1 2 3 4 5 IN THE UNITED STATES DISTRICT COURT 6 FOR THE DISTRICT OF ARIZONA 7 PROYECTO SAN PABLO, et al., No. CV 89-456-TUC-RCC 9 **ORDER** 10 Plaintiff, 11 VS. 12 DEPARTMENT HOMELAND) OF SECURITY, et al., 13 Defendant. 14 15 16 17 Pursuant to the Parties' Stipulation (Docket No. 501), 18 IT IS HEREBY ORDERED: 19 1. Plaintiffs' Second Motion to Compel (Docket No. 488) is WITHDRAWN, in 20 consideration of the following stipulated agreement concerning the treatment 21 of legalization applications of class members whose applications were denied 22 by Defendants and are now subject to the provisions of the Court's Amended 23 Order dated June 6, 2007 (Docket No. 475). 24 2. The June 6, 2007 Order required Defendants to reopen such denials and not to 25 adjudicate the applications until the provisions of the order were complied 26 with, including but not limited to providing a response to Freedom of 27 Information Act ("FOIA") requests for tapes and transcripts of prior 28

deportation hearings, and accepting and adjudicating waiver applications. Defendants have filed an appeal of that Order to the Ninth Circuit, challenging the provisions of the order regarding waivers. By agreement of the parties, the Court stayed Defendants' compliance with the waiver adjudication requirements of the June 6, 2007 Order (Section III) pending the outcome of Defendants' appeal. (Docket No. 492).

- Order shall be as follows: Class members shall submit motions to reopen on Form I-290B and shall pay the filing fee for a motion to reopen (currently \$585), or submit a request for a waiver of the filing fee pursuant to 8 C.F.R. § 103.7(c). Class members who filed motions to reopen prior to the Court's May 4, 2007 Order that are still pending do not have to resubmit a new motion to reopen or submit fees for subsequent extension of their employment authorization documents.
- 4. Class members who wish to file a waiver application must use Form I-690, and pay the required fee; however, there is no requirement that class members file a waiver application, or that class members who previously filed a waiver application file a new waiver application.
- 5. Class members who submit motions to reopen as described in paragraph 3 above may submit a Form I-765 Application for Employment Authorization, and may obtain annual renewals of such employment authorization. From this date forward, no filing fee shall be required for such initial applications for employment authorization or for renewals of such employment authorization. Any class members requested to submit their biometrics at an Application Support Center (ASC) will be required to pay the biometric services fee (currently \$80); although USCIS anticipates that few if any class members will be required to submit their biometrics at an ASC.

- 6. Defendants shall adjudicate such employment authorization applications from class members within 90 days, or failing that, upon the request of a class member, issue an interim employment authorization document as required by 8 C.F.R. § 274a.13(d).
- 7. Defendants will hold in abeyance the applications of class members who properly submit motions to reopen pursuant to the Court's Orders of May 4. 2007 and June 6, 2007, and who either submit or have submitted accompanying waiver applications, that are the subject of this lawsuit, until the resolution of the appeal pending before the Ninth Circuit.
- 8. Defendants shall post instructions alongside the previously posted notices to *Proyecto* class members in readily accessible locations on their website, and maintain such instructions until the final adjudication of each class member's application. Said instructions shall be in the form attached to this stipulation. *See* Exhibit A.
- 9. Each party will bear its own fees and costs associated with the second motion to compel (Docket No. 488). Plaintiffs will not seek attorney's fees or costs under the Equal Access to Justice Act, or any other provision of law, for this second motion to compel.

DATED this 3rd day of March, 2008.

Raner C. Collins

United States District Judge