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JUDGE ROTHSTEIN

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AT SEATTLE
CLERK U.S. DISTRICT COURT
BY WESTERN DISTRICT OF WASHINGTON
DEPUTY

AT SEATTLE
CLERK U.S. DISTRICT COURT
BY WESTERN DISTRICT OF WASHINGTON
DEPUTY

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BY IMMIGRANT ASSISTANCE PROJECT OF)
LOS ANGELES COUNTY FEDERATION OF)
LABOR (AFL-CIO), et al.)
)
Plaintiffs)
vs.)
)
IMMIGRATION AND NATURALIZATION)
SERVICE, et al.)
)
Defendants.)

No. C-88-379R

ORDER

This matter comes before the court on plaintiffs' Motion to Reinstate Temporary Protective Order With Appropriate Modifications. This Court's Order Denying Defendants' Motion to dismiss and Vacate Rulings and Granting in Part Plaintiffs' Motions to Amend Complain, for Class Certification and for Reinstatement of Temporary Protective Order, is incorporated by this reference as if fully set forth herein. Having considered Plaintiffs Motion to Reinstate Temporary Protective Order, Plaintiffs' revised Second Amended Complaint, together with all documents and exhibits on file, and in order to avoid irreparable injury to plaintiffs and class members through deportation and forced unemployment and to protect the public interest pending the entry of final judgement in this case,

The court hereby ORDERS that:

1. Within twenty (20) days of the entry of this Order the INS shall transmit the

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295

attached memorandum (Exhibit 1) to all appropriate employees, , including all INS examinations, deportation, detention officers, as well as all INS employees who may in the normal course of business receive inquiries regarding application for immigration benefits. This memorandum shall provide instructions to INS officers and employees on the implementation of this Order.

2. Defendant Immigration and Naturalization Service ("INS") shall provide the attached Notice, Exhibit 2 hereto, in English and Spanish to all persons who appear to fall within Category 1 through 3 described in ¶56 of the Second Amended Complaint who come to the attention of INS officers or who request information concerning this lawsuit. Notice need not be provided to persons apprehended within five miles of the United States land borders with Mexico and Canada. Copies of the notice shall be posted in English and Spanish in all INS detention facilities in locations visible to detainees for the 12 months following the date of the filing of this order. The substance of this notice, as well as copies of the application forms, shall also be available on INS's nationwide 800 information number.

3. Defendant INS shall not deport persons defined in Categories 1 through 3 without first providing to such individuals an opportunity to seek benefits pursuant to this order unless the INS is in possession of reliable information establishing that the person is deportable regardless of his or her apparent eligibility for interim relief under this order (for example because of the conviction of 1 felony or 3 misdemeanors). Detained aliens apparently eligible to apply for relief under this order shall have 30 days to submit an application after receipt of the notice attached as Exhibit 2 and after being provided the necessary application forms. Within a reasonable period of time after a detained person files an application for interim relief under this order, he or she shall be interviewed and a determination made whether the application establishes prima facie eligibility

for legalization and class membership. The INS shall reconsider the custody status of any applicant deemed prima facie eligible for legalization and class membership, and such eligibility shall be taken into account when reconsidering the alien's custody status.

4. Commencing on February 6, 1996, and concluding after INS has accepted applications for interim relief for twelve (12) months, persons who believe they are class members in Categories 1 through 3 who were deterred from filing timely applications because the regulations and policies challenged in this lawsuit were applied to them may submit an application for interim relief under this order by filing with the INS District in which they reside the following: 1) Declaration of Eligibility under Immigrant Assistance Project, Exhibit 3 hereto, together with any available supporting evidence of the affirmative steps they took to timely apply; 2) a Form I-687 Application for Legalization, together with proof of prima facie eligibility for legalization; 3) the filing fee, fingerprints and photographs as set forth in INS regulations. No medical examination form shall be required until such time as INS determines that it will adjudicate the I-687 application.

5. INS shall schedule interviews as soon as reasonably possible for the purpose of determining class eligibility and prima facie eligibility for legalization. Interviews shall be conducted in the INS District in which the applicant resides. Applicants may be accompanied to interviews by lawyers, legal representatives or translators as needed. INS is not required to conduct an interview if in its discretion it deems the applicant qualified for interim relief solely based on the written application.

6. The INS shall not deport, exclude and deport, or remove by voluntary departure, any person who has filed an application pursuant to this order, unless and until a denial of class

membership or prima facie eligibility is issued. In the event that INS does not schedule an interview of the applicant in 90 days, such applicants shall be granted interim employment authorization through the date of interview, or through the date their applications for relief under this order are approved without interview. Such employment authorization shall be extended in reasonable increments if a final determination requires further interview or investigation.

7. Based upon the totality of the evidence submitted by the applicant, and the presence or absence of information in government records taken as a whole, the INS will determine whether the applicant has carried his/her burden of proof by a preponderance of evidence establishing class membership and prima facie eligibility for legalization. Because plaintiffs' claims relating to Categories 1 and 2 are largely procedural in nature, *see McNary v. HRC*, 111 S.Ct. 888 and because the Supreme Court recognized that with regard to challenges to substantive regulations, class members who were not front-desked may nevertheless demonstrate that the front-desking policy was a substantial cause of their failure to timely complete the application process, the following class members shall be eligible for interim relief: all persons who entered the United States in a non-immigrant status prior to 1/1/82 who, pursuant to INS's front-desking policy, (1) attempted to file completed timely applications that were rejected by the INS, (2) persons who were advised by the INS or a Qualified Designated Entity that they were ineligible, or ineligible to apply for legalization or were refused application forms and instructions because they fell within Categories 1, 2 and/or 3; or (3) persons who were advised by a non-INS source (for example media, friends, service provider, or an attorney) that they were ineligible or ineligible to apply for legalization *and* who took affirmative steps to complete the application process. Evidence of affirmative steps to timely apply include seeking further information from

the INS, a QDE, or communicating with an attorney or a service provider other than the source of the disqualifying information for the purpose of obtaining legalization; or credible evidence, that during the application period, the applicant obtained a qualifying medical examination from an INS certified physician, money order or fingerprints to accompany the application, or supporting documentation listed on the Instructions of Form I-687 for the purpose of obtaining legalization. Persons who merely heard of their ineligibility from a non-INS source such as a friend or the media *and* who cannot credibly establish that they took affirmative steps towards filing an application are not eligible for interim relief.

8. In determining whether a person shall be determined *prima facie* eligible for legalization, INS shall adhere to 8 C.F.R. §245a.1(n) and §245a.2(d) (documentation of identity, residence and financial responsibility). Category 1 applicants who establish that they failed to file the required pre-1982 address reports and who otherwise establish *prima facie* eligibility for legalization, are entitled to interim relief unless the INS comes forward with proof that the alleged pre-1982 violation and resulting unlawful status were not known to the government. Credible evidence of a violation of §265 prior to 1982 creates a rebuttable presumption that the INS knew of the violation. Evidence that INS purged records for the relevant time period which may have established that violations of nonimmigrants status were known to the INS prior to 1982 will not rebut the presumption of INS knowledge.

9. Category 2 applicants who establish that before 1982 they dropped out of school, failed to take a full course of studies, transferred schools without advance INS authorization, or terminated their H or L visa employment, without INS authorization, and who otherwise establish *prima facie* eligibility for legalization, are entitled to interim relief unless the INS comes

forward with proof that there was no violation of status or the violation was not known to the government. Credible evidence of a pre-1982 violation of nonimmigrant status that the school or employer was required to report, creates a rebuttable presumption that the INS knew of the violation. Evidence that INS purged records for the relevant time period which may have established that violations of nonimmigrants status were known to the INS prior to 1982 will not rebut the presumption of INS knowledge.

10. Category 3 applicants who establish that prior to the termination of the application period they erroneously obtained "legal" status and who otherwise establish prima facie eligibility for legalization, are entitled to interim relief unless the INS comes forward with proof that the status was not erroneously granted. Evidence that INS purged records for the relevant time period which may have established that violations of nonimmigrants status were known to the INS prior to 1982 will not rebut the presumption of INS knowledge.

11. Applicants who are eligible for interim relief shall be granted temporary stays of deportation and employment authorization (Form I-688A) in increments of twelve months, subject to extensions in the same duration, until final judgement or settlement of this litigation, unless the applicant is later determined to be ineligible for interim relief.

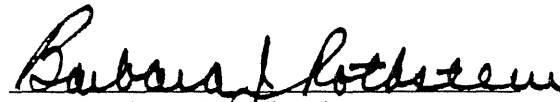
12. Any applicant denied a temporary stay of deportation or employment authorization under this Order, including persons in INS custody, shall be provided a written Notice of Denial stating the reasons for the denial and describing the evidence that supports the determination, and included the names, address and phone numbers of plaintiffs' counsel, Peter Schey, Robert Gibbs, and Robert Pauw. Absent a written waiver signed by the alien, expulsion shall not be effected for a minimum of four (4) working days from the date a fax is sent to plaintiff's counsel,

or for a period of eight (8) working days if notice is sent by certified mail, return receipt requested. Aliens who have been convicted of one felony or three misdemeanors may be deported without regard to the above waiting period, as they are statutorily ineligible for legalization.

13. INS shall provide plaintiffs counsel with copies of all wires or memos to the field concerning this case at the same time they are sent to the field.

14. So that class counsel may monitor defendants implementation of this order, communicate with class members, and or pursue compliance with this court, INS shall provide a monthly report to plaintiffs' counsel showing the names, addresses, phone numbers and A-numbers of all applicants, and the status of their application. INS shall provide class counsel with a monthly status report showing for the prior month, the number of applications received; interviews conducted; interim employment authorization documents issued; employment authorization documents granted and denied pursuant to interview; employment authorization documents extended; class membership and prima facie legalization determinations approved or denied, and the number of applications pending.

Dated this 4th day of December, 1995.


Hon. Barbara J. Rothstein
United States District Court Judge

Subject: Immigrant Assistance Project of Los Angeles County Federation of Labor (AFL-CIO) v. INS (IAP) Legalization Litigation

These instructions should be distributed to and carefully reviewed by all Service employees who may receive inquiries from aliens or otherwise be involved in apprehending, detaining, deporting or examining aliens, as well as District Legal officers.

These instructions are to be followed until further instructions are issued by the Central Office. These instructions supersede all previous instructions regarding the individuals protected by the orders issued in the IAP (formerly LEAP) case (described below).

The United States District Court for the Western District of Washington held that INS regulations interpreting and the procedures applying the "known to the government" provision contained in section 245A(small a)(2)(B) of the INS are invalid with respect to certain categories of potential legalization beneficiaries. (see below Categories 1-3). In an order dated [date of order], the district court enjoined the Service from deporting or denying employment authorization to any alien falling within these categories who, pursuant to INS's frontdesking policy, (1) attempted to file completed timely applications that were rejected by the INS, (2) were advised by the INS or a Qualified Designated Entity that they were ineligible, or ineligible to apply for legalization or were refused application forms and instructions because they fell within Categories 1, 2 and/or 3; or (3) were advised by a non-INS source (for example media, friends, service provider, or an attorney) that they were ineligible or ineligible to apply for legalization *and* who took affirmative steps to complete the application process. Evidence of affirmative steps to timely apply include seeking further information from the INS, a QDE, or communicating with an attorney or a service provider other than the source of the disqualifying information for the purpose of obtaining legalization; or credible evidence, that during the application period, the applicant obtained a qualifying medical examination from an INS certified physician, money order or fingerprints to accompany the application, or supporting documentation listed on the Instructions of Form I-687 for the purpose of obtaining legalization. Persons who merely heard of their ineligibility from a non-INS source such as a friend or the media *and* who cannot credibly establish that they took affirmative steps towards filing an application are not eligible for interim relief.

The district court held that otherwise eligible applicants in the following three categories may meet the "known to the government" or "continuous unlawful residence" requirement for the purpose of legalization:

Category 1: individuals who entered the United States as nonimmigrants prior to January 1, 1982, who violated their nonimmigrant status prior to January 1, 1982 and

whose violation of status was known to the government because documentation (including the absence of certain records) existed in one or more government agencies which, taken as a whole, warrants a finding that the individual violated his/her status (by way of example, this category includes individuals who worked without authorization before January 1, 1982 and who have social security records or tax records showing income relating to such work; and individuals who failed to file quarterly, annual, or timely change of address reports to the INS as then required under section 265 of the Immigration and Nationality Act);

Category 2: individuals who entered the United States prior to January 1, 1982 as students (on "F" or "J" visas) or as temporary workers (on "H" or "L" visas), and who failed to maintain their status until January 1, 1982 (for example, by dropping out of school, taking less than a full course of study, or transferring schools without advance INS authorization, or by terminating their employment, before January 1, 1982);

Category 3: individuals who entered the United States prior to January 1, 1982 and who continuously maintained an unlawful residence in the U.S. after January 1, 1982, but who received reinstatement to nonimmigrant status, or entry in the United States on a nonimmigrant visa, or change of nonimmigrant status, or adjustment of status, or some other immigration benefit although they did not qualify for such benefit (for example, because they did not inform INS that they had worked without authorization).

The Service is under court order to provide individuals in Categories 1 through 3 with the attached written notice of relief available to them through the court order. The Service is also ordered to post the attached notice in a place visible to all detained aliens for a period of twelve months from the date of the court's order. The Service is also under court order to grant work authorization and stays of deportation to aliens in these categories who did not file timely legalization applications because of INS regulations and policies as explained above.

ACCEPTANCE OF APPLICATIONS FOR INTERIM RELIEF

District Offices are directed to provide all applicants falling under Categories 1 through 3 who did not file timely applications for legalization with the opportunity to establish prima facie eligibility for legalization and for interim relief. Applicants must establish that they failed to file a timely application because pursuant to INS frontdesking policy, (1) they attempted to file completed applications that were rejected by the INS, (2) they were advised by the INS or a Qualified Designated Entity that they were ineligible, or ineligible to apply for legalization, or were refused application forms and instructions because they fell within Categories 1, 2 and/or 3; or (3) they were advised by a non-INS source (for example media, friends, service provider, or an attorney) that they were

ineligible or ineligible to apply for legalization *and* they took affirmative steps to complete the application process.

Local offices should direct all such applicants to submit a Form I-687 with evidence of prima facie legalization eligibility, fingerprints, photographs and the filing fee required pursuant to regulation (but no medical examination form), a signed Declaration of Eligibility under IAP, and any evidence demonstrating that they fall into one or more of Categories 1-3.

The interview and determination of prima facie eligibility for amnesty and class membership should be made within a reasonable time after the applicant submits the application. The interview shall be held in the District Office where the applicant resides. Applicants whose interview will not occur within 90 days from the date of application shall be issued interim employment authorization on Form I-688A, valid until the date the interview is scheduled to occur. Applicants may be accompanied by lawyers, service providers or translators as needed. If after interview the applicant is determined to meet his or her burden of proof by a preponderance of the evidence to be prima facie eligible as a class member and for legalization, then work authorization shall be granted for one year increments during the pendency of this litigation on Form I-688A, unless the individual is later found ineligible for interim relief. The I-688A shall be coded "IAP" in the Provision of Law field. If no prima facie eligibility determination is made at the time of interview, employment authorization shall be issued (or extended, if employment authorization was previously issued) at no charge for the time necessary to make a determination of prima facie eligibility.

All denials of work authorization must be accompanied by a written explanation of the reasons for denial, and a description of the specific evidence supporting the determination, and including the names, addresses and telephone numbers of counsel for plaintiffs in the IAP case shall be provided to the applicant: Peter A. Schey (213-388-8693, ext. 104); Robert Gibbs or Robert Pauw (800-654-9155). The notice shall advise the person that he or she may contact one of the plaintiffs' counsel for free legal assistance.

ELIGIBILITY FOR INTERIM RELIEF

INS regulations at 8 C.F.R. § 245a.1(n) state that the term "prima facie" as used in the Act means eligibility is established if the applicant presents a completed I-687 and specific factual information which in the absence of rebuttal will establish a claim of eligibility for legalization. Such rebuttal may include evidence in possession of the INS that conflicts with the applicant's unsupported statements, the applicant's verbal statements during the interview contradict the application or supporting documentation, or material

statements made in the application or supporting documents contradict other statements made in the same documents.

Credible evidence of a violation of §265 (failure to submit required address reports) prior to 1982 creates a rebuttable presumption for Category 1 applicants that the INS knew of the violation. Evidence that INS purged records that may have helped to establish that the violations of nonimmigrant status were known to the INS prior to 1982 will not rebut the presumption of INS knowledge. For Category 2 applicants, credible evidence of a pre-1982 violation of nonimmigrant status that the school or employer was required to report, creates a rebuttable presumption that the INS knew of the violation. INS may not rebut the presumption of government knowledge solely on the basis of the nonexistence of records purged by INS during the relevant time periods. Category 3 applicants who establish that prior to the termination of the application period they erroneously obtained "legal" status and who otherwise establish prima facie eligibility for legalization, are entitled to interim relief unless the INS comes forward with proof that the status was not erroneously granted.

The officer who will authorize employment must bear in mind that this is a preliminary screening for interim protection, not a final determination on a legalization application. Where a corroborative declaration is presented with the application, it should not be rejected solely because of the declarant's close relationship to the applicant. If the evidence presented is not contradicted by the testimony or other evidence in the possession of the agency, the applicant should be considered prima facie eligible for legalization even though he may not have documentary evidence for each year since 1982.

ALIENS WHO ARE APPREHENDED OR IN CUSTODY.

Field offices are directed to question all apprehended aliens and all aliens in custody about possible eligibility for legalization under the court order, and are directed to record information regarding eligibility on Form I-213. The fact that the inquiry was made shall be noted on the INS form I-213 (e.g. "IAP Inquiry made"). However, inquiries need not be made of aliens who were or are apprehended entering or attempting to enter the U.S. without inspection or unlawfully through a port of entry or who are apprehended within five (5) miles of the United States land border with Mexico or Canada.

If a person in INS custody claims to have resided in the United States since before January 1, 1982, or if the INS has any information indicating that such person has been in the United States since before January 1, 1982, (such as in a pre-existing A file or on a Form I-213) then the person must be given the Notice to Immigrants Possibly Eligible for Legalization. If after reviewing the Notice (Exhibit A hereto), the alien states that he or she wishes to file an application for interim relief, the INS shall provide him or her

with all the necessary forms to complete an application and instruct the alien that he or she must complete and return the application packet within 30 days of it being provided to him or her in order to qualify for interim relief. Persons who have agreed to voluntary departure may withdraw that request if they wish to submit a Declaration of Eligibility Under IAP. (Exhibit B hereto).

If a person in INS custody being held for exclusion or deportation has, after receiving the notice referenced above, stated that they wish to apply for interim relief under IAP, they may not be excluded or deported unless and until the alien (a) has been provided a written statement, including the names and telephone numbers of class counsel, explaining the basis for the determination that s/he is not eligible for a stay of deportation pursuant to IAP, and describing the specific evidence that supports that determination; (b) INS has faxed or mailed a copy of the written statement to plaintiffs' counsel (see names and addresses below) and provided four days to counsel and the alien to communicate or consult (or 8 days in the event of a mailed notice); and (c) confirm compliance with the terms of the court orders with District Legal or the INS General Counsel's Office. This waiting period does not apply to persons who are ineligible for legalization because of a felony conviction or three misdemeanor convictions.

If it is determined that the alien in custody is eligible for relief under the *IAP* court order, the INS shall redetermine the alien's custody status taking into account the alien's eligibility for interim relief.

REVOCATION OF INTERIM RELIEF

If an individual's interim relief is subsequently revoked, a copy of the notice providing the reason for the revocation shall be provided to the applicant and a copy mailed to one of the plaintiffs' counsel at the address given below. Prior to the issuance of a notice of revocation, the applicant shall first be given a notice of intent to revoke, stating the reasons for the proposed revocation and describing the evidence upon which it is based. Copies of such notices, including the names and addresses of the applicants, shall be provided to class counsel. The applicant shall be given 30 days to respond to the notice of proposed revocation before a final decision is made. Final decisions revoking interim relief shall state the specific reasons for the revocation and describe evidence on which it is based. Copies of such decisions, including names and addresses of the alien, shall be provided to class counsel.

ADVANCE PAROLE FOR TRAVEL

An individual who has been granted interim relief may be allowed to reenter the United States after a brief absence, in the same manner as other legalization applicants.

CONFIDENTIALITY

The requirements of section 245A(small c)(5) are applicable to applications filed under the IAP order. In particular, any information furnished in support of the application for a stay of deportation and work authorization is confidential, and cannot be used except for purposes of adjudicating the application, or for criminal prosecution for fraud under section 245A(small c)(6).

MISCELLANEOUS

Any written directives issued by headquarters, regional or local offices to implement the instructions contained in this memorandum shall be served on plaintiffs' counsel identified below within ten (10) working days of the date of issuance, except for directives which defendant maintains are privileged as attorney-client communications. INS counsel shall advise plaintiffs' counsel regarding any documents or portions of documents that are believed to be privileged.

Each District shall prepare a monthly report for CO showing the number of applications received, the number of interviews held that month, the number of applications granted or denied or revoked, the number of interim employment authorizations issued or revoked, and the number of pending applications.

The names and addresses of counsel for plaintiffs are the following:

Peter A. Schey
CENTER FOR HUMAN RIGHTS AND
CONSTITUTIONAL LAW
256 South Occidental Boulevard
Los Angeles, California 90057
Telephone: 213-388-8693, ext. 104
Fax: 213-386-9484
[For applicants in California, Arizona, Nevada and Hawaii]

Robert Pauw
Robert Gibbs
GIBBS HOUSTON PAUW
1111 Third Ave. Suite 1210
Seattle, Washington 98101
Telephone: 800-654-9155
Fax: 206-689-2270
[For applicants in other states]

For any questions about the application of these procedures, particularly as to applicants whom Service personnel believe are not eligible for protection from imminent deportation or exclusion, please contact [INS to designate] at the Central Office at 202-514-____; fax 202-514-____.

NOTICE TO IMMIGRANTS POSSIBLY ELIGIBLE FOR LEGALIZATION
Immigrant Assistance Project v. INS ("LEAP" or "IAP")

A federal court in a case called Immigrant Assistance Project v. INS ("IAP" or "LEAP") has ruled that certain people may have been illegally prevented from obtaining amnesty (or "legalization") by the INS during the legalization program in 1987-1988. If you were deterred from applying for legalization because the INS regulations or policies challenged in this lawsuit were applied to you during the application period (May 5, 1987 to May 4, 1988) you may now qualify for a temporary work permit and protection from deportation until this case is finally resolved.

Generally, this case involves three categories of people:

Category 1: Those who entered the United States on nonimmigrant visas (visitors, students, temporary workers) before January 1, 1982, and who violated their nonimmigrant status before January 1, 1982, and whose violation of status can be shown by documentation (or the absence of certain records) in one or more federal agencies (for example, work without authorization; failure to file quarterly or annual address reports to the INS)

Category 2: Those who entered the United States before January 1, 1982 on nonimmigrant student visas (such as "F-visa" or "J-visa") or work visas (such as "H-visa" or "L-visa") and who violated the terms of their visas before January 1, 1982 (for example by dropping out of school or terminating employment with the designated employer)

Category 3: Those who entered the United States on nonimmigrant visas (visitors, students, temporary workers) before January 1, 1982, who went out of status, and who were put back into status even though they did not really qualify. For example, this category includes a person who entered the U.S. in student status before January 1, 1982, whose status expired or was terminated, and who later got reinstated to legal status even though s/he had worked without INS authorization.

Note that you may fall into more than one category. You may qualify for protection under the IAP case if you fall into one of the categories above and did not file an amnesty application in 1987-1988 because you heard that INS would not accept applications from people in your category.

PLEASE NOTE THE FOLLOWING IMPORTANT POINTS:

1. **CHANGE OF ADDRESS:** If you file an application for benefits under this lawsuit and then you change your address, you should notify the INS in writing of your change of address. In this way, INS can notify you in the future about your rights under the IAP case.

2. TEMPORARY EMPLOYMENT AUTHORIZATION AND STAY OF

DEPORTATION: If you did not file an application for legalization during the one year application period (May 1987 to May 1988) and you believe that you fall into one of the three categories described above, you may complete an IAP registration form ("Declaration of Eligibility") and file the form, together with an amnesty application (INS Form I-687), fingerprints, two (2) photographs and the required filing fee (\$185 per applicant, \$50 for applicants under 18, or \$420 per family), with your local INS office. Also mail a copy of the forms to the attorneys for plaintiffs listed below. This form is used to apply for a temporary employment authorization card, which is evidence that you have been granted a stay of deportation. If approved, you can travel outside the United States for brief trips in the same manner as other legalization applicants whose applications are pending. The application form and any supporting documents will be treated as confidential. You may obtain the IAP registration form from the INS office listed below, or from one of the plaintiffs' attorneys listed below.

INS OFFICE YOU SHOULD CONTACT: _____

ATTORNEYS YOU MAY CONTACT FOR ASSISTANCE:

PETER SCHEY
CENTER FOR HUMAN RIGHTS
AND CONSTITUTIONAL LAW
256 South Occidental Boulevard
Los Angeles, California 90057
(213) 388-8693, ext. 104
FAX: (213) 386-9484
[California, Arizona, Nevada, and Hawaii]

ROBERT GIBBS or ROBERT PAUW
GIBBS HOUSTON PAUW
1111 Third Ave., Suite 1210
Seattle, Washington
(206) 682-1080
FAX: (206) 689-2270
[all other states]

**DECLARATION OF ELIGIBILITY UNDER IMMIGRANT
ASSISTANCE PROJECT V. INS (LEAP or IAP)**

THE FOLLOWING DECLARATION MUST BE COMPLETED BY PERSONS SEEKING BENEFITS UNDER IMMIGRANT ASSISTANCE PROJECT V. INS (LEAP or IAP). THIS DECLARATION TOGETHER WITH FORM I-687, FINGERPRINTS, 2 PHOTOGRAPHS AND THE FILING FEE (\$185, \$50 for applicants under 18, or \$420 per family), MUST BE SUBMITTED IN PERSON TO THE NEAREST DISTRICT OFFICE. ALL INFORMATION IS CONFIDENTIAL, UNLESS FRAUDULENT INFORMATION IS SUBMITTED.

(1) NAME (LAST, FIRST, MIDDLE) _____

(2) DATE OF BIRTH (MO/DAY/YR) _____

(3) PLACE OF BIRTH _____

(4) Which of the following categories, if any, apply to you?

A. **Category 1:** I violated my immigration status *before January 1, 1982* in the following manner (one or more):

_____ I was in the United States on January 1 but did not file an address report with INS before January 31.

_____ I did not file INS address reports every 90 days.

_____ I did not submit a change of address form to INS within 10 days of moving my residence.

_____ I worked without authorization *before 1/1/82* and there are IRS or Social Security records or other government records that show this. Attach copies of any documents that you have available, such as W-2's, IRS tax returns, SSA Earnings Reports.

B. **Category 2:** I violated my immigration status *before January 1, 1982* in the following manner:

_____ I (or my spouse or my parent) was in the United States on an F-visa (student visa) and dropped out of school, transferred schools without advance INS permission, or did not take a full course of studies

_____ I (or my spouse or my parent) was in the United States on an H-visa (temporary worker) or L-visa (intra-company transferee) and stopped working for the designated employer

EXHIBIT 3

C. Category 3:

_____ I (or my spouse or parent) obtained a reinstatement to status, or other immigration benefit, which expired *after January 1, 1982*. This reinstatement or other benefit was obtained even though I (or my spouse or parent) did not qualify for the benefit, for example, because I had worked without authorization.

If you are in Category 3, please provide the following additional information:

a. state what benefit or status you (or your spouse or parent) improperly obtained that expired after January 1, 1982:

b. state when and where the status/benefit was obtained:

c. state when it expired: _____

d. state why you were not legally entitled to the status or benefit _____

For the relevant categories, attach evidence showing your violation of nonimmigrant status before 1/1/82 (such as records showing unauthorized employment; school records showing failure to register or take a full course of studies or transfer without INS authorization; documents showing that you quit your H or L visa employment; or documents showing your reinstatement to status after 1/1/82 such as an INS document or passport or visa). You must also submit proof that you were inspected and admitted to the United States as a non-immigrant before January 1, 1982 (for example a passport, I-94, or I-20).

(5) I did not file an application for legalization with INS or a Qualified Designated Entity from May 5, 1987 through May 4, 1988. Explain why you did not file an application for legalization before May 4, 1988. [check any or all that apply]

_____ I attempted to file a timely application with INS or a QDE, but INS or QDE would not accept my application because I was in one or more of the three categories.

Date you attempted to apply (approximate): _____

INS or QDE office: _____

INS or QDE employee's name (if known): _____

_____ I was advised by INS or a QDE that I was ineligible, or ineligible to apply for legalization because I was within one or more of the three categories.

Date you contacted INS or the QDE (approximate): _____

INS or QDE office: _____

INS or QDE employee's name (if known): _____

_____ I attempted to complete the application process but was blocked when INS or a QDE refused to give me the application forms because I was in one or more of the three categories
Date you attempted to obtain the forms (approximate) _____
INS or QDE Office _____
INS or QDE employee's name (if known) _____

_____ I was advised by a non-INS source (media, friends, service provider, attorney) that I was ineligible or ineligible to apply for legalization AND I took affirmative steps to file a legalization application, as described below:

A. Source of information: I received the information that I was ineligible or ineligible to apply for legalization as follows:

Date you were advised (approximate) _____

Source of your information _____

Name of person advising you (if known) _____

B. Affirmative Steps: Before the end of the application period (May 4, 1988), I took affirmative steps to apply by:

___ (a) contacting the INS, a QDE, lawyer or service provider (other than the person identified in part A above) for the purpose of obtaining legalization

Date (approximate) _____

Office or agency: _____

Name of person contacted (if known) _____

___ (b) obtaining a medical examination from an INS certified doctor

Name of doctor _____

Address _____

Approximate date _____

___ (c) obtaining a money order and/or fingerprints

Location where obtained _____

___ (d) obtaining supporting documentation to establish residence or employment in the United States continuously prior to 1982.

Describe _____

___ (e) Other explanation: _____

I declare under the penalty of perjury that the above information is true and correct to the best of my knowledge.

Signature

Date