

1 Defendants' motion to dismiss is DENIED, and plaintiffs' motion for
2 summary judgment is GRANTED. It is further

3
4 ORDERED that, pursuant to Section 706(2)(A) of the Administrative
5 Procedure Act ("APA"), the determination of defendants that plaintiffs do not qualify as
6 immediate relatives because plaintiffs are not spouses of United States citizens is set
7 aside because it is not in accordance with the law; and it is further

8 ORDERED that defendant USCIS process plaintiffs' I-130 petitions and that
9 defendants USCIS and State Department process plaintiffs' I-485 and DS-230
10 applications, as such action has been unlawfully withheld under Section 706(1) of the
11 APA; and it is further

12 ORDERED that, for purposes of adjudicating plaintiffs' I-130 petitions,
13 plaintiffs are immediate relatives under 8 U.S.C. § 1151(b)(2)(A)(i); and it is further

14 ORDERED that, pursuant to Section 706(2)(C) of the APA, the regulation
15 found at 8 CFR § 205.1(a)(3)(i)(C) providing for automatic revocation of petitions upon
16 the death of the petitioner is in excess of statutory authority; and it is further

17 ORDERED that, pursuant to Section 706(2)(A) and (B) of the APA,
18 defendants shall not require plaintiffs to submit a request for humanitarian reinstatement,
19 nor a Form I-864, Affidavit of Support, as a condition of I-130 approval and/or non-
20 revocation, because those conditions are not in accordance with the law and contrary to
21 due process rights guaranteed under the Fifth Amendment to the United States
22 Constitution; and it is further

23 ORDERED that, pursuant to Section 706(2)(A) and (B) of the APA,
24 defendants shall not consider discretionary factors such as admissibility questions or
25 claims of abandonment of adjustment of status due to departure from the United States in
26 connection with plaintiffs' I-130 petitions, because consideration of those factors are not
27
28

1 in accordance with the law and contrary to due process rights guaranteed under the Fifth
2 Amendment to the United States Constitution; and it is further

3 ORDERED that class members' I-130 petitions and I-485 and DS-230
4 applications are subject to this ORDER.
5

6 IT IS SO ORDERED.
7

8 Dated: _____
9

10 HONORABLE CHRISTINA A. SNYDER
United States District Judge
11

12 Submitted by:
13

14
15 One of plaintiffs-petitioners attorneys
16 BRENT W. RENISON, Oregon SBN. 96475
17 PARRILLI RENISON LLC
18 5285 SW Meadows Rd., Ste 175
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20 (503) 597-7190
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E-mail: brent@entrylaw.com
21 *Admitted pro hac vice*
22
23
24
25
26
27
28

1 PROOF OF SERVICE

2 I, the undersigned, say: my business address is 5285 SW Meadows Rd., Suite 175,
3 Lake Oswego, OR 97035. I am over the age of eighteen years and not a party to the
4 above-entitled action.

5 On December 6, 2007, I served the within document(s) described as: PROPOSED
6 ORDER GRANTING MOTION FOR SUMMARY JUDGMENT, on the interested
7 party(ies) in this action as follows:

8 I inserted a true and correct copy of the document(s) in a sealed envelope and
9 caused each such envelope, with first-class postage thereon fully prepaid, to be deposited
10 in a recognized place of deposit of the United States Mail for collection and mailing to
11 the office/residence of the addressee(s) on the date shown below following ordinary
12 business practices, addressed as follows:

13 Elizabeth Stevens
14 Office of Immigration Litigation
15 USDOJ Civil Division
16 P.O. Box 878
17 Ben Franklin Station
18 Washington, DC 20044

19 Leon W. Weidman, Chief
20 United States Attorney's Office
21 Room 7516, Federal Building
22 300 N. Los Angeles Street
23 Los Angeles, CA 90012

24 Alberto Gonzales
25 United States Attorney General
26 United States Department of Justice
27 950 Pennsylvania Avenue, NW
28 Washington, D.C. 20530-0001

29 Michael Chertoff
30 Secretary, Department of Homeland Security
31 United States Department of Homeland Security
32 Washington, D.C. 20528

1
2 Emilio Gonzalez
3 Director, United States Citizenship and Immigration Services
4 United States Department of Homeland Security
5 425 I Street NW
6 Washington, D.C. 20536

7
8 Condoleezza Rice
9 Secretary of State
10 United States Department of State
11 Attn: Christopher Riche, Exec. Dir. Legal Advisor
12 Rm. 5519
13 2201 C Street NW
14 Washington, D.C. 20520

15
16 Maura Harty
17 Assistant Secretary for Consular Affairs
18 United States Department of State
19 Attn: Christopher Riche, Exec. Dir. Legal Advisor
20 Rm. 5519
21 2201 C Street NW
22 Washington, D.C. 20520

23
24 I declare under penalty of perjury under the laws of the United States of America
25 that the foregoing is true and correct.

26 EXECUTED on December 6, 2007, at Lake Oswego, Oregon.

27
28

Brent W. Renison, Declarant