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9 UNITED STATES DISTRICT COURT
 FOR THE CENTRAL DISTRICT OF CALIFORNIA
 10 WESTERN DIVISION

11	CAROLYN ROBB HOOTKINS, et al.) No. CV 07-5696 (CAS) (MANx)
)
12	Plaintiffs,) ANSWER TO PLAINTIFFS'
) FIRST AMENDED COMPLAINT
13	v.) FOR DECLARATORY AND
) INJUNCTIVE RELIEF AND
14	MICHAEL CHERTOFF, Secretary, U.S.) PETITION FOR WRIT OF
	Department of Homeland Security,) MANDAMUS
15	et al.)
)
16	Defendants.)
)

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1 COME NOW Defendants, by and through the undersigned counsel,
2 hereby submit this Answer to Plaintiffs' First Amended Complaint
3 for Declaratory and Injunctive Relief, and Petition for Writ of
4 Mandamus.

5 **PETITION FOR WRIT OF MANDAMUS AND COMPLAINT FOR DECLARATORY AND**
6 **INJUNCTIVE RELIEF**

7 The first opening, unnumbered paragraph sets forth
8 Plaintiffs' portrayal of the action, including their legal
9 conclusions, to which no response is required. Defendants object
10 to the characterizations of their actions and to every legal
11 conclusion set forth by Plaintiffs. To the extent a response is
12 required, Defendants admit the allegations in the first and
13 second sentences of the first opening, unnumbered paragraph.
14 Defendants deny the remaining allegations in the first opening,
15 unnumbered paragraph.

16 The second opening, unnumbered paragraph sets forth
17 Plaintiffs' portrayal of the action, including their legal
18 conclusions, to which no response is required. Defendants object
19 to the characterizations of their actions and to every legal
20 conclusion set forth by Plaintiffs. To the extent a response is
21 required, Defendants deny the allegations set forth in the first
22 sentence of the second opening, unnumbered paragraph. The second
23 sentence in the second opening, unnumbered paragraph sets forth
24 Plaintiffs' request for relief to which no responsive pleading is
25 necessary. To the extent that a responsive pleading is required,
26 Defendants deny that Plaintiffs are entitled to the relief sought

1 in the complaint or to any relief whatsoever.

2 **JURISDICTION**

3 1. This Paragraph sets forth conclusions of law to which no
4 responsive pleading is required. To the extent a responsive
5 pleading is required, Defendants deny the allegations in
6 Paragraph 1.

7 **VENUE**

8 2. Defendants deny the allegations set forth in the first
9 sentence of Paragraph 2. Defendants admit the remaining
10 allegations in Paragraph 2.

11 3. Defendants admit the allegations in Paragraph 3.

12 **EXHAUSTION**

13 4. This Paragraph sets forth conclusions of law to which no
14 responsive pleading is required. To the extent a responsive
15 pleading is required, Defendants deny the allegations in
16 Paragraph 4.

17 5. This Paragraph sets forth conclusions of law to which no
18 responsive pleading is required. To the extent a responsive
19 pleading is required, Defendants deny the allegations in
20 Paragraph 5.

21 6. This Paragraph sets forth conclusions of law to which no
22 responsive pleading is required. To the extent a responsive
23 pleading is required, Defendants deny the allegations in
24 Paragraph 6.

25 7. Defendants admit the allegations in the first and second
26 sentences of Paragraph 7. The allegations in the third sentence
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1 of Paragraph 7 set forth a conclusion of law to which no
2 responsive pleading is required. To the extent a responsive
3 pleading is required, Defendants deny the allegations in the
4 third sentence of Paragraph 7.

5 8. The allegations in Paragraph 8 set forth a conclusion of law
6 to which no responsive pleading is required. To the extent a
7 responsive pleading is required, Defendants deny the allegations
8 in Paragraph 8.

9 **DEFENDANTS**

10 9. Defendants admit the allegations in Paragraph 9.

11 10. Defendants admit the allegations in Paragraph 10.

12 **STATUTORY AND REGULATORY BACKGROUND**

13 11. This paragraph sets forth Plaintiffs' portrayal of the
14 action, including their legal conclusions, to which no responsive
15 pleading is required. Defendants object to the characterizations
16 of their actions and to every legal conclusion set forth by
17 Plaintiffs. To the extent that a responsive pleading is
18 required, Defendants admit the allegations in Paragraph 11.

19 12. This paragraph sets forth Plaintiffs' portrayal of the
20 action, including their legal conclusions, to which no responsive
21 pleading is required. Defendants object to the characterizations
22 of their actions and to every legal conclusion set forth by
23 Plaintiffs. To the extent that a responsive pleading is
24 required, Defendants deny the allegations in the third sentence
25 in Paragraph 12. Defendants admit the allegations in the first
26 and second sentences in Paragraph 12.

1 13. This paragraph sets forth Plaintiffs' portrayal of the
2 action, including their legal conclusions, to which no responsive
3 pleading is required. Defendants object to the characterizations
4 of their actions and to every legal conclusion set forth by
5 Plaintiffs. To the extent that a responsive pleading is required,
6 Defendants deny the allegations in Paragraph 13.

7 14. This paragraph sets forth Plaintiffs' portrayal of the
8 action, including their legal conclusions, to which no responsive
9 pleading is required. Defendants object to the characterizations
10 of their actions and to every legal conclusion set forth by
11 Plaintiffs. To the extent that a responsive pleading is
12 required, Defendants deny the allegations in the first and third
13 sentences of Paragraph 14. Defendants admit the allegations in
14 the second sentence of Paragraph 14.

15 15. This paragraph sets forth Plaintiffs' portrayal of the
16 action, including their legal conclusions, to which no responsive
17 pleading is required. Defendants object to the characterizations
18 of their actions and to every legal conclusion set forth by
19 Plaintiffs. To the extent that a responsive pleading is
20 required, Defendants admit the allegations in Paragraph 15.

21 16. This paragraph sets forth Plaintiffs' portrayal of the
22 action, including their legal conclusions, to which no responsive
23 pleading is required. Defendants object to the characterizations
24 of their actions and to every legal conclusion set forth by
25 Plaintiffs. To the extent that a responsive pleading is
26 required, Defendants admit only that they have denied Plaintiffs-

1 petitioners' applications for adjustment of status and for
2 immigrant visas, and denied travel and work authorizations; and
3 that lawful residence time is a prerequisite for eventual United
4 States citizenship. Defendants deny the remaining allegations in
5 Paragraph 16.

6 **PLAINTIFFS-PETITIONERS**

7 **Plaintiff-petitioner HOOTKINS**

8 17. Based on information supplied by Plaintiff-petitioner and in
9 Defendants' records, Defendants admit the allegations in
10 Paragraph 17.

11 18. Defendants lack sufficient information or knowledge to form
12 a belief as to the truth of the allegations in the first sentence
13 of Paragraph 18, which allegations are therefore denied. Based
14 on information supplied by Plaintiff-petitioner and in
15 Defendants' records, Defendants admit the allegations in the
16 second and third sentences of Paragraph 18.

17 19. Based on information supplied by Plaintiff-petitioner and in
18 Defendants' records, Defendants admit only that on July 24, 2005,
19 Plaintiff-petitioner Hootkins married William "Bill" Hootkins, a
20 United States citizen. Defendants lack sufficient information or
21 knowledge to form a belief as to the truth of the remaining
22 allegations in Paragraph 19, which allegations are therefore
23 denied.

24 **The Petition and Application**

25 20. Based on information supplied by Plaintiff-petitioner and in
26 Defendants' records, Defendants admit the allegations in

1 Paragraph 20.

2 21. Based on information supplied by Plaintiff-petitioner and in
3 Defendants' records, Defendants admit that Bill Hootkins died on
4 October 23, 2005 of pancreatic cancer; and that he was
5 Plaintiff-petitioner Hootkins' spouse at the time of his death.
6 Defendants deny that Bill Hootkins is currently the spouse of
7 Plaintiff-petitioner Hootkins.

8 **The Denial**

9 22. Defendants deny that the Petition is filed jointly by the
10 couple, and notes that only the U.S. citizen or lawful permanent
11 resident petitioner files the Petition. Based on information
12 supplied by Plaintiff-petitioner and in Defendants' records,
13 Defendants admit the remaining allegations in Paragraph 22.

14 **Plaintiff-petitioner MONCAYO-GIGAX**

15 23. Based on information supplied by Plaintiff-petitioner and in
16 Defendants' records, Defendants admit the allegations in
17 Paragraph 23.

18 24. Based on information supplied by Plaintiff-petitioner and in
19 Defendants' records, Defendants admit the allegations in the
20 second and third sentences of Paragraph 24. Defendants lack
21 sufficient information or knowledge to form a belief as to the
22 truth of the allegations in the first sentence of Paragraph 24,
23 which allegations are therefore denied.

24 25. Based on information supplied by Plaintiff-petitioner and in
25 Defendants' records, Defendants admit the allegations in
26 Paragraph 25.

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The Petition and Application

26. Based on information supplied by Plaintiff-petitioner and in Defendants' records, Defendants admit the allegations in Paragraph 26.

27. Based on information supplied by Plaintiff-petitioner and in Defendants' records, Defendants admit that John Charles Gigax was killed in a car accident in Virginia while on duty with the United States Border Patrol, traveling in a U.S. government vehicle from a temporary assignment in Washington, D.C. on November 7, 1999; and that he was Plaintiff-petitioner Moncayo-Gigax's spouse at the time of his death. Defendants deny that John Charles Gigax is currently the spouse of Plaintiff-petitioner Moncayo-Gigax.

The Denial

28. Defendants deny that the Petition is filed jointly by the couple, and note that only the U.S. citizen or lawful permanent resident petitioner files the Petition. Based on information supplied by Plaintiff-petitioner and in Defendants' records, Defendants admit the remaining allegations in Paragraph 28.

Plaintiff-petitioner DE MAILLY

29. Based on information supplied by Plaintiff-petitioner and in Defendants' records, Defendants admit the allegations in Paragraph 29.

30. Defendants lack sufficient information or knowledge to form a belief as to the truth of the allegations that Plaintiff-petitioner De Mailly lived in Los Angeles, California until June

1 2005, which allegations are therefore denied. Based on
2 information supplied by Plaintiff-petitioner and in Defendants'
3 records, Defendants admit the allegations in the second sentence
4 of Paragraph 30. Defendants deny the remaining allegations in
5 Paragraph 30.

6 31. Based on information supplied by Plaintiff-petitioner and in
7 Defendants' records, Defendants admit the allegations in
8 Paragraph 31.

9 **The Petition and Application**

10 32. Based on information supplied by Plaintiff-petitioner and in
11 Defendants' records, Defendants admit the allegations in
12 Paragraph 32.

13 33. Based on information supplied by Plaintiff-petitioner and in
14 Defendants' records, Defendants admit that Mark William Hubel
15 died on October 13, 2003; and that he was Plaintiff-petitioner De
16 Mailly's spouse at the time of his death. Defendants deny that
17 Mark William Hubel is currently the spouse of Plaintiff-
18 petitioner De Mailly.

19 **The Denial**

20 34. Defendants deny that the Petition is filed jointly by the
21 couple, and note that only the U.S. citizen or lawful permanent
22 resident petitioner files the Petition. Based on information
23 supplied by Plaintiff-petitioner and in Defendants' records,
24 Defendants admit the remaining allegations in Paragraph 34.

Plaintiff-petitioner VARGAS DE FISHER

35. Based on information supplied by Plaintiff-petitioner and in Defendants' records, Defendants admit the allegations in Paragraph 35.

36. Defendants lack sufficient information or knowledge as to the truth of the allegations in the first sentence in Paragraph 36, which allegations are therefore denied. Based on information supplied by Plaintiff-petitioner and in Defendants' records, Defendants admit only that Plaintiff-petitioner entered the United States on a nonimmigrant visa in 2001, and was inspected and admitted. Defendants deny, based on information supplied by Plaintiff-petitioner and in Defendants' records, the remaining allegations in the second sentence of Paragraph 36.

37. Based on information supplied by Plaintiff-petitioner and in Defendants' records, Defendants admit the allegations in Paragraph 37.

38. Based on information supplied by Plaintiff-petitioner and in Defendants' records, Defendants admit that Plaintiff-petitioner Vargas de Fisher has two children, Aldo David Angrade Vargas, who was born in 1988; and Edson Daniel Andrade Vargas, who was born in 1989. Defendants lack sufficient information or knowledge as to the truth of the remaining allegations in Paragraph 38, which allegations are therefore denied.

The Petition and Application

39. Based on information supplied by Plaintiff-petitioner and in Defendants' records, Defendants admit the allegations in

1 Paragraph 39.

2 40. Based on information supplied by Plaintiff-petitioner and in
3 Defendants' records, Defendants admit that Newton Edgar Fisher
4 died of cancer on June 27, 2005; and that he was Plaintiff-
5 petitioner Vargas de Fisher's spouse at the time of his death.
6 Defendants deny that Newton Edgar Fishman is currently the spouse
7 of Plaintiff-petitioner Vargas de Fisher.

8 **The Denial**

9 41. Based on information supplied by Plaintiff-petitioner and in
10 Defendants' records, Defendants admit only that Defendants denied
11 the Petition solely on the basis that Plaintiff-petitioner was no
12 longer the spouse of a U.S. citizen. Defendants deny that the
13 Petition is filed jointly by the couple, and note that only the
14 U.S. citizen or lawful permanent resident petitioner files the
15 Petition. Defendants further deny, based on information supplied
16 by Plaintiff-petitioner and in Defendants' records, the remaining
17 allegations in Paragraph 41.

18 **Plaintiff-petitioner LOCKETT**

19 42. Based on information supplied by Plaintiff-petitioner and in
20 Defendants' records, Defendants admit the allegations in
21 Paragraph 42.

22 43. Defendants lack sufficient information or knowledge to form
23 a belief as to the truth of the allegations in the first sentence
24 in Paragraph 43, which allegations are therefore denied. Based
25 on information supplied by Plaintiff-petitioner and in
26 Defendants' records, Defendants admit the allegations in the

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1 second sentence of Paragraph 43.

2 44. Based on information supplied by Plaintiff-petitioner and in
3 Defendants' records, Defendants admit only that Plaintiff-
4 petitioner Lockett married United States citizen Catharine
5 Martinet. Defendants deny, based on information supplied by
6 Plaintiff-petitioner and in Defendants' records, the remaining
7 allegations in Paragraph 44.

8 **The Petition and Application**

9 45. Based on information supplied by Plaintiff-petitioner and in
10 Defendants' records, Defendants admit the allegations in
11 Paragraph 45.

12 46. Based on information supplied by Plaintiff-petitioner and in
13 Defendants' records, Defendants admit that Catharine Martinet
14 died of spontaneous pneumothorax leading to respiratory failure
15 on June 5, 2006; and that Catherine Martinet was Plaintiff-
16 petitioner Lockett's spouse at the time of her death. Defendants
17 deny that Catherine Martinet is currently the spouse of
18 Plaintiff-petitioner Lockett.

19 **The Denial**

20 47. Defendants deny the allegations in the second sentence of
21 Paragraph 47. Based on information supplied by
22 Plaintiff-petitioner and in Defendants' records, Defendants admit
23 the allegations in the first sentence of Paragraph 47.

24 **Plaintiff-petitioner BRENTESON**

25 48. Based on information supplied by Plaintiff-petitioner and in
26 Defendants' records, Defendants admit the allegations in
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1 Paragraph 48.

2 49. Defendants lack sufficient information or knowledge to form
3 a belief as to the truth of the allegations in the first sentence
4 in Paragraph 49, which allegations are therefore denied. Based
5 on information supplied by Plaintiff-petitioner and in
6 Defendants' records, Defendants admit the allegations in the
7 second sentence in Paragraph 49.

8 50. Based on information supplied by Plaintiff-petitioner and in
9 Defendants' records, Defendants admit the allegations in
10 Paragraph 50.

11 **The Petition and Application**

12 51. Based on information supplied by Plaintiff-petitioner and in
13 Defendants' records, Defendants admit the allegations in
14 Paragraph 51.

15 52. Based on information supplied by Plaintiff-petitioner and in
16 Defendants' records, Defendants admit that Donald Irvin Brenteson
17 died on January 16, 2005; and that Donald Irvin was Plaintiff-
18 petitioner Brenteson's spouse at the time of his death.

19 Defendants deny that Donald Irvin Brenteson is currently the
20 spouse of Plaintiff-petitioner Brenteson. Defendants lack
21 sufficient information or knowledge to form a belief as to the
22 truth of Donald Irvin Brenteson's cause of death, which
23 allegations are therefore denied.

24 **The Denial**

25 53. Defendants deny that the Petition is filed jointly by the
26 couple, and note that only the U.S. citizen or lawful permanent
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1 resident petitioner files the Petition. Based on information
2 supplied by Plaintiff-petitioner and in Defendants' records,
3 Defendants admit the remaining allegations in the first sentence
4 of Paragraph 53. Defendants further admit, based on information
5 supplied by Plaintiff-petitioner and in Defendants' records, the
6 allegations in the second and third sentences of Paragraph 53.
7 Defendants lack sufficient information or knowledge to form a
8 belief as to the truth of the allegations in the fourth sentence
9 of Paragraph 53, which allegations are therefore denied. The
10 fifth sentence of Paragraph 53 sets forth a conclusion of law to
11 which no responsive pleading is required. To the extent a
12 response is required, Defendants deny the allegations in the
13 fifth sentence of Paragraph 53.

14 **Plaintiff-petitioner GOBEIL**

15 54. Based on information supplied by Plaintiff-petitioner and in
16 Defendants' records, Defendants admit the allegations in
17 Paragraph 54.

18 55. Defendants lack sufficient information or knowledge to form
19 a belief as to the truth of the allegations in the first sentence
20 of Paragraph 55, which allegations are therefore denied. Based
21 on information supplied by Plaintiff-petitioner and in
22 Defendants' records, Defendants admit the second sentence in
23 Paragraph 55.

24 56. Based on information supplied by Plaintiff-petitioner and in
25 Defendants' records, Defendants admit the allegations in
26 Paragraph 56.

1 **The Petition and Application**

2 57. Based on information supplied by Plaintiff-petitioner and in
3 Defendants' records, Defendants admit the allegations in
4 Paragraph 57.

5 58. Based on information supplied by Plaintiff-petitioner and in
6 Defendants' records, Defendants admit that Leon Max Everitt died
7 of cardiac arrest on October 7, 2004; and that Leon Max Everitt
8 was Plaintiff-petitioner Gobeil's spouse at the time of his
9 death. Defendants deny that Leon Max Everitt is currently the
10 spouse of Plaintiff-petitioner Gobeil.

11 **The Denial**

12 59. Defendants deny that the Petition is filed jointly by the
13 couple, and note that only the U.S. citizen or lawful permanent
14 resident petitioner files the Petition. Based on information
15 supplied by Plaintiff-petitioner and in Defendants' records,
16 Defendants admit the remaining allegations in Paragraph 59.

17 **Plaintiff-petitioner HEARD**

18 60. Based on information supplied by Plaintiff-petitioner and in
19 Defendants' records, Defendants admit the allegations in
20 Paragraph 60. Defendants note that on February 6, 2008,
21 Defendants approved Plaintiff-petitioner Heard's application for
22 adjustment of status (Form I-485). Defendants assert that this
23 case is moot as to Plaintiff-petitioner Heard.

24 61. Defendants lack sufficient information or knowledge to form
25 a belief as to the truth of the allegations in the first sentence
26 of Paragraph 61, which allegations are therefore denied. Based

1 on information supplied by Plaintiff-petitioner and in
2 Defendants' records, Defendants admit only that Plaintiff-
3 petitioner Heard entered the United States on a nonimmigrant B-
4 1/B-2 visa and was inspected and admitted. Defendants deny,
5 based on information supplied by Plaintiff-petitioner and in
6 Defendants' records, the remaining allegations in the second
7 sentence of Paragraph 61.

8 62. Based on information supplied by Plaintiff-petitioner and in
9 Defendants' records, Defendants admit the allegations in
10 Paragraph 62.

11 63. Based on information supplied by Plaintiff-petitioner and in
12 Defendants' records, Defendants admit the allegations in
13 Paragraph 63.

14 **The Petition and Application**

15 64. Based on information supplied by Plaintiff-petitioner and in
16 Defendants' records, Defendants admit the allegations in
17 Paragraph 64, and note that, under Public Law 108-36, Div. A,
18 Title XVII, § 1703(a)-(e) (2003), Plaintiff-petitioner Heard does
19 qualify as an immediate relative, despite Jeffrey Loren Heard's
20 death, because he had served on active duty in the U.S. Armed
21 Forces, and died as a result of injury or disease incurred in or
22 aggravated by combat.

23 65. Defendants deny that Jeffrey Loren Heard is currently the
24 spouse of Plaintiff-petitioner Heard, but Defendants admit, based
25 on information supplied by Plaintiff-petitioner and in
26 Defendants' records, all remaining allegations in Paragraph 65.

1 **The Denial**

2 66. Defendants deny that the Petition is filed jointly by the
3 couple, and note that only the U.S. citizen or lawful permanent
4 resident petitioner files the Petition. Based on information
5 supplied by Plaintiff-petitioner and in Defendants' records,
6 Defendants admit the remaining allegations in Paragraph 66.
7 Defendants assert that this case is moot as to Plaintiff-
8 petitioner Heard.

9 **Plaintiff-petitioner FISHMAN-CORMAN**

10 67. Based on information supplied by Plaintiff-petitioner and in
11 Defendants' records, Defendants admit the allegations in
12 Paragraph 67.

13 68. Defendants lack sufficient information or knowledge as to
14 the truth of the allegations in Paragraph 68, which allegations
15 are therefore denied.

16 69. Based on information supplied by Plaintiff-petitioner and in
17 Defendants' records, Defendants admit the allegations in
18 Paragraph 69.

19 **The Petition and Application**

20 70. Based on information supplied by Plaintiff-petitioner and in
21 Defendants' records, Defendants admit the allegations in the
22 first sentence of Paragraph 70, but Defendants note that
23 Plaintiff-petitioner Fishman-Corman no longer qualifies as an
24 immediate relative, since her former spouse, who filed the I-130
25 and I-864, died and plaintiff-petitioner had not been married to
26 her former spouse for two years at the time of his death.

1 Defendants further admit, based on information supplied by
2 Plaintiff-petitioner and in Defendants' records, the remaining
3 allegations in Paragraph 70.

4 71. Based on information supplied by Plaintiff-petitioner and in
5 Defendants' records, Defendants admit that Irving Jacob Corman
6 died on September 1, 2005 in California; and that he was
7 Plaintiff-petitioner Fishman-Corman's spouse at the time of his
8 death. Defendants deny that Irving Jacob Corman is currently the
9 spouse of Plaintiff-petitioner Fishman-Corman.

10 **The Denial**

11 72. Defendants deny that the Petition is filed jointly by the
12 couple, and note that only the U.S. citizen or lawful permanent
13 resident petitioner files the Petition. Based on information
14 supplied by Plaintiff-petitioner and in Defendants' records,
15 Defendants admit the remaining allegations in Paragraph 72.

16 **Plaintiff-petitioner WIN**

17 73. Based on information supplied by Plaintiff-petitioner and in
18 Defendants' records, Defendants admit the allegations in
19 Paragraph 73.

20 74. Defendants lack sufficient information or knowledge to form
21 a belief as to the truth of the allegations in the first sentence
22 of Paragraph 74, which allegations are therefore denied. Based
23 on information supplied by Plaintiff-petitioner and in
24 Defendants' records, Defendants admit the allegations in the
25 second sentence of Paragraph 74.

1 75. Based on information supplied by Plaintiff-petitioner and in
2 Defendants' records, Defendants admit the allegations in
3 Paragraph 75.

4 **The Petition and Application**

5 76. Based on information supplied by Plaintiff-petitioner and in
6 Defendants' records, Defendants admit the allegations in
7 Paragraph 76.

8 77. Based on information supplied by Plaintiff-petitioner and in
9 Defendants' records, Defendants admit that Donn Stephen Mauro was
10 killed by a drunk driver on February 6, 2006; and that he was
11 Plaintiffs-petitioner's spouse at the time of his death.
12 Defendants deny that Donn Stephen Mauro is currently the spouse
13 of Plaintiff-petitioner Win.

14 **The Denial**

15 78. Defendants deny that the Petition is filed jointly by the
16 couple, and note that only the U.S. citizen or lawful permanent
17 resident petitioner files the Petition. Based on information
18 supplied by Plaintiff-petitioner and in Defendants' records,
19 Defendants admit the remaining allegations in Paragraph 78.

20 79. Based on information supplied by Plaintiff-petitioner and in
21 Defendants' records, Defendants admit the allegations in
22 Paragraph 79.

23 **Plaintiff-petitioner ENGSTROM**

24 80. Based on information supplied by Plaintiff-petitioner and in
25 Defendants' records, Defendants admit the allegations in
26 Paragraph 80.

1 81. Defendants lack sufficient information or knowledge to form
2 a belief as to the truth of the allegations in the first sentence
3 of Paragraph 81, which allegations are therefore denied. Based
4 on information supplied by Plaintiff-petitioner and in
5 Defendants' records, Defendants admit the allegations in the
6 second sentence of Paragraph 81.

7 82. Based on information supplied by Plaintiff-petitioner and in
8 Defendants' records, Defendants admit the allegations in
9 Paragraph 82.

10 **The Petition and Application**

11 83. Based on information supplied by Plaintiff-petitioner and in
12 Defendants' records, Defendants deny that an I-130 and I-864 on
13 behalf of Plaintiff-petitioner Engstrom was filed on January 29,
14 2004; and that Plaintiff-petitioner Engstrom filed her I-485 on
15 January 29, 2004. Defendants admit, based on information
16 supplied by Plaintiff-petitioner and in Defendants' records, the
17 remaining allegations in the first and second sentences of
18 Paragraph 83 and the allegations in the third sentence of
19 Paragraph 83, but Defendants note that Plaintiff-petitioner
20 Engstrom no longer qualifies as an immediate relative, since her
21 former spouse, who filed the I-130 and I-864, died and
22 Plaintiff-petitioner had not been married to her former spouse
23 for two years at the time of his death.

24 84. Based on information supplied by Plaintiff-petitioner and in
25 Defendants' records, Defendants admit that Todd Engstrom was
26 killed in Iraq when his convoy was hit by a rocket-propelled
27

1 grenade on September 14, 2004; and that he was
2 Plaintiff-petitioner's spouse at the time of his death.
3 Defendants deny that Todd Engstrom is currently the spouse of
4 Plaintiff-petitioner Engstrom.

5 **The Denial**

6 85. Defendants deny that the Petition is filed jointly by the
7 couple, and note that only the U.S. citizen or lawful permanent
8 resident petitioner files the Petition. Based on information
9 supplied by Plaintiff-petitioner and in Defendants' records,
10 Defendants admit the remaining allegations in the first sentence
11 of Paragraph 85. The allegations in the second sentence of
12 Paragraph 85 sets forth a conclusion of law to which no
13 responsive pleading is required. To the extent that a response
14 is required, Defendants deny the allegations in the second
15 sentence of Paragraph 85. Defendants admit, based on information
16 supplied by Plaintiff-petitioner and in Defendants' records,
17 that Plaintiff-petitioner Engstrom has not been granted lawful
18 permanent resident status. Defendants deny the remaining
19 allegations in the third sentence of Paragraph 85.

20 **Plaintiff-petitioner DIAZ-RUIZ**

21 86. Based on information supplied by Plaintiff-petitioner and in
22 Defendants' records, Defendants admit the allegations in
23 Paragraph 86.

24 87. Defendants lack sufficient information or knowledge to form
25 a belief as to the truth of the allegations in the first sentence
26 of Paragraph 87, which allegations are therefore denied. Based
27

1 on information supplied by Plaintiff-petitioner and in
2 Defendants' records, Defendant deny that Plaintiff-petitioner
3 Diaz-Ruiz entered the United States on a nonimmigrant B-1/B-2
4 visa. Defendants admit, based on information supplied by
5 Plaintiff-petitioner and in Defendants' records, the remaining
6 allegations in the second sentence of Paragraph 87.

7 88. Based on information supplied by Plaintiff-petitioner and in
8 Defendants' records, Defendants admit the allegations in
9 Paragraph 88.

10 **The Petition and Application**

11 89. Based on information supplied by Plaintiff-petitioner and in
12 Defendants' records, Defendants deny that an I-130 and I-864 on
13 behalf of Plaintiff-petitioner Diaz-Ruiz was filed on December
14 30, 2004; and that Plaintiff-petitioner Diaz-Ruiz filed her I-485
15 on December 30, 2004. Defendants admit, based on information
16 supplied by Plaintiff-petitioner and in Defendants' records, the
17 remaining allegations in the first sentence of Paragraph 89 and
18 the allegations in the third sentence of Paragraph 89, but
19 Defendants note that Plaintiff-petitioner Diaz-Ruiz no longer
20 qualifies as an immediate relative, since her former spouse, who
21 filed the I-130 and I-864, died and plaintiff-petitioner had not
22 been married to her former spouse for two years at the time of
23 his death.

24 90. Based on information supplied by Plaintiff-petitioner and in
25 Defendants' records, Defendants admit that Christopher Rodriguez
26 died on June 13, 2005 of congenital heart disease; and that he
27

1 was Plaintiff-petitioner's spouse at the time of his death.
2 Defendants deny that Christopher Rodriguez is currently the
3 spouse of Plaintiff-petitioner Diaz-Ruiz.

4 **The Denial**

5 91. Defendants deny that the Petition is filed jointly by the
6 couple, and note that only the U.S. citizen or lawful permanent
7 resident petitioner files the Petition. Based on information
8 supplied by Plaintiff-petitioner and in Defendants' records,
9 Defendants admit the remaining allegations in Paragraph 91.

10 **Plaintiff-petitioner WALSH**

11 92. Based on information supplied by Plaintiff-petitioner and in
12 Defendants' records, Defendants admit the allegations in
13 Paragraph 92.

14 93. Defendants lack sufficient information or knowledge to form
15 a belief as to the truth of the allegations in the first sentence
16 of Paragraph 93, which allegations are therefore denied. Based
17 on information supplied by Plaintiff-petitioner and in
18 Defendants' records, Defendants admit the allegations in the
19 second sentence of Paragraph 93.

20 94. Based on information supplied by Plaintiff-petitioner and in
21 Defendants' records, Defendants admit the allegations in
22 Paragraph 94.

23 95. Defendants lack sufficient information or knowledge to form
24 a belief as to the truth of the allegations in Paragraph 95,
25 which allegations are therefore denied.

The Petition and Application

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2 96. Based on information supplied by Plaintiff-petitioner and in
3 Defendants' records, Defendants admit the allegations in the
4 first sentence of Paragraph 96, but Defendants note that
5 Plaintiff-petitioner Walsh no longer qualifies as an immediate
6 relative, since her former spouse, who filed the I-130 and I-864,
7 died and plaintiff-petitioner had not been married to her former
8 spouse for two years at the time of his death. Defendants admit,
9 based on information supplied by Plaintiff-petitioner and in
10 Defendants' records, the remaining allegations in Paragraph 96.

11 97. Based on information supplied by Plaintiff-petitioner and in
12 Defendants' records, Defendants admit the allegations in the
13 second sentence of Paragraph 97. Defendants further admit, based
14 on information supplied by Plaintiff-petitioner and in
15 Defendants' records, that Plaintiff-petitioner Walsh's spouse at
16 the time died of a heart attack on September 11, 2002 while in
17 the United States. Defendants deny that he is currently the
18 spouse of Plaintiff-petitioner Walsh.

The Denial

19
20 98. Based on information supplied by Plaintiff-petitioner and in
21 Defendants' records, Defendants admit the allegations in
22 Paragraph 98.

Plaintiff-petitioner LU

23
24 99. Based on information supplied by Plaintiff-petitioner and in
25 Defendants' records, Defendants admit the allegations in
26 Paragraph 99.

1 100. Defendants lack sufficient information or knowledge as to
2 where Plaintiff-petitioner resides, which allegations are
3 therefore denied. Defendants note that the Form I-130 that was
4 filed on Plaintiff-petitioner Lu's behalf claims she resides in
5 Guangzhou, China.

6 101. Based on information supplied by Plaintiff-petitioner and in
7 Defendants' records, Defendants admit the allegations in
8 Paragraph 101.

9 **The Petition and Application**

10 102. Based on information supplied by Plaintiff-petitioner and in
11 Defendants' records, Defendants admit the allegations in the
12 first sentence of Paragraph 102, but Defendants note that
13 Plaintiff-petitioner Lu no longer qualifies as an immediate
14 relative, since her former spouse, who filed the I-130, died and
15 plaintiff-petitioner had not been married to her former spouse
16 for two years at the time of his death. Defendants admit, based
17 on information supplied by Plaintiff-petitioner and in
18 Defendants' records, the remaining allegations in Paragraph 102.

19 103. Based on information supplied by Plaintiff-petitioner and in
20 Defendants' records, Defendants admit that Plaintiff-petitioner
21 Lu's spouse at the time died on February 3, 2006. Defendants
22 lack sufficient information or knowledge to form a belief as to
23 the truth of the allegation that he died of a heart attack while
24 in the United States, which allegations are therefore denied.
25 Defendants further deny that he is currently the spouse of
26 Plaintiff-petitioner Lu.

The Denial

1
2 104. Based on information supplied by Plaintiff-petitioner and in
3 Defendants' records, Defendants admit the allegations in the
4 first sentence of Paragraph 104. Defendants lack sufficient
5 information or knowledge to form a belief as to the truth of the
6 allegations in the second sentence of Paragraph 104, which
7 allegations are therefore denied.

Plaintiff-petitioner ARIAS-ANGULO

8
9 105. Based on information supplied by Plaintiff-petitioner and in
10 Defendants' records, Defendants admit the allegations in
11 Paragraph 105.

12 106. Defendants lack sufficient information or knowledge to form
13 a belief as to the truth of the allegations in the first sentence
14 of Paragraph 106. Based on information supplied by
15 Plaintiff-petitioner and in Defendants' records, Defendants admit
16 the allegations in the second sentence of Paragraph 106.

17 107. Based on information supplied by Plaintiff-petitioner and in
18 Defendants' records, Defendants admit the allegations in
19 Paragraph 107.

The Petition and Application

20
21 108. Based on information supplied by Plaintiff-petitioner and in
22 Defendants' records, Defendants deny that an I-130 and I-864 on
23 behalf of Plaintiff-petitioner Arias-Angulo was filed on
24 September 21, 2005; and that Plaintiff-petitioner Arias-Angulo
25 filed her I-485 on September 21, 2005. Defendants admit, based
26 on information supplied by Plaintiff-petitioner and in

1 Defendants' records, the remaining allegations in the first and
2 second sentences of Paragraph 108, but Defendants note that
3 Plaintiff-petitioner Arias-Angulo no longer qualifies as an
4 immediate relative, since her former spouse, who filed the I-130
5 and I-864, died and plaintiff-petitioner had not been married to
6 her former spouse for two years at the time of his death.

7 Defendants admit, also based on information supplied by
8 Plaintiff-petitioner and in Defendants' records, the remaining
9 allegations in Paragraph 108.

10 109. Based on information supplied by Plaintiff-petitioner and in
11 Defendants' records, Defendants admit only that Donald Arias died
12 on March 3, 2006; and that he was Plaintiff-petitioner's spouse
13 at the time of his death. Defendants deny that Donald Arias is
14 currently the spouse of Plaintiff-petitioner Arias-Angulo.

15 **The Denial**

16 110. Defendants deny that the Petition is filed jointly by the
17 couple, and note that only the U.S. citizen or lawful permanent
18 resident petitioner files the Petition. Based on information
19 supplied by Plaintiff-petitioner and in Defendants' records,
20 Defendants admit the remaining allegations in Paragraph 110.

21 **Plaintiff-petitioner POINDEXTER**

22 111. Based on information supplied by Plaintiff-petitioner and in
23 Defendants' records, Defendants admit the allegations in
24 Paragraph 111.

25 112. Defendants lack sufficient information or knowledge to form
26 a belief as to the truth of the allegations in the first sentence

1 of Paragraph 112. Based on information supplied by
2 Plaintiff-petitioner and in Defendants' records, Defendants admit
3 the allegations in the second sentence of Paragraph 112.

4 113. Based on information supplied by Plaintiff-petitioner and in
5 Defendants' records, Defendants admit the allegations in
6 Paragraph 113.

7 **The Petition and Application**

8 114. Based on information supplied by Plaintiff-petitioner and in
9 Defendants' records, Defendants admit the allegations in
10 Paragraph 114.

11 115. Based on information supplied by Plaintiff-petitioner and in
12 Defendants' records, Defendants admit that Richard Daniel
13 Poindexter died on January 29, 2007; and that he was
14 Plaintiff-petitioner's spouse at the time of his death.
15 Defendants deny that Richard Daniel Poindexter is currently the
16 spouse of Plaintiff-petitioner Poindexter.

17 **The Denial**

18 116. Based on information supplied by Plaintiff-petitioner and in
19 Defendants' records, Defendants admit the allegations in the
20 first sentence of Paragraph 116. Defendants further admit, based
21 on information supplied by Plaintiff-petitioner and in
22 Defendants' records, only that Plaintiff-petitioner Poindexter
23 did not attend her interview scheduled for February 15, 2007.
24 Defendants lack sufficient information or knowledge as to the
25 truth of the allegations as to why Plaintiff-petitioner
26 Poindexter did not attend her interview, which allegations are

1 therefore denied. Based on information supplied by
2 Plaintiff-petitioner and in Defendants' records, Defendants
3 further admit only that Defendants denied the Petition and
4 Application due to abandonment on March 7, 2007. Defendants deny
5 that Plaintiff-petitioner Poindexter's motion to reopen is
6 currently pending. Defendants note that Plaintiff-petitioner
7 Poindexter's motion to reopen was granted. Defendants lack
8 sufficient information or knowledge to form a belief as to the
9 truth of the allegations in fourth sentence of Paragraph 116,
10 which allegations are therefore denied.

11 **Plaintiff-petitioner RUDL**

12 117. Based on information supplied by Plaintiff-petitioner and in
13 Defendants' records, Defendants admit the allegations in
14 Paragraph 117.

15 118. Defendants lack sufficient information or knowledge to form
16 a belief as to the truth of the allegations in the first sentence
17 of Paragraph 118, which allegations are therefore denied. Based
18 on information supplied by Plaintiff-petitioner and in
19 Defendants' records, Defendants admit the allegations in the
20 second sentence of Paragraph 118.

21 119. Based on information supplied by Plaintiff-petitioner and in
22 Defendants' records, Defendants admit that Plaintiff-petitioner
23 Rudl married Corey Nicholas Rudl, a United States citizen, on
24 July 24, 2004. Defendants lack sufficient information or
25 knowledge to form a belief as to the truth of the remaining
26 allegations in Paragraph 119, which allegations are therefore
27

1 denied.

2 **The Petition and Application**

3 120. Based on information supplied by Plaintiff-petitioner and in
4 Defendants' records, Defendants admit the allegations in
5 Paragraph 120.

6 121. Based on information supplied by Plaintiff-petitioner and in
7 Defendants' records, Defendants admit that on June 2, 2005, Corey
8 Nicholas Rudl was killed while riding as a passenger in a car on
9 a raceway; and that he was Plaintiff-petitioner's spouse at the
10 time of his death. Defendants deny that Corey Nicholas Rudl is
11 currently the spouse of Plaintiff-petitioner Rudl.

12 **The Denial**

13 122. Defendants deny that the Petition is filed jointly by the
14 couple, and note that only the U.S. citizen or lawful permanent
15 resident petitioner files the Petition. Based on information
16 supplied by Plaintiff-petitioner and in Defendants' records,
17 Defendants admit the remaining allegations in Paragraph 122.

18 **Plaintiff-petitioner NGUYEN**

19 123. Based on information supplied by Plaintiff-petitioner and in
20 Defendants' records, Defendants admit the allegations in
21 Paragraph 123.

22 124. Defendants lack sufficient information or knowledge to form
23 a belief as to the truth of the allegations in the first sentence
24 of Paragraph 124, which allegations are therefore denied. Based
25 on information supplied by Plaintiff-petitioner and in
26 Defendants' records, Defendants admit that Plaintiff-petitioner

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28

1 Nguyen entered the United States on a K-1 visa as the fiancée of
2 a United States citizen; and was inspected and admitted, but deny
3 the remaining allegations in the second sentence of Paragraph
4 124.

5 125. Based on information supplied by Plaintiff-petitioner and in
6 Defendants' records, Defendants admit that Plaintiff-petitioner
7 Nguyen married Loc Van Nguyen, a naturalized United States
8 citizen, within the ninety days from her entry as required by the
9 K-1 visa, but deny that they married on April 19, 2004.

10 126. The fourth sentence in Paragraph 126 sets forth a legal
11 conclusion to which no responsive pleading is required. To the
12 extent that a responsive pleading is required, Defendants deny
13 the allegations in the fourth sentence of Paragraph 126. Based
14 on information supplied by Plaintiff-petitioner and in
15 Defendants' records, Defendants further deny that Plaintiff-
16 petitioner Nguyen filed her I-485 on May 4, 2004. Defendants
17 admit, based on information supplied by Plaintiff-petitioner and
18 in Defendants' records, the remaining allegations in Paragraph
19 126.

20 127. Based on information supplied by Plaintiff-petitioner and in
21 Defendants' records, Defendants admit that Plaintiff-petitioner's
22 spouse at the time died on March 24, 2005. Defendants deny that
23 he is currently the spouse of Plaintiff-petitioner Nguyen.

24 Defendants further deny the remaining allegations in Paragraph
25 127.

1 **The Denial**

2 128. Defendants deny that the Petition is filed jointly by the
3 couple, and note that only the U.S. citizen or lawful permanent
4 resident petitioner files the Petition. Based on information
5 supplied by Plaintiff-petitioner and in Defendants' records,
6 Defendants admit the remaining allegations in Paragraph 128.

7 **Plaintiff-petitioner BERNSTEIN**

8 129. Based on information supplied by Plaintiff-petitioner and in
9 Defendants' records, Defendants admit the allegations in
10 Paragraph 129.

11 130. Defendants lack sufficient information or knowledge to form
12 a belief as to the truth of the allegations in the first sentence
13 of Paragraph 130, which allegations are therefore denied. Based
14 on information supplied by Plaintiff-petitioner and in
15 Defendants' records, Defendants admit the allegations in the
16 second sentence of Paragraph 130.

17 131. Based on information supplied by Plaintiff-petitioner and in
18 Defendants' records, Defendants admit the allegations in
19 Paragraph 131.

20 **The Petition and Application**

21 132. Based on information supplied by Plaintiff-petitioner and in
22 Defendants' records, Defendants admit the allegations in the
23 first sentence of Paragraph 132, but Defendants note that
24 Plaintiff-petitioner Bernstein no longer qualifies as an
25 immediate relative, since her former spouse, who filed the I-130
26 and I-864, died and plaintiff-petitioner had not been married to
27

1 her former spouse for two years at the time of his death.

2 Defendants admit, based on information supplied by

3 Plaintiff-petitioner and in Defendants' records, the remaining

4 allegations in Paragraph 132.

5 133. Based on information supplied by Plaintiff-petitioner and in

6 Defendants' records, Defendants admit that Bryan Bernstein died

7 on March 10, 2006; and that he was Plaintiff-petitioner's spouse

8 at the time of his death. Defendants deny that Bryan Bernstein

9 is currently the spouse of Plaintiff-petitioner Bernstein.

10 **The Denial**

11 134. Defendants deny that the Petition is filed jointly by the

12 couple, and note that only the U.S. citizen or lawful permanent

13 resident petitioner files the Petition. Based on information

14 supplied by Plaintiff-petitioner and in Defendants' records,

15 Defendants admit the remaining allegations in Paragraph 134.

16 **Plaintiff-petitioner BAYOR**

17 135. Based on information supplied by Plaintiff-petitioner and in

18 Defendants' records, Defendants admit the allegations in

19 Paragraph 135.

20 136. Defendants lack sufficient information or knowledge to form

21 a belief as to the truth of the allegations in the first sentence

22 of Paragraph 136, which allegations are therefore denied. Based

23 on information supplied by Plaintiff-petitioner and in

24 Defendants' records, Defendants admit the allegations in the

25 second sentence of Paragraph 136.

1 137. Based on information supplied by Plaintiff-petitioner and in
2 Defendants' records, Defendants admit the allegations in
3 Paragraph 137.

4 **The Petition and Application**

5 138. Based on information supplied by Plaintiff-petitioner and in
6 Defendants' records, Defendants admit the allegations in the
7 first sentence of Paragraph 138, but Defendants note that
8 Plaintiff-petitioner Bayor no longer qualifies as an immediate
9 relative, since her former spouse, who filed the I-130 and I-864,
10 died and plaintiff-petitioner had not been married to her former
11 spouse for two years at the time of his death. Defendants
12 further admit, based on information supplied by
13 Plaintiff-petitioner and in Defendants' records, the remaining
14 allegations in Paragraph 138.

15 139. Based on information supplied by Plaintiff-petitioner and in
16 Defendants' records, Defendants admit that Stephen R. Bayor died
17 on May 5, 2007; and that he was Plaintiff-petitioner's spouse at
18 the time of his death. Defendants deny that Stephen R. Bayor is
19 currently the spouse of Plaintiff-petitioner Bayor.

20 **The Denial**

21 140. Defendants deny that the Petition is filed jointly by the
22 couple, and note that only the U.S. citizen or lawful permanent
23 resident petitioner files the Petition. Based on information
24 supplied by Plaintiff-petitioner and in Defendants' records,
25 Defendants admit the remaining allegations in Paragraph 140.

Plaintiff-petitioner STANDIFER

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2 141. Based on information supplied by Plaintiff-petitioner and in
3 Defendants' records, Defendants admit the allegations in
4 Paragraph 141.

5 142. Defendants lack sufficient information or knowledge to form
6 a belief as to the truth of the allegations in the first sentence
7 of Paragraph 142, which allegations are therefore denied. Based
8 on information supplied by Plaintiff-petitioner and in
9 Defendants' records, Defendants admit the remaining allegations
10 in Paragraph 142.

11 143. Based on information supplied by Plaintiff-petitioner and in
12 Defendants' records, Defendants admit the allegations in
13 Paragraph 143.

The Petitioner and Application

14
15 144. Based on information supplied by Plaintiff-petitioner and in
16 Defendants' records, Defendants admit the allegations in the
17 first sentence of Paragraph 144, but Defendants note that
18 Plaintiff-petitioner Standifer no longer qualifies as an
19 immediate relative, since her former spouse, who filed the I-130
20 and I-864, died and Plaintiff-petitioner had not been married to
21 her former spouse for two years at the time of his death.
22 Defendants further admit, based on information supplied by
23 Plaintiff-petitioner and in Defendants' records, the remaining
24 allegations in Paragraph 144.

25 145. Based on information supplied by Plaintiff-petitioner and in
26 Defendants' records, Defendants admit only that Glenn Collin

1 Standifer died on December 9, 2004; and that he was
2 Plaintiff-petitioner's spouse at the time of his death.
3 Defendants lack sufficient information or knowledge to form a
4 belief as to the truth of whether Glenn Collin Standifer suffered
5 a sudden heart attack, and deny that Glenn Collin Standifer is
6 currently the spouse of Plaintiff-petitioner Standifer.

7 **The Denial**

8 146. Defendants deny that the Petition is filed jointly by the
9 couple, and note that only the U.S. citizen or lawful permanent
10 resident petitioner files the Petition. Based on information
11 supplied by Plaintiff-petitioner and in Defendants' records,
12 Defendants admit the remaining allegations in Paragraph 146.

13 **Plaintiff-petitioner BATOOL**

14 147. Based on information supplied by Plaintiff-petitioner and in
15 Defendants' records, Defendants admit the allegations in
16 Paragraph 147.

17 148. Defendants lack sufficient information or knowledge to form
18 a belief as to the truth of the allegations in the first sentence
19 of Paragraph 148, which allegations are therefore denied. Based
20 on information supplied by Plaintiff-petitioner and in
21 Defendants' records, Defendants admit the remaining allegations
22 in Paragraph 148.

23 149. Based on information supplied by Plaintiff-petitioner and in
24 Defendants' records, Defendants admit the allegations in
25 Paragraph 149.

1 **The Petition and Application**

2 150. Based on information supplied by Plaintiff-petitioner and in
3 Defendants' records, Defendants admit the allegations in the
4 first sentence of Paragraph 150, but Defendants note that
5 Plaintiff-petitioner Batool no longer qualifies as an immediate
6 relative, since her former spouse, who filed the I-130 and I-864,
7 died and Plaintiff-petitioner had not been married to her former
8 spouse for two years at the time of his death. Defendants
9 further admit, based on information supplied by
10 Plaintiff-petitioner and in Defendants' records, the remaining
11 allegations in Paragraph 150.

12 151. Based on information supplied by Plaintiff-petitioner and in
13 Defendants' records, Defendants admit that Dale Allen Davis died
14 on July 24, 2004; and that he was Plaintiff-petitioner's spouse
15 at the time of his death. Defendants lack sufficient information
16 or knowledge to form a belief as to whether he died from cancer,
17 which allegations are therefore denied. Defendants further deny
18 that Dale Allen Davis is currently the spouse of Plaintiff-
19 petitioner Batool.

20 **The Denial**

21 152. Defendants deny that the Petition is filed jointly by the
22 couple, and note that only the U.S. citizen or lawful permanent
23 resident petitioner files the Petition. Based on information
24 supplied by Plaintiff-petitioner and in Defendants' records,
25 Defendants admit the remaining allegations set forth in the first
26 sentence of Paragraph 152 and the allegations set forth in the
27

1 second and third sentences of Paragraph 152. Defendants further
2 admit, based on information supplied by Plaintiff-petitioner and
3 in Defendants' records, that Plaintiff-petitioner Batool did not
4 attend the interview. Defendants lack sufficient information or
5 knowledge to form a belief as to what her counsel may have told
6 her and why she did not attend her interview, which allegations
7 are therefore denied. Defendants further deny the allegations in
8 the fourth sentence of Paragraph 152.

9 **CLASS ACTION ALLEGATIONS**

10 153. This Paragraph sets forth Plaintiffs' portrayal of the
11 action, including their legal conclusions, to which no responsive
12 pleading is required. To the extent that a response is required,
13 Defendants deny that this case is appropriate for class action
14 treatment under Rule 23.

15 154. This Paragraph sets forth Plaintiffs' portrayal of the
16 action, including their legal conclusions, to which no responsive
17 pleading is required. To the extent that a response is required,
18 Defendants deny that this case is appropriate for class action
19 treatment under Rule 23.

20 155. This Paragraph sets forth Plaintiffs' portrayal of the
21 action, including their legal conclusions, to which no responsive
22 pleading is required. To the extent that a response is required,
23 Defendants deny that this case is appropriate for class action
24 treatment under Rule 23, and Defendants further deny that
25 Plaintiffs have met the requirements of Rule 23(a).

1 156. This Paragraph sets forth Plaintiffs' portrayal of the
2 action, including their legal conclusions, to which no responsive
3 pleading is required. To the extent that a response is required,
4 Defendants deny that this case is appropriate for class action
5 treatment under Rule 23, and Defendants further deny that
6 Plaintiffs have met the requirements of Rule 23(a)(2).
7 Defendants object to the characterizations of Defendants' actions
8 and to every legal conclusion set forth by Plaintiffs.

9 157. This Paragraph sets forth Plaintiffs' portrayal of the
10 action, including their legal conclusions, to which no responsive
11 pleading is required. To the extent that a response is required,
12 Defendants deny that this case is appropriate for class action
13 treatment under Rule 23. Defendants object to the
14 characterizations of Defendants' actions and to every legal
15 conclusion set forth by Plaintiffs.

16 158. This Paragraph sets forth Plaintiffs' portrayal of the
17 action, including their legal conclusions, to which no responsive
18 pleading is required. To the extent that a response is required,
19 Defendants deny that this case is appropriate for class action
20 treatment under Rule 23, and Defendants further deny that
21 Plaintiffs have met the requirements of Rule 23(a)(1).
22 Defendants object to the characterizations of Defendants' actions
23 and to every legal conclusion set forth by Plaintiffs.

24 159. This Paragraph sets forth Plaintiffs' portrayal of the
25 action, including their legal conclusions, to which no responsive
26 pleading is required. To the extent that a response is required,
27

1 Defendants deny that this case is appropriate for class action
2 treatment under Rule 23, and Defendants further deny that
3 Plaintiffs have met the requirements of Rule 23(a)(3).

4 Defendants object to the characterizations of Defendants' actions
5 and to every legal conclusion set forth by Plaintiffs.

6 160. This Paragraph sets forth Plaintiffs' portrayal of the
7 action, including their legal conclusions, to which no responsive
8 pleading is required. To the extent that a response is required,

9 Defendants deny that this case is appropriate for class action
10 treatment under Rule 23, and Defendants further deny that
11 Plaintiffs have met the requirements of Rule 23(a)(4).

12 Defendants object to the characterizations of Defendants' actions
13 and to every legal conclusion set forth by Plaintiffs.

14 161. This Paragraph sets forth Plaintiffs' portrayal of the
15 action, including their legal conclusions, to which no responsive
16 pleading is required. To the extent that a response is required,

17 Defendants deny that this case is appropriate for class action
18 treatment under Rule 23.

19 162. This Paragraph sets forth Plaintiffs' portrayal of the
20 action, including their legal conclusions, to which no responsive
21 pleading is required. To the extent that a response is required,

22 Defendants deny that this case is appropriate for class action
23 treatment under Rule 23, and Defendants further deny that
24 Plaintiffs have met the requirements of Rule 23(b)(2).

25 Defendants object to the characterizations of Defendants' actions
26 and to every legal conclusion set forth by Plaintiffs.

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1 163. This Paragraph sets forth Plaintiffs' portrayal of the
2 action, including their legal conclusions, to which no responsive
3 pleading is required. To the extent that a response is required,
4 Defendants deny that this case is appropriate for class action
5 treatment under Rule 23. Defendants object to the
6 characterizations of Defendants' actions and to every legal
7 conclusion set forth by Plaintiffs.

8 **CLAIMS FOR RELIEF**

9 **FIRST CAUSE OF ACTION**

10 164. Defendant incorporates ¶¶ 1-163 of this answer as if set
11 forth fully here.

12 165. This Paragraph sets forth Plaintiffs' portrayal of the
13 action, including their legal conclusions, to which no responsive
14 pleading is required. To the extent that a response is required,
15 Defendants deny the allegations in Paragraph 165.

16 166. This Paragraph sets forth Plaintiffs' portrayal of the
17 action, including their legal conclusions, to which no responsive
18 pleading is required. To the extent that a response is required,
19 Defendants deny the allegations in Paragraph 166. Defendants
20 object to the characterizations of Defendants' actions and to
21 every legal conclusion set forth by Plaintiffs.

22 167. This Paragraph sets forth Plaintiffs' portrayal of the
23 action, including their legal conclusions, to which no responsive
24 pleading is required. To the extent that a response is required,
25 Defendants deny the allegations in Paragraph 167.

1 168. This Paragraph sets forth Plaintiffs' portrayal of the
2 action, including their legal conclusions, to which no responsive
3 pleading is required. To the extent that a response is required,
4 Defendants deny the allegations in Paragraph 168.

5 169. This Paragraph sets forth Plaintiffs' portrayal of the
6 action, including their legal conclusions, to which no responsive
7 pleading is required. To the extent that a response is required,
8 Defendants deny the allegations in Paragraph 169.

9 170. This Paragraph sets forth Plaintiffs' portrayal of the
10 action, including their legal conclusions, to which no responsive
11 pleading is required. To the extent that a response is required,
12 Defendants deny the allegations in Paragraph 170. Defendants
13 object to the characterizations of Defendants' actions and to
14 every legal conclusion set forth by Plaintiffs.

15 171. This Paragraph sets forth Plaintiffs' portrayal of the
16 action, including their legal conclusions, to which no responsive
17 pleading is required. To the extent that a response is required,
18 Defendants deny the allegations in Paragraph 171. Defendants
19 object to the characterizations of Defendants' actions and to
20 every legal conclusion set forth by Plaintiffs.

21 172. This Paragraph sets forth Plaintiffs' portrayal of the
22 action, including their legal conclusions, to which no responsive
23 pleading is required. To the extent that a response is required,
24 Defendants deny the allegations in Paragraph 172. Defendants
25 object to the characterizations of Defendants' actions and to
26 every legal conclusion set forth by Plaintiffs.

27

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1 173. This Paragraph sets forth Plaintiffs' portrayal of the
2 action, including their legal conclusions, to which no responsive
3 pleading is required. To the extent that a response is required,
4 Defendants deny the allegations in Paragraph 173.

5 174. This Paragraph sets forth Plaintiffs' portrayal of the
6 action, including their legal conclusions, to which no responsive
7 pleading is required. To the extent that a response is required,
8 Defendants deny the allegations in Paragraph 174.

9 **SECOND CAUSE OF ACTION**

10 175. Defendant incorporates ¶¶ 1-163 of this answer as if set
11 forth fully here.

12 176. This Paragraph sets forth Plaintiffs' portrayal of the
13 action, including their legal conclusions, to which no responsive
14 pleading is required. To the extent that a response is required,
15 Defendants deny the allegations in Paragraph 176.

16 177. This Paragraph sets forth Plaintiffs' portrayal of the
17 action, including their legal conclusions, to which no responsive
18 pleading is required. To the extent that a response is required,
19 Defendants deny the allegations in Paragraph 177. Defendants
20 object to the characterizations of Defendants' actions and to
21 every legal conclusion set forth by Plaintiffs.

22 **THIRD CAUSE OF ACTION**

23 178. Defendant incorporates ¶¶ 1-163 of this answer as if set
24 forth fully here.

25 179. This Paragraph sets forth Plaintiffs' portrayal of the
26 action, including their legal conclusions, to which no responsive
27

1 pleading is required. To the extent that a response is required,
2 Defendants deny the allegations in Paragraph 179. Defendants
3 object to the characterizations of Defendants' actions and to
4 every legal conclusion set forth by Plaintiffs.

5 180. This Paragraph sets forth Plaintiffs' portrayal of the
6 action, including their legal conclusions, to which no responsive
7 pleading is required. To the extent that a response is required,
8 Defendants deny the allegations in Paragraph 180. Defendants
9 object to the characterizations of Defendants' actions and to
10 every legal conclusion set forth by Plaintiffs.

11 181. This Paragraph sets forth Plaintiffs' portrayal of the
12 action, including their legal conclusions, to which no responsive
13 pleading is required. To the extent that a response is required,
14 Defendants deny the allegations in Paragraph 181.

15 * * * * *

16 **PRAYER FOR RELIEF**

17 The remainder of the complaint constitutes Plaintiffs'
18 request for relief to which no responsive pleading is necessary.
19 To the extent that a response is deemed required, Defendants deny
20 the prayer for relief.

21 Defendants deny that Plaintiffs are entitled to the relief
22 sought in the complaint or to any relief whatsoever.

23 * * * * *

24 **GENERAL DENIAL**

25 To the extent that Defendants have not responded to an
26 allegation in any paragraph, Defendants deny the allegation

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28

1 therein.

2 * * * * *

3 In addition, Defendants assert the following affirmative
4 defenses:

5 **FIRST AFFIRMATIVE DEFENSE**

6 The complaint fails to state a claim upon which relief can
7 be granted for those Plaintiffs residing outside the Ninth
8 Circuit.

9 **SECOND AFFIRMATIVE DEFENSE**

10 This complaint should be dismissed in part on the grounds
11 that Plaintiffs' claims under the Administrative Procedure Act
12 fail due to failure to exhaust administrative remedies or due to
13 the lack of a final agency decision.

14 **THIRD AFFIRMATIVE DEFENSE**

15 This Court lacks jurisdiction over Plaintiffs' Cause of
16 Action under the Declaratory Judgment Act.

17 **FOURTH AFFIRMATIVE DEFENSE**

18 This Court should dismiss the complaint in part on the
19 grounds that several claims are barred by the doctrine of res
20 judicata.

21 **FIFTH AFFIRMATIVE DEFENSE**

22 Relief should be denied to Plaintiffs as an exercise of
23 judicial discretion to withhold relief.

24 **SIXTH AFFIRMATIVE DEFENSE**

25 Plaintiffs are unable to establish (1) a strong likelihood
26 of success on the merits, (2) the possibility of irreparable
27

1 injury to the Plaintiffs if preliminary relief is not granted,
2 (3) a balance of hardships favoring the Plaintiffs, and (4)
3 advancement of the public interest (in certain cases) necessary
4 to substantiate entitlement to injunctive relief.

5 **SEVENTH AFFIRMATIVE DEFENSE**

6 Defendants assert Plaintiffs are not entitled to any award
7 of attorneys' fees.

8 **EIGHTH AFFIRMATIVE DEFENSE**

9 Defendants reserve its right to raise additional affirmative
10 defenses and to supplement those asserted herein, including, but
11 not limited to, fraud, illegality, payment, release, and waiver,
12 upon discovery of further information regarding the claims and
13 upon further investigation.

14 WHEREFORE Defendants ask that this action be dismissed with
15 prejudice, that judgment be entered for Defendants, that the
16 request of an award of costs and expenses of the suit be denied
17 to Plaintiffs, and that the Court grant such other and further
18 relief to Defendants as it deems proper.

19
20 //

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26 //

1 DATED: April 11, 2008

2 Respectfully submitted,

3 JEFFREY S. BUCHOLTZ
4 United States Department of Justice
5 Acting Assistant Attorney General

6 By: S/ Elizabeth J. Stevens
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14 Trial Attorney
15 Sheri.glaser@usdoj.gov

16 Dated: April 11, 2008

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CERTIFICATE OF SERVICE

Case No. C-07-5696-CAS

I hereby certify that on this 11th day of April 2008, true and correct copies of the Defendants' **ANSWER TO PLAINTIFFS' FIRST AMENDED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF AND PETITION FOR MANDAMUS** were served pursuant to the district court's ECF system as to ECF filers on April 11, 2008, to the following ECF filers:

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