end, or sabotage the DV program.

208. For the USCIS DV Hold, Defendants' sole attempt to identify their source of authority is found in a vague reference to the DHS Delegation of Authority 0150.1, issued in 2003. While that delegation may have conferred the authority to investigate or interrogate, it extends no authority to target an entire subset of foreign-born individuals and implement a categorical hold on all their immigration benefits applications.

209. In a less subtle departure from reality, for the DOS 75-Country Pause, Defendants make the baseless claim that the pause was justified to "ensure that immigrants from high-risk countries do not unlawfully utilize welfare in the United States or become a public charge".

210. Defendants' Barriers have significant and detrimental effects, particularly on DV selectees and their families, such as Plaintiffs here. These barriers, imposed by Defendants, not only fail to align with the national interest of the United States but also lack a legitimate basis tied to national security or public charge concerns. Furthermore, Defendants have provided no reasonable justification for their disregard of the severe consequences these policies impose on affected individuals.

211. Defendants' actions are arbitrary, capricious, and not in accordance with law. *Rai v. Biden*, 567 F. Supp. 3d 180 (D.D.C. 2021).

COUNT FOUR: Violation of 5 U.S.C. § 706(2)(C)
Agency Action in Excess of Statutory Jurisdiction, Authority, Limitations, or Short of Statutory Right in Violation of the INA's Nondiscrimination Clause

212. Plaintiffs repeat and incorporate by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.

213. Under the INA, Plaintiffs have a right to be free from discrimination based on their ethnicity and national origin. 8 U.S.C. § 1152(a)(1)(A) ("[N]o person shall receive any preference or priority or 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.").

214. This provision, as 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, not an applicant's nationality or ethnicity. Nat'l Archives, *Fifty Years Later: A Brief History of the Immigration Act of 1965* (Sept. 17, 2015)[16].

215. Defendants have a history of attempting to circumnavigate that intent. In *Hawaii v. Trump*, the Supreme Court concluded that Defendant Trump's use of §212(f) of the INA to suspend

[16] Available at https://www.archives.gov/publications/prologue/2015/fall/immigration-act-of-1965.

entry based on nationality did not run afoul of § 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.

585 U.S. 667, 686 (2018).

216. The logical corollary is that § 1152(a)(1)(A)'s prohibition on national origin discrimination applies to the spheres outside of entry, which includes the application and issuance of visas prior to entry. Defendants' suspension of visa processing is unlawful because it runs afoul of § 1152(a)(1)(A)'s prohibition on national origin discrimination.

217. Because Defendants' Barriers prohibit officers from adjudicating and issuing immigrant benefits to eligible DV selectees and individuals from impacted countries, it is *ultra vires*, and "otherwise not in accordance with law." 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 Defendants' Barriers as applied to Plaintiffs.

COUNT FIVE: Violation of 5 U.S.C. § 706(2)(D)
Agency Action Without Observance of Procedure as Required By Law

218. Plaintiffs repeat and incorporate by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.

219. In implementing Defendants' indefinite "hold" on all immigration benefits for DV applicants, Defendants failed to follow notice-and-comment rulemaking procedures to promulgate substantive rules. 5 U.S.C. § 553.

220. The APA defines "rule" broadly to include "the whole or part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of an agency and includes the approval or prescription for the future of rates, wages…" 5 U.S.C. § 551(4).

221. By implementing a suspension of immigration benefits adjudications for DV selectees and individuals from certain countries, Defendants impermissibly announced a new rule without undertaking notice-and-comment rulemaking.

222. Defendants' policies, procedures, and practices placing on hold all immigration benefits for DV applicants constitute a substantive rule subject to the APA's notice-and-comment requirements, and because it affirmatively circumscribes the Congressional mandate and nondiscretionary duty imposed on DOS and USCIS to adjudicate and issue decisions for immigration applications. This constitutes a substantive rule because it is a categorical rule which applies to all DV selectees and all their immigration benefits applications. Further Defendants' policies, procedures, and practices fully suspending the processing, adjudication, and issuance of diversity visas writ-large constitute a substantive rule subject to the APA's notice-and-comment requirements because their actions affirmatively circumvent their Congressional mandate to execute the DV Program.

COUNT SIX: Violation of 5 U.S.C. §§ 555(b) & 706(1) et seq.
Unreasonable Delay/Unlawful Withholding of Plaintiffs' Adjudications

223. Plaintiffs repeat and incorporate by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.

224. Pursuant to the APA, Defendants have a nondiscretionary duty "to conclude a matter presented to it" "within a reasonable time." 5 U.S.C. § 555(b).

225. The court may also "compel agency action unlawfullywithheld or unreasonably delayed." 5 U.S.C. § 706(1); *Anglers ConservationNetwork v. Pritzker*, 809 F.3d at 670 ("706(1) grants judicial review if a federal agency has a 'ministerial or non-discretionary' duty amounting to a 'specific, unequivocal command.'")

226. The Departments are each an "agency" subject to the requirements of the APA. 5 U.S.C. § 701(b)(1).

227. The APA defines action, in part, as a "failure to act." 5 U.S.C. § 551(13). The APA authorizes courts to compel agency action for two distinct types of "failures to act" – (1) unlawful withholding of agency action or (2) unreasonable delay of agency action. 5 U.S.C. § 706(1).

228. Here, Defendants have unlawfully withheld and unreasonably delayed agency action in contravention of statutes, regulations, and stated policy pronouncement. The timely adjudication of and decision on properly filed applications are not optional. This is not committed to agency discretion, nor are the statutes, regulations, and policies, so broad as to provide no meaningful standard to judge the agency's action. Rather, these duties and how Defendants must undertake them are detailed in the INA and its governing regulations.

229. Defendants' conduct is contrary to the INA's mandate that "[a]ll immigrant visa applications shall be reviewed and adjudicated by a consular officer" 8 U.S.C. § 1202(b), (d); 22 C.F.R. § 42.62(a); (b), and 8 U.S.C. § 1201(a)(1) which provides that a "consular officer may issue" a visa to an individual who has "made proper application therefor[.]"

230. Congress's use of the word "shall" imposes a mandatory non-ministerial duty on Defendants to make decisions on matters presented to them *Sierra Club v. E.P.A.*, 705 F.3d 458, 467 (D.C. Cir. 2013) ("the word 'shall' ... evidences a clear legislative mandate…").

231. Likewise, the CFR is unambiguous that Defendants have a mandatory and affirmative duty to interview immigrant visa applicants and adjudicate immigrant visa applications. Under 22 C.F.R. § 42.81(a), "when a visa application has been properly completed and executed before a consular officer in accordance with the provisions of theINA and the implementing regulations, the consular officer *must* issue the visa [or] refuse the visa under INA 212(a) or 221(g) or other applicable law."

232. Defendants have a "nondiscretionary, ministerial" duty to act. The INA governs visa processing and confers upon consular officers exclusive authority to review applications for visas. *Saavedra Bruno v. Albright,* 197 F. 3d 1153, 1156 (D.C. Cir. 1999); *see also* § 201(e), INA §§ 101(a)(9), (16); 22 C.F.R.§ 42.62. A "consular office is required by law to act on visa applications." *Patel v. Reno*, 134 F.3d 929, 932 (9th Cir. 1997).); *see also, e.g., Donovan v. United States*, 580 F.2d 1203, 1208 (3d Cir. 1978) (holding that mandamus is an appropriate remedy whenever a party demonstrates a clear right to have an action performed by a government official who refuses to act).

233. Defendants have refused to adjudicate Plaintiffs' applications. Thus, Defendants are unlawfully withholding discrete action they are required to take within the temporal limits imposed by statute and the express intent of Congress, and as outlined above they have failed to adjudicate Plaintiffs' applications in contravention of that nondiscretionary duty.

234. The implementation of Defendants' Barriers withholding and consequently delaying adjudication of Plaintiffs' applications constitutes a final agency action that is reviewable by this Court. *Whitman*, 531 U.S. at 478; *Bennett v. Spear*, 520 U.S. 154, 177–78 (1997).

235. Agency action "cover[s] comprehensively every manner in which an agency may exercise its power." *Whitman*, 531 U.S. at 478.

236. Agency action that is final is "mark[ed by] the consummation of the agency's decision-making process" and "be 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 (1997).

237. As established above, Defendants have failed to timely adjudicate Plaintiffs' applications, effectively suspending the processing and adjudication for otherwise qualified and eligible applicants.

238. In this case, the legal consequences flowing from the consummation of Defendants' decision-making process are the Defendants' withholding and delay in processing and adjudication of Plaintiffs' immigrant visas well beyond the September 30, 2026 deadline. *Bennett*, 520 U.S. 154; *Cal. Cmtys. Against Toxics v. EPA*, 934 F.3d 627, 637 (D.C. Cir. 2019); *Appalachian Power Co. v. EPA*, 208 F.3d 1015, 1023 (D.C. Cir. 2000); *Ciba-Geigy Corp. v. EPA*, 801 F.2d 430, 438 (D.C. Cir. 1986).

239. Defendants' Barriers withhold and delay the adjudication of Plaintiffs' diversity visas and thus, constitute final agency action because Defendants' policies indefinitely suspend Plaintiffs' applications beyond the statutory deadline imposed on the DV program.

240. Defendants' inaction, in this case, creates jurisdiction. *Moghaddam v. Pompeo*, 424 F. Supp. 3d 103, 114 (D.D.C. 2020) (quoting *Patel v. Reno*, 134 F.3d 929, 931–32 (9th Cir. 1997)); *see also Nine Iraqi Allies Under Serious Threat Because of Their Faithful Serv. to the United States v. Kerry* ("*Nine Iraqi Allies*"), 168 F. Supp. 3d 268, 290–91 (D.D.C. 2016) ("When the Government simply declines to provide a decision in the manner provided by Congress, it is not exercising its prerogative to grant or deny applications but failing to act at all.").

241. For Consular Processing Plaintiffs, Plaintiffs' claims implicate the statutory mandates that "***[a]ll*** immigrant visa applications ***shall*** be reviewed and adjudicated by a consular officer," 8 U.S.C. § 1202(b) (emphasis added).

242. Plaintiffs' claims arise in the context of the concrete statutory deadline for visa issuance, which "provides a clear 'indication of the speed with which [Congress] expects the agency to proceed in' processing diversity lottery selectees' visa applications." *Gomez I,* 485 F. Supp. 3d at 196 *(quoting Telecomms. Research & Action Ctr. v. FCC,* 750 F.2d 70, 80 (D.C. Cir. 1984) ("TRAC"), and citing 8 U.S.C. § 1154(a)(1)(I)(ii)(II)). The INA provides a clear "indication of the speed with which it expects the agency to proceed in" processing diversity lottery selectees' visa applications—that is, "only through the end of the specified fiscal year for which they were selected."

243. The indication of speed present in 8 U.S.C. § 1154 clearly correlates with the second *TRAC* factor in establishing a September 30 deadline; moreover, "reasonable time for agency action is typically counted in weeks or months, not years." *In re Am. Rivers & Idaho Rivers United*, 372 F.3d 413, 419 (D.C. Cir. 2004).

244. Plaintiffs' human welfare is "at stake" in this case and prejudice from delay here is unconscionable and irreversible—if Defendants' neglect adjudication of Plaintiffs' visa applications, Plaintiffs will intolerably, permanently lose their once in a lifetime opportunity to immigrate to the United States. *TRAC*, 750 F.2d at 80.

245. Defendants' blatant disregard for the time sensitive nature of the DV Program ultimately shows—although not needed to satisfy the *TRAC* analysis—that Defendants act with impropriety in creating "agency lassitude." *TRAC*, 750 F.2d at 80.

246. Further, **Plaintiffs allege impropriety**. On New Year's Eve, December 31, 2025, when good people across the world were making resolutions about their goals and hopes for the new year, DHS (the department housing USCIS) made a social media post romanticizing the administration's vision of a United States free from any immigrants at all, which garnered over 20 million views.[17] Given that the entire U.S. foreign-born population is only 47 million people (most of them legal immigrants), when the administration talks about "100 Million Deportations," that implies deporting the entire U.S. foreign-born population in the U.S., including Plaintiffs here, as well as 53 million native-born U.S. citizens. Defendants' policies are just an early step in satisfying DHS's resolution for 2026.

247. But it gets worse. Just a day before Plaintiffs filed this complaint, Defendant Trump called in to an on-air Fox News program how people shouldn't have been let in under the Biden administration due to their genetics. If this behavior does not demonstrate impropriety, it is difficult to imagine a scenario that would.

248. Defendants have provided no further guidance on the future of the DV Program since December 2025, nor any indication of resuming processing of DV applications. In order to fully process DV applications, Defendants need several months to review applications and supporting documents, direct the applicants to submit medical exams, police clearances and other pertinent documents, conduct interviews, and ultimately adjudicate the immigrant visa or adjustment of status application.

249. Defendants have already cost Plaintiffs critical time and resources by suspending adjudication for Plaintiffs' applications. Absent an injunction from this Court, Defendants will

[17] Available at: https://x.com/DHSgov/status/2006472108222853298?s=20 (last accessed Mar. 14, 2026).

undoubtedly fail to adjudicate Plaintiffs' applications before the statutory deadline of September 30, 2026.

250. Plaintiffs were harmed by Defendants' inaction and delay. Plaintiffs will continue to be irreparably harmed by these unlawful acts absent an injunction from this Court enjoining Defendants from unreasonably delaying adjudication through unlawful withholding of Plaintiffs' applications.

251. Defendants' Barriers that withhold adjudication for Plaintiffs' applications are unlawful and constitute agency action unreasonably delayed.

252. Defendants' violations of the APA cause ongoing harm to Plaintiffs. Plaintiffs have no adequate alternative to review.

COUNT SEVEN: Violation of the 5th Amendment
Due Process and Equal Protection Clause (AOS Plaintiffs Only)

253. Plaintiffs repeat and incorporate by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.

254. The Due Process Clause of the Fifth Amendment of the U.S. Constitution provides that "No person shall . . . be deprived of life, liberty, or property, without due process of law." The Clause contains an equal protection component.

255. Defendants' Barriers discriminate on the basis of national origin, a suspect classification, and are not narrowly tailored to serve a compelling governmental interest. Defendants' Barriers lack any rational basis for national origin discrimination.

256. Nationality is not a permissible criterion for the domestic adjudication of adjustment of status.

257. Plaintiffs here hold "interests stemming not from constitutional implications but from a specific statutory entitlement […] This mandatory language establishes a substantive right,

not a discretionary privilege." *Pacito v. Trump*, 768 F. Supp. 3d 1199, 1234 (citing Doe, 288 F. Supp. 3d at 1078-79).

258. The fundamental requirement of due process is "the opportunity to be heard at a meaningful time and in a meaningful manner." *Mathews v. Eldridge*, 424 U.S. 319, 333, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976).

259. Here, adjudication has been indefinitely halted for 65 AOS Plaintiff families **currently within the U.S. with lawful status**, with no prior notice or opportunity to be heard. "The government has no legitimate interest in enforcing an order that exceeds its statutory authority." 768 F. Supp. 3d 1199, 1235 (citing *State v. Trump*, No. C25-0127-JCC, 2025 U.S. Dist. LEXIS 24892, 2025 WL 415165, at *6 (W.D. Wash. Feb. 6, 2025) ("[T]he Government has no legitimate interest in enforcing an Order that is likely unconstitutional and beyond its authority.")).

COUNT EIGHT: Violation of the 5th Amendment
Substantive Due Process Clause (AOS Plaintiffs Only)

260. Plaintiffs repeat and incorporate by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.

261. The Fifth Amendment protects "any person" from being unlawfully deprived of property by the federal government without due process.

262. This protection includes a substantive due process right against an unjust taking of personal property. *See United States v. Vaello-Madero*, 596 U.S. 159 (2022) (discussing the Equal Protection Clause of the Fourteenth Amendment and substantive due process principles applied to the Fifth Amendment); *Bolling v. Sharpe*, 347 U. S. 497 (1954).

263. Substantive due process involves an abuse of government power which "shocks the conscience." *Rochin v. California*, 342 U.S. 165, 172 (1952). It protects against "the exercise of government power without reasonable justification." *Tun v. Whitticker*, 398 F.3d 899, 902 (7th Cir.

2005) (citing *Dunn v. Fairfield Community High School*, 158 F.3d 962 (7th Cir. 1998)). And it enshrines the essence of due process as the "protection of the individual against arbitrary action of government." *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974); *Washington v. Glucksberg*, 521 U.S. 702 (1997).

264. Money payments or loan proceeds are personal property, and are protected by the Fifth Amendment against an unjust taking. *See United States v. Doost*, 3 F.4th 432, 442 (D.C. Cir. 2021).

265. Defendants' conduct depriving Plaintiffs of their personal property by charging Plaintiffs fees for immigrant benefit applications that are suspended as a result of Defendants; discrimination against Plaintiffs' national origins is so egregiously and outrageously antithetical to our American system of laws that it shocks the conscience.

266. Implementing nationality-based restrictions is uniquely governmental conduct that is arbitrary, irrational, and motivated by bad faith as alleged above. Plaintiffs have a fundamental liberty interest, rooted in U.S. history and tradition of financial transactions with the federal government, in being able to rely on USCIS action on their applications when Plaintiffs paid money for immigration benefit decisions.

267. Through their Complaint, Plaintiffs have demonstrated Defendants' deprivation and shocking behavior. *See Brittain v. Hansen*, 451 F.3d 982 (9th Cir. 2006). Accordingly, the Court should enjoin Defendants' Barriers as unconstitutional violations of due process.

COUNT NINE: Violation of 5 U.S.C. § 706(2)
Agency Action That is Not in Accordance with Law

268. Plaintiffs repeat and incorporate by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.

269. As mentioned, *supra* § III, Defendants have a statutory duty to administer the congressionally mandated DV Program.

270. Defendants' abrogation of their duty to begin the registration period for the DV-2027 Program constitutes agency action unlawfully withheld and unreasonably delayed. Defendants' failure to act is arbitrary, capricious, and not in accordance with the law.

271. Congress enacted 8 U.S.C. §§ 1151 and 1153 with the specific intention to allocate immigrant visas annually to nationals of countries with historically low immigration rates. Congress did not include any additional qualifiers to their clearly stated intent.

272. The DV Program is a recurring annual program that requires the State Department to conduct a registration period each fiscal year. Defendants are required to initiate a registration period for prospective DV applicants to submit entries for the annual selection.

273. Historically, the State Department has initiated the registration in October-November of each year. This timing corresponds to the first two months of the fiscal year preceding the visa year for which applicants are applying.

274. In fact, the FAM requires the State Department "(e)ach year" to establish "a period of at least 30 days in which individuals may register for the DV program, by submitting an entry for random selection which would make them eligible for further processing in the DV program." 9 FAM 502.6-4(b) "The Department publishes a Federal Register notice with the exact dates of the registration period." *Id*.

275. For the DV-2027 program, the registration period should have been initiated in October-November 2025. The historical practice of initiating registration in October-November has been followed for decades and represents an established agency procedure.

276. As of March 13, 2026, Defendants have not announced or initiated the registration period for the DV-2027 program.

277. The failure to initiate registration represents a delay of approximately four to five months beyond the expected timeframe. This delay beyond the October-November registration period is substantial and unreasonable.

278. Defendants have not provided any explanation for the failure to initiate the DV-2027 registration period. There is no statutory or regulatory authority permitting Defendants to delay or suspend the initiation of the DV-2027 registration period. The nature of the agency action at issue is the initiation of a registration period, which is a ministerial act that does not require extensive deliberation or analysis.

279. Defendants have failed to consider alternative options that would address any legitimate governmental concerns while preserving the rights of prospective DV applicants.

280. Further, Defendants are acting with impropriety, as evidenced by Defendant Trump's public statement on November 28, 2025, expressing intent to "permanently pause migration from all Third World Countries." **Exhibit D**, *Expressed Intent.*

281. Defendants' failure to initiate DV-2027 registration is part of a broader pattern of conduct by Defendants to suspend the DV program entirely, as demonstrated by the USCIS DV Hold, DOS DV Pause, and DOS 75-Country Pause. The failure to initiate registration is motivated by Defendant Trump's vision to effectively bar legal avenues of immigration, which is not a legitimate basis for suspending a congressionally mandated program.

COUNT TEN: 28 U.S.C. § 1361, Mandamus Act

282. Plaintiffs repeat and incorporate by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.

283. Under 28 U.S.C. § 1361, "[t]he district courts shall have 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."

284. A mandamus plaintiff must demonstrate that: (i) he or she has a clear right to the relief requested; (ii) the defendant has a clear duty to perform the act in question; and (iii) no other adequate remedy is available. *Liberty Fund, Inc. v. Chao*, 394 F. Supp. 2d 105, 113 (D.D.C. 2005); *see also Patel*, 134 F. 3d at 933 (duty to adjudicate an immigrant visa application).

285. Plaintiffs clearly meet all three of these criteria. *See, e.g.*, *Raduga USA*, 440 F. Supp. 2d at 1146 ("Plaintiffs' claim here is clear and certain, and the consul's nondiscretionary, ministerial duty is plainly prescribed. Furthermore, Plaintiffs have no other means to compel the United States consul to make a decision.") *United States v. Kerry,* 168 F.Supp.3d 268, 291-92 (D.D.C. 2016) (holding the doctrine of consular non-reviewability did not apply where plaintiffs' visa applications were not formally refused, but were held in "administrative processing"); see also *Patel v. Reno,* 134 F.3d 929, 932-33 (9th Cir. 1997) (affirming the granting of mandamus relief where plaintiff's application had only been "provisionally refused"); *Maramjaya v. U.S. Citizenship & Immigration Servs.,* 2008 WL 9398947, at 4 (D.D.C. Mar. 26, 2008) (holding that the doctrine of consular non-reviewability did not apply when the case had not procedurally progressed to the point where consular immunity would bar judicial review").

286. Plaintiffs have fully complied with all statutory and regulatory requirements for obtaining the immigrant benefit they seek.

287. Defendants have a clear non-discretionary duty to adjudicate immigrant benefits applications for Plaintiffs who are eligible to receive the benefit and not inadmissible under 8 U.S.C. § 1182(a). This duty is owed under the INA, federal regulations, and published agency

guidance. *See e.g., Donovan v. United States*, 580 F.2d 1203, 1208 (3d Cir. 1978) (holding that mandamus is an appropriate remedy whenever a party demonstrates a clear right to have an action performed by a government official who refuses to act).

288. Adjudication of Plaintiffs' applications is a purely ministerial, non-discretionary act which Defendants are under obligation to perform in a timely manner. Plaintiffs have no alternative means to obtain adjudication of the visa, and their right to issuance of the writ is "clear and indisputable." *Allied Chemical Corp. v. Daiflon, Inc.*, 449 U.S. 33, 35 (1980); *see also First Federal Savings and Loan Ass'n of Durham*, 860 F.2d at 138; *Patel*, 134 F.3d at 933 ("[W]e find that the consulate had a duty to act and that to date ... the consulate has failed to act in accordance with that duty and the writ [of mandamus] should issue.").

289. Mandamus action is also appropriate because Defendants failed to act within a reasonable time. *See e.g.*, *Liu v. Novak*, 509 F. Supp. 2d 1, 9 (D.D.C. 2007) (holding that the APA requires the government to act within a reasonable period of time); *see also Sierra Club v. Thomas*, 828 F.2d 783, 794 (D.C. Cir. 1987) (stating that "regardless of what course it chooses, the agency is under a duty not to delay unreasonably in making that choice").

290. Additionally, a writ of mandamus is necessary in order for Plaintiffs to adjust their status before the strict DV Program deadline of September 30, 2026, after such time their applications will become useless and moot. *See* 8 U.S.C. §§ 1153(c)(1), 1154(a)(1)(I)(ii)(II); 22 C.F.R. § 42.33(a)(1)(d); *see also* 31 U.S.C. § 1102.

291. Importantly, all immigrant visas issued through the DV Program must be issued within the fiscal year in which they were selected and "under no circumstances may a consular officer issue a visa … after the end of the fiscal year." 22 C.F.R. § 42.33(a)(1); 8 U.S.C. § 1154(a)(1)(I)(ii)(II); *Mogu v. Chertoff*, 550 F.2d 107, 109 (D.D.C. 2008) (noting that "[a]t

midnight on the last day of the fiscal year, any 'lottery winner' who is not already in possession of an immigrant visa number is no longer eligible to obtain a diversity visa based on her eligibility during the fiscal year.")

292. Courts in this jurisdiction and others have recognized the strict timeline involved with the DV Program and have issued writs of mandamus to compel the adjudication of unreasonably delayed immigrant visa application under the DV Program before the statutory deadline. *See Yung-Kai Lu Tillerson*, 292 F.3d 276, 282-84 (D.D.C. 2018); *Mogu*, 550 F. 2d at 109-10 (D.D.C. 2008); *Emad Mohamed v. Gonzales*, 436 F.3d 79, 81 (2nd Cir. 2006); *Iddir v. INS*, 301 F.3d 492, 501 (7th Cir. 2002); *Przhebelskaya v. United States Bureau of Citizenship & Immigration Servs*., 338 F.2d 399 (E.D.N.Y. 2004); *see also Gebre v. Rice*, 462 F.2d 186, 190 (D. Mass. 2006) ("[T]he best means for diversity visa applicants [is] to force the Government to adjudicate their application before the fiscal year is out.")

293. This Court has the power to compel Defendants to perform their expressly defined duties, and Defendants owe the performance of such duties to Plaintiffs.

294. Defendants have no legal basis for failing to proceed with the application and for their failure to timely adjudicate the application and any background checks or other investigations required.

295. Accordingly, Plaintiffs have a clear and indisputable right to have their visa applications adjudicated and Defendants have clear, nondiscretionary duty to act.

296. No alternative remedy exists to compel Defendants' action.

PRAYER FOR RELIEF

"There is no better antidote to the challenges of globalization than to attract self-selected strivers from every corner of the globe." Rep. Bruce A. Morrison, author of the House bill that became the Immigration Act of 1990, Hearing Before the Subcommittee on Immigration, Border Security, and Claims of the Committee on the Judiciary, House of Representatives, 109th Congress, 1st Session, June 15, 2005.

WHEREFORE, Plaintiffs pray that this Court grants them the following relief:

A. Declare Defendants' USCIS DV Hold, DOS DV Pause, and 75-Country Pause to be unlawful;

B. Enjoin, vacate, and set aside Defendants' policies, practices, procedures, or any other actions taken by Defendants, including the USCIS DV hold, DOS DV pause, and 75-Country Pause, that unlawfully withhold issuance of decisions on Plaintiffs' immigration applications, and thus, unreasonably delay the adjudications of those decisions;

C. Issue an order compelling Defendants and those acting under them to perform their duty to adjudicate Plaintiffs' immigration applications within 30 days of the order pursuant to the APA;

D. Enjoin Defendants and those acting under them from any further unreasonable delay in adjudication of Plaintiffs' immigration applications;

E. Issue an order compelling Defendants to the Department establishes a period of at least 30 days in which individuals, including Plaintiffs, may register for the DV-2027 program;

F. Retain jurisdiction over this action to monitor and enforce Defendants' compliance with all orders of this Court;

G. Award Plaintiffs reasonable attorney fees and costs pursuant to the Equal Access to Justice Act, 42 U.S.C. § 1988, 5 U.S.C. § 504, 28 U.S.C. § 2412 and any other applicable law;

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

I. Order that all of the above shall be done expeditiously.

DATED: March 15, 2026

Respectfully submitted,

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