

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

LI, individually and on behalf of a class
of those similarly situated,

[REDACTED]

and

LI, individually and on behalf of a
class of those similarly situated,

[REDACTED]

and

LIU, individually and on behalf of
a class of those similarly situated,

[REDACTED]

and

LIU, individually and on behalf of a
class of those similarly situated,

[REDACTED]

and

LIU, individually and on behalf of a
class of those similarly situated,

[REDACTED]

and

LONG, individually and on behalf
of a class of those similarly situated,

[REDACTED]

and

Case No. 2:21-CV-_____

Judge _____

VERIFIED CLASS ACTION
COMPLAINT FOR TEMPORARY
RESTRAINING ORDER,
PRELIMINARY AND PERMANENT
INJUNCTIVE RELIEF, EQUITABLE
RELIEF, DECLARATORY RELIEF
AND WRIT OF MANDAMUS

██████████ MU, individually and on behalf of a :
class of those similarly situated, :

and

██████████ PAN, individually and on behalf of a :
class of those similarly situated, :

and

████████ QIAN, individually and on behalf of :
a class of those similarly situated, :

and

██████ WANG, individually and on behalf of a :
class of those similarly situated, :

and

██████████ WANG, individually and on :
behalf of a class of those similarly situated, :

and

■■■ XIAO, individually and on behalf of a :
 class of those similarly situated, :

and

██████████ YANG, individually and on behalf :
of a class of those similarly situated, :

and

██████ YU, individually and on behalf of a
class of those similarly situated,

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████████████████████

and

██████ YUE, individually and on behalf
of a class of those similarly situated,

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████████████████████

and

██████ ZHANG, individually and on behalf
of a class of those similarly situated,

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████████████████████

and

██████ ZHANG, individually and on behalf of a
class of those similarly situated,

████████████████████
████████████████████

and

██████ ZHOU, individually and on behalf
of a class of those similarly situated,

████████████████████

Plaintiffs

v.

UNITED STATES CITIZENSHIP AND
IMMIGRATION SERVICES
20 Massachusetts Ave., NW
Washington, D.C. 20001

and

TRACY RENAUD, in her official capacity as :
the Senior Official Performing the Duties of :
the Director of USCIS :
20 Massachusetts Ave., NW :
Washington, D.C. 20001 :
:
and :

ERNEST DESTEFANO, in his official
capacity as the Chief of the Office of Intake
and Document Production, USCIS
20 Massachusetts Ave., NW
Washington, D.C. 20001

and

UNITED STATES IMMIGRATION AND
CUSTOMS ENFORCEMENT
500 12th St. SW
Washington, D.C. 20536

and

TAE JOHNSON, in his official capacity as
the Acting Director of ICE
500 12th St. SW
Washington, D.C. 20536

and

COREY PRICE, in his official capacity as the
ICE Acting Executive Associate Director for
Enforcement and Removal Operations,
500 12th St. SW
Washington, D.C. 20536

Defendants.

1. Plaintiffs bring this nationwide class action lawsuit to obtain injunctive, equitable and declaratory relief on behalf of themselves and two classes of similarly situated nonimmigrant students with F-1 status who have applied or will apply for permission to stay in the United States

after the completion of their formal studies for the purpose of completing a 12-month period of post-graduate optional practical training (“OPT”) or an additional 24-month period of STEM extension OPT (“STEM Extension”). 8 C.F.R. § 214.2(f)(10) & (11).

2. Beginning in approximately mid-October, Defendants significantly slowed and/or stopped opening, processing and adjudicating applications for immigration benefits that Defendant United States Citizenship and Immigration Services (“USCIS”) required applicants to submit to lockboxes in Arizona and Texas, including OPT and STEM Extension applications submitted by Plaintiffs and unnamed class members.

3. With respect to OPT applications, Defendants’ unlawful and undue delay in opening, processing and adjudicating applications submitted by Plaintiffs and unnamed class members has caused and/or threatens to cause them to suffer imminent and irreparable harm because:

- (a) Plaintiffs and unnamed class members will lose their F-1 status and be subject to removal on the 60th day after the date that their educational program ended, even if USCIS has not opened, processed and/or adjudicated their OPT applications;
- (b) USCIS will inevitably reject some of the OPT applications submitted by Plaintiffs and unnamed class members due to technical errors, and although applicants typically can correct and resubmit their applications, they must do so within strict deadlines that will have passed because of USCIS’s undue delay;
- (c) Plaintiffs and unnamed class members have lost and/or will lose job offers, income, health insurance, the lost opportunity for their prospective employers to register on their behalf for the H-1B lottery, and other benefits of employment as a result of

USCIS's undue delay in opening, processing and adjudicating their OPT applications; and

- (d) Plaintiffs and unnamed class members whose OPT applications are approved must complete their 12-month optional practical training within 14 months after the date that they completed their studies; therefore, the length of OPT that is available to them will be concomitantly reduced by the length of USCIS's undue delay.

4. With respect to STEM Extension applications, Defendants' unlawful and undue delay in opening, processing and adjudicating applications submitted by Plaintiffs and unnamed class members has caused and/or threatens to cause them to suffer imminent and irreparable harm because:

- (a) USCIS will inevitably reject some of the STEM Extension applications submitted by Plaintiffs and unnamed class members due to technical errors, and although applicants typically can correct and resubmit their applications, they must do so within strict deadlines that will have passed because of USCIS's undue delay; and
- (b) Plaintiffs and unnamed class members have lost and/or will lose jobs, job offers, income, health insurance, the lost opportunity for their prospective employers to register on their behalf for the H-1B lottery, and other benefits of employment as a result of USCIS's undue delay in opening, processing and adjudicating their applications.

5. This putative class action Complaint seeks temporary, preliminary and permanent mandatory injunctive relief, equitable relief, declaratory relief, and a writ of mandamus to compel USCIS to perform their clear legal duty to open, process and adjudicate applications submitted by Plaintiffs and unnamed class members, and to remedy the irreparable harm that Plaintiffs and

unnamed class members have suffered and face the imminent threat of suffering because of Defendants' actions and failures to act.

6. This Court is authorized by the Administrative Procedure Act, 5 U.S.C. § 551 et seq. and the Mandamus Act, 28 U.S.C. § 1361, to issue an order compelling Defendants to open, process and adjudicate the applications submitted by Plaintiffs and unnamed class members.

7. By delaying or refusing to open, process and adjudicate applications submitted by Plaintiffs and unnamed class members, Defendants have abused their power in an egregious and outrageous manner, without any reasonable justification in the service of a legitimate governmental objective, and with either an intention to harm Plaintiff and class members or deliberate indifference. Defendants have thereby violated the guarantee of substantive due process inherent in the Due Process Clause of the Fifth Amendment to the United States Constitution.

8. By delaying or refusing to open, process and adjudicate applications submitted by Plaintiffs and unnamed class members, Defendants have deprived them of their constitutionally protected property and liberty interests without notice or a meaningful opportunity to be heard, and have thereby violated the guarantee of procedural due process inherent in the Due Process Clause of the Fifth Amendment to the United States Constitution.

9. Plaintiffs and unnamed class members face the imminent and irreparable harm of being removed from the United States, being precluded from resubmitting their applications and/or completing a full period of optional practical training or STEM Extension practical training, all because of Defendants' failure to open, process and adjudicate their applications in a timely manner. Defendants should be equitably estopped from removing Plaintiffs and unnamed class members from the United States, rejecting applications based on technical errors if they cannot be resubmitted due to Defendants' undue delay (or, alternatively, allowing such applications to be

resubmitted after the deadlines), and limiting the period of optional practical training, under the equitable maxim that the government shall not benefit from its own wrong.

10. Defendants' actions and failures to act have intentionally, deliberately and/or willfully inflicted irreparable harm on Plaintiffs and unnamed class members.

11. Under the foregoing laws and the Constitution of the United States, this Court should issue a mandatory temporary restraining order, writ of mandamus, preliminary and permanent injunctive relief, equitable relief, and declaratory relief that compels Defendants to open, process and adjudicate applications submitted Plaintiffs and unnamed class members on an expedited and immediate basis, and that relieves Plaintiffs from the imminent and irreparable harm caused by Defendants' unlawful conduct.

PARTIES

12. Plaintiffs incorporate the allegations in the foregoing paragraphs as if they were fully restated herein.

13. **Plaintiff** [REDACTED] **Li** is a citizen of China who resides in Fox Point, Wisconsin and was in lawful F-1 status until his STEM Extension application was rejected on or about February 8, 2021. Mr. Li attended [REDACTED] University and graduated with a [REDACTED] in [REDACTED]. His authorized OPT expired on November 20, 2020. He submitted his STEM Extension application with his credit card information to the Texas lockbox on November 13, 2020. Mr. Li's credit card was involuntarily canceled due to fraud by December 5, 2020, and was completely deactivated by December 26, 2020. Defendants rejected his application on or about February 8, 2021 because the application fee did not go through. If USCIS had not unduly delayed the opening and processing of his application, then the application fee would have gone through. His employer promptly terminated his employment after USCIS rejected his application, although

it may re-hire him if he is able to resubmit his application and have it be approved. He has suffered and faces the imminent threat of suffering the following harm:

- (a) His credit card was unable to be charged because it was involuntarily cancelled approximately six weeks after he submitted his application—if USCIS had not unduly delayed opening and processing his application, his credit card could have been charged and the application fee would have gone through.
- (b) If it is now impossible for him to resubmit his application with the filing fee because the applicable deadlines have passed—or if USCIS rejects or denies his resubmitted application due to a technical error and its undue delay has made it impossible for him to correct and resubmit his application again—then he will be irreparably harmed by the permanent loss of his job, income, health insurance, opportunity for STEM extended practical training, opportunity for his employer to register on his behalf for the H-1B lottery, and ability to maintain his F-1 status and remain in the United States.
- (c) Beginning on February 8, 2021 and extending until the date his resubmitted application is approved, he has been and will be irreparably harmed by the temporary inability to work, earn income and benefit from employer-sponsored health insurance, and the opportunity for his prospective employer to register on his behalf for the H-1B lottery.
- (d) Because USCIS rejected his application on or about February 8, 2021, he faces the risk of being irreparably harmed because his F-1 status expired on that date and he is subject to removal while his resubmitted application is pending.

14. **Plaintiff** [REDACTED] **Li** is a citizen of China who resides in Columbus, Ohio and is in lawful F-1 status. Ms. Li attended [REDACTED] University and completed the requirements for a [REDACTED] in [REDACTED] on January 8, 2021. On December 9, 2020, she submitted her OPT application with a personal check and a requested start date of February 1, 2021 to the Arizona lockbox. Defendants cashed her check and generated a receipt number on or about January 20, 2021. Ms. Li has accepted a job offer and has a start date of April 5, 2021. She faces the imminent threat of suffering the following irreparable harm:

- (a) If USCIS denies her application due to a technical error and its undue delay has made it impossible for her to correct and resubmit her application before the applicable deadlines have passed, then she will be irreparably harmed by the permanent loss of her job offer, income, health insurance, opportunity for optional practical training, and ability to maintain her F-1 status and remain in the United States.
- (b) Beginning on April 5, 2021 and extending until the date she receives her EAD, she will be irreparably harmed by the temporary inability to work, earn income and enroll in employer-sponsored health insurance.
- (c) If USCIS approves her application after April 5, 2021 and she loses her job offer because of USCIS's undue delay, then she faces an additional risk of irreparable harm because she must find another job and begin working within 90 days of the date that her OPT application is granted, or else her F-1 status will expire.
- (d) If USCIS does not approve her application by March 9, 2021, then she faces the risk of being irreparably harmed because her F-1 status will expire on that date and she will be subject to removal while her application is still pending.

- (e) If USCIS does not approve her application and mail her EAD to her until after March 8, 2021, then she will be irreparably harmed by a concomitant reduction in her 12-month optional practical training period, which must end by March 8, 2022.

15. **Plaintiff** [REDACTED] **Liu** is a citizen of China who resides in Malden, Massachusetts and is in lawful F-1 status. Mr. Liu attended [REDACTED] University and graduated with a [REDACTED] Degree in [REDACTED] on December 20, 2020. On November 9, 2020, he submitted his OPT application with a personal check and a requested start date of January 1, 2021 to the Texas lockbox. Defendants cashed his check and generated a receipt number on or about February 6, 2021. Mr. Liu has accepted a job offer and was supposed to start working on January 1, 2021, but was unable to do so because of Defendants' unlawful and undue delay in opening, processing and adjudicating his application. He has suffered and faces the imminent threat of suffering the following irreparable harm:

- (a) If USCIS denies his application due to a technical error and its undue delay has made it impossible for him to correct and resubmit his application before the applicable deadlines have passed, then he will be irreparably harmed by the permanent loss of his job offer, income, health insurance, opportunity for optional practical training, potential opportunity for his prospective employer to register on his behalf for the H-1B lottery, and ability to maintain his F-1 status and remain in the United States.
- (b) Beginning on January 1, 2021 and extending until the date he receives his EAD, he has been and will be irreparably harmed by the temporary inability to work, earn income and enroll in employer-sponsored health insurance, and the potential lost

opportunity for his prospective employer to register on his behalf for the H-1B lottery.

- (c) If USCIS eventually approves his application but he loses his job offer because of USCIS's undue delay, then he faces an additional risk of irreparable harm because he must find another job and begin working within 90 days of the date that his application is granted, or else his F-1 status will expire.
- (d) If USCIS does not approve his application by February 18, 2021, then he faces the risk of being irreparably harmed because his F-1 status will expire on that date and he will be subject to removal while his application is still pending.
- (e) If USCIS does not approve his application and mail his EAD to him until after February 20, 2021, then he will be irreparably harmed by a concomitant reduction in his 12-month OPT period, which must end by February 20, 2022.

16. **Plaintiff** [REDACTED] **Liu** is a citizen of China who resides in Jersey City, New Jersey and is in lawful F-1 status. Ms. Liu attended [REDACTED] College and graduated with a [REDACTED] degree in [REDACTED] on December 20, 2020. On November 11, 2020, she submitted her OPT application with a cashier's check and a requested start date of February 18, 2021 to the Texas lockbox. Defendants generated a receipt number, and deposited her cashier's check, on or about February 8, 2021. Ms. Liu has accepted a job offer and has a start date of February 22, 2021. She faces the imminent threat of suffering the following irreparable harm:

- (a) If USCIS denies her application due to a technical error and its undue delay has made it impossible for her to correct and resubmit her application before the applicable deadlines have passed, she will be irreparably harmed by the permanent

loss of her job offer, income, health insurance, and ability to maintain her F-1 status and remain in the United States.

- (b) Beginning on February 22, 2021 and extending until the date she receives her EAD, she will be irreparably harmed by the temporary inability to work, earn income and enroll in employer-sponsored health insurance.
- (c) If USCIS eventually approves her application but she loses her job offer because of USCIS's undue delay, then she faces an additional risk of irreparable harm because she must find another job and begin working within 90 days of the date that her OPT application is granted, or else her F-1 status will expire.
- (d) If USCIS does not approve her application by February 18, 2021, then she faces the risk of being irreparably harmed because her F-1 status will expire on that date and she will be subject to removal while her application is still pending.
- (e) If USCIS does not approve her application and mail her EAD to her until after February 20, 2021, then she will be irreparably harmed by a concomitant reduction in her 12-month OPT period, which must end by February 20, 2022.

17. **Plaintiff** [REDACTED] **Liu** is a citizen of China who resides in Jersey City, New Jersey and is in lawful F-1 status. Ms. Liu attended [REDACTED] University and graduated with a [REDACTED] degree in [REDACTED] on January 24, 2021. On November 23, 2020, she submitted her OPT application with a requested start date of January 25, 2021 and a cashier's check to the Texas lockbox. Defendants generated a receipt number and cashed her check on February 10, 2021. Ms. Liu has accepted a job offer and initially had a start date of February 16, 2021; it has been pushed to March 15, 2021 because of USCIS's undue delay. She faces the imminent threat of suffering the following irreparable harm:

- (a) If USCIS denies her application due to a technical error and its undue delay has made it impossible for her to correct and resubmit her application before the applicable deadlines have passed, then she will be irreparably harmed by the permanent loss of her job offer, income, health insurance, opportunity for optional practical training, and ability to maintain her F-1 status and remain in the United States.
- (b) Beginning on February 16, 2021 and extending until the date she receives her EAD, she will be irreparably harmed by the temporary inability to work, earn income and enroll in employer-sponsored health insurance.
- (c) If USCIS eventually approves her application but she loses her job offer because of USCIS's undue delay, then faces an additional risk of irreparable harm because she must find another job and begin working within 90 days of the date that her OPT application is granted, or else her F-1 status will expire.
- (d) If USCIS does not adjudicate and approve her application by March 25, 2021, then she faces the risk of being irreparably harmed because her F-1 status will expire on that date and she will be subject to removal while her application is still pending.
- (e) If USCIS does not approve her application and mail her EAD to her until after March 25, 2021, then she will be irreparably harmed by a concomitant reduction in her 12-month OPT period, which must end by March 25, 2022.

18. **Plaintiff** [REDACTED] **Long** is a citizen of China who resides in Providence, Rhode Island and was in lawful F-1 status until his grace period expired on February 9, 2021. Mr. Long attended [REDACTED] University and graduated with a [REDACTED] degree in [REDACTED] on December 11, 2020. He submitted his initial OPT application on October 22, 2020 and USCIS

rejected it due to having the incorrect fee amount on or about November 16, 2020. He resubmitted his OPT application with his credit card information on November 25, 2020, but later determined that certain information that he provided was incorrect. He corrected and resubmitted his OPT application to the Chicago lockbox on February 8, 2021. He has not received a receipt for either pending application. Mr. Long has accepted a job offer and was supposed to start working on February 12, 2021, but was unable to do so because of Defendants' unlawful and undue delay in opening, processing and adjudicating his applications. He has moved his start date to March 26, 2021, although his employer has requested that he submit all immigration documents by March 18, 2021. He has suffered and faces the imminent threat of suffering the following irreparable harm:

- (a) If USCIS rejects or denies his application due to a technical error and its undue delay has made it impossible for him to correct and resubmit his application before the applicable deadlines have passed, then he will be irreparably harmed by the permanent loss of his job offer, income, health insurance, opportunity for optional practical training, opportunity for his prospective employer to register on his behalf for the H-1B lottery, and ability to maintain his F-1 status and remain in the United States.
- (b) Beginning on February 12, 2021 and extending until the date he receives his EAD, he has been and will be irreparably harmed by the temporary inability to work, earn income and enroll in employer-sponsored health insurance, and the lost opportunity for his prospective employer to register on his behalf for the H-1B lottery.
- (c) If USCIS eventually approves his application but he loses his job offer because of USCIS's undue delay, then he faces an additional risk of irreparable harm because

he must find another job and begin working within 90 days of the date that his OPT application is granted, or else his F-1 status will expire.

- (d) Because USCIS did not approve his application by February 9, 2021, he faces the risk of being irreparably harmed because his F-1 status expired on that date and he is subject to removal while his application is still pending.
- (e) Because USCIS will not approve his application and mail his EAD to him until after February 11, 2021, he will be irreparably harmed by a concomitant reduction in his 12-month OPT period, which must end by February 11, 2022.

19. **Plaintiff** [REDACTED] **Mu** is a citizen of China who resides in Blacklick, Ohio and is in lawful F-1 status. Mr. Mu attended the [REDACTED] and graduated with a [REDACTED] in [REDACTED] on December 20, 2020. On November 16, 2020, he submitted his OPT application with a requested start date of December 21, 2020 and a personal check to the Arizona lockbox. Defendants cashed his check and generated a receipt number on or about January 16, 2021. Mr. Mu has accepted a job offer and was supposed to start working on January 12, 2021, but was unable to do so because of Defendants' unlawful and undue delay in opening, processing and adjudicating his application. He has suffered and faces the imminent threat of suffering the following irreparable harm:

- (a) If USCIS denies his application due to a technical error and its undue delay has made it impossible for him to correct and resubmit his application before the applicable deadlines have passed, then he will be irreparably harmed by the permanent loss of his job offer, income, health insurance, opportunity for optional practical training, and ability to maintain his F-1 status and remain in the United States.

- (b) Beginning on January 12, 2021 and extending until the date he receives his EAD, he has been and will be irreparably harmed by the temporary inability to work, earn income and enroll in employer-sponsored health insurance.
- (c) If USCIS eventually approves his application but he loses his job offer because of USCIS's undue delay, then he faces an additional risk of irreparable harm because he must find another job and begin working within 90 days of the date that his OPT application is granted, or else his F-1 status will expire.
- (d) If USCIS does not approve his application by February 18, 2021, then he faces the risk of being irreparably harmed because his F-1 status will expire on that date and he will be subject to removal while his application is still pending.
- (e) If USCIS does not approve his application and mail his EAD to him until after February 20, 2021, then he will be irreparably harmed by a concomitant reduction in his 12-month OPT period, which must end by February 20, 2022.

20. **Plaintiff** [REDACTED] **Pan** is a citizen of China who resides in New York, New York and is in lawful F-1 status. Ms. Pan attended [REDACTED] University and graduated with a [REDACTED] degree in [REDACTED], with a program end date of December 23, 2020. On November 3, 2020, she submitted her OPT application with a requested start date of February 19, 2021 and a personal check to the Texas lockbox. Defendants generated her receipt number on or about January 30, 2021 and cashed her check on or about February 2, 2021. Ms. Pan has accepted a job offer and has a start date of February 22, 2021, although her employer has indicated a willingness to push her start date back if necessary. She faces the imminent threat of suffering the following irreparable harm:

- (a) If USCIS denies her application due to a technical error and its undue delay has made it impossible for her to correct and resubmit her application before the applicable deadlines have passed, then she will be irreparably harmed by the permanent loss of her job offer, income, health insurance, opportunity for optional practical training, and ability to maintain her F-1 status and remain in the United States.
- (b) Beginning on February 22, 2021 and extending until the date she receives her EAD, she will be irreparably harmed by the temporary inability to work, earn income and enroll in employer-sponsored health insurance.
- (c) If USCIS eventually approves her application but she loses her job offer because of USCIS's undue delay, then she faces an additional risk of irreparable harm because she must find another job and begin working within 90 days of the date that her application is granted, or else her F-1 status will expire.
- (d) If USCIS does not approve her application by February 21, 2021, then she faces the risk of being irreparably harmed because her F-1 status will expire on that date and she will be subject to removal while her application is still pending.
- (e) If USCIS does not approve her application and mail her EAD to her until after February 23, 2021, then she will be irreparably harmed by a concomitant reduction in her 12-month OPT period, which must end by February 23, 2022.

21. **Plaintiff** [REDACTED] **Qian** is a citizen of China who resides in College Station, Texas and was in lawful F-1 status until his grace period expired on February 8, 2021. Mr. Qian attended [REDACTED] University and graduated with a [REDACTED] in [REDACTED] on December 10, 2020. On October 29, 2020 he submitted his initial OPT application to the Texas lockbox. After

waiting for 90 days, Mr. Qian was informed that his application was rejected for an alleged technical error on January 26, 2021. On January 29, 2021, he submitted a new OPT application with a requested start date of February 8, 2021 and a personal check to the Chicago lockbox. Defendants have not cashed his check and he has not received a receipt. Mr. Qian accepted a job offer on October 29, 2020, and had an original start date of January 4, 2021. Mr. Qian has since postponed his start date three times, with the most recent start date set for March 1, 2021. He faces the imminent threat of suffering the following irreparable harm:

- (a) If USCIS rejects or denies his application due to a technical error and its undue delay has made it impossible for him to correct and resubmit his application before the applicable deadlines have passed, then he will be irreparably harmed by the permanent loss of his job offer, income, health insurance, opportunity for optional practical training, opportunity for his prospective employer to register on his behalf for the H-1B lottery, and ability to maintain his F-1 status and remain in the United States.
- (b) Beginning on January 4, 2021 and extending until the date he receives his EAD, he has been and will be irreparably harmed by the temporary inability to work, earn income and enroll in employer-sponsored health insurance, and the lost opportunity for his prospective employer to register on his behalf for the H-1B lottery.
- (c) If USCIS eventually approves his application but he loses his job offer because of USCIS's undue delay, then he faces an additional risk of irreparable harm because he must find another job and begin working within 90 days of the date that his OPT application is granted, or else his F-1 status will expire.

(d) Because USCIS did not approve his application by February 8, 2021, he faces the risk of being irreparably harmed because his F-1 status expired on that date and he is subject to removal while his application is still pending.

(e) Because USCIS did not approve his application and mail his EAD to him by February 11, 2021, he will be irreparably harmed by a concomitant reduction in his 12-month OPT period, which must end by February 11, 2022.

22. **Plaintiff** [REDACTED] **Wang** is a citizen of China who resides in Houston, Texas and is in lawful F-1 status. Ms. Wang attended the [REDACTED] and completed the requirements for a [REDACTED] in [REDACTED] [REDACTED] on January 30, 2021. On December 22, 2020, she submitted her OPT application with a requested start date of February 1, 2021 and a money order to the Texas lockbox. Defendants have not generated a receipt number and so presumably have not cashed her money order. Ms. Wang has accepted a job offer and was supposed to start working on February 15, 2021; her start date has been pushed back to March 2021 because of USCIS's undue delays. She faces the imminent threat of suffering the following irreparable harm:

(a) If USCIS rejects or denies her application due to a technical error and its undue delay has made it impossible for her to correct and resubmit her application before the applicable deadlines have passed, then she will be irreparably harmed by the permanent loss of her job offer, income, health insurance, opportunity for optional practical training, potential opportunity for her prospective employer to register on her behalf for the H-1B lottery and ability to maintain her F-1 status and remain in the United States.

(b) Beginning on February 15, 2021 and extending until the date she receives her EAD, she will be irreparably harmed by the temporary inability to work, earn income and

enroll in employer-sponsored health insurance, and the potential lost opportunity for her prospective employer to register on her behalf for the H-1B lottery.

- (c) If USCIS eventually approves her application but she loses her job offer because of USCIS's undue delay, then she faces an additional risk of irreparable harm because she must find another job and begin working within 90 days of the date that her OPT application is granted, or else her F-1 status will expire.
- (d) If USCIS does not approve her application by March 31, 2021, then she faces the risk of being irreparably harmed because her F-1 status will expire on that date and she will be subject to removal while her application is still pending.
- (e) If USCIS does not approve her application and mail her EAD to her until after March 30, 2021, then she will be irreparably harmed by a concomitant reduction in her 12-month OPT period, which must end by March 30, 2022.

23. **Plaintiff** [REDACTED] **Wang** is a citizen of China who resides in Ithaca, New York and is in lawful F-1 status. Mr. Wang attended [REDACTED] and graduated with a [REDACTED] in [REDACTED] on December 31, 2020. On December 1, 2020, he submitted his OPT application with a requested start date of January 15, 2021 and his credit card information to the Texas lockbox. Defendants charged his credit card on February 13, 2021, but he has not yet received a receipt. Mr. Wang has accepted a job offer and initially had a start date of February 15, 2021; it has been pushed back to March 1, 2021 because of USCIS's undue delays. He faces the imminent threat of suffering the following irreparable harm:

- (a) If USCIS rejects or denies his application due to a technical error and its undue delay has made it impossible for him to correct and resubmit his application before the applicable deadlines have passed, then he will be irreparably harmed by the loss

of his job offer, income, health insurance, opportunity for optional practical training, potential opportunity for his prospective employer to register on his behalf for the H-1B lottery, and ability to maintain his F-1 status and remain in the United States.

- (b) Beginning on February 15, 2021 and extending until the date he receives his EAD, he will be irreparably harmed by the temporary inability to work, earn income and enroll in employer-sponsored health insurance, and the potential lost opportunity for his prospective employer to register on his behalf for the H-1B lottery.
- (c) If USCIS eventually approves his application but he loses his job offer because of USCIS's undue delay, then he faces an additional risk of irreparable harm because he must find another job and begin working within 90 days of the date that his application is granted, or else his F-1 status will expire.
- (d) If USCIS does not approve his application by March 1, 2021, then he faces the risk of being irreparably harmed because his F-1 status will expire on that date and he will be subject to removal while his application is still pending.
- (e) If USCIS does not approve his application and mail his EAD to him until after February 28, 2021, then he will be irreparably harmed by a concomitant reduction in his 12-month OPT period, which must end by February 28, 2022.

24. **Plaintiff** [REDACTED] **Xiao** is a citizen of China who resides in Stamford, Connecticut and is in lawful F-1 status. Ms. Xiao attended the [REDACTED] and graduated with a [REDACTED] degree in [REDACTED] on December 20, 2020. On November 4, 2020, she submitted her OPT application with a requested start date of February 10, 2021 and a personal check to the Texas lockbox. Defendants cashed her check and generated a receipt number

on or about February 3, 2021. She has had difficulty securing a job offer because of the uncertainty regarding when USCIS will approve her OPT application. She has suffered and faces the imminent threat of suffering the following irreparable harm:

- (a) If USCIS denies her application due to a technical error and its undue delay has made it impossible for her to correct and resubmit her application before the applicable deadlines have passed, then she will be irreparably harmed by the permanent loss of income, health insurance, opportunity for optional practical training, opportunity for her prospective employer to register on her behalf for the H-1B lottery, and ability to maintain her F-1 status and remain in the United States.
- (b) Beginning on her requested start date of February 10, 2021 and extending until the date she receives her EAD, she has been and will be irreparably harmed by the temporary inability to work, earn income and enroll in employer-sponsored health insurance, and the lost opportunity for her prospective employer to register on her behalf for the H-1B lottery.
- (c) If USCIS does not approve her application by February 18, 2021, then she faces the risk of being irreparably harmed because her F-1 status will expire on that date and she will be subject to removal while her application is still pending.
- (d) If USCIS does not approve her application and mail her EAD to her until after February 20, 2021, then she will be irreparably harmed by a concomitant reduction in her 12-month OPT period, which must end by February 20, 2022.

25. **Plaintiff** [REDACTED] **Yang** is a citizen of China who resides in Central, South Carolina and was in lawful F-1 status until her grace period expired on December 7, 2020. Ms. Yang attended [REDACTED] and graduated with a [REDACTED] in [REDACTED]. She submitted her

initial STEM Extension application to the Texas lockbox on October 7, 2020; after it was rejected, she corrected and resubmitted it with a personal check on November 4, 2020. Defendants generated a receipt number and cashed her check on or around February 5, 2021. Ms. Yang has accepted a job offer with a new employer in New York City and is supposed to work on COVID-related research. However, her employer has begun to interview alternative candidates due to the delay in processing Ms. Yang's resubmitted application. She has suffered and faces the imminent threat of suffering the following harm:

- (a) If USCIS denies her resubmitted application due to a technical error and/or the lapse of deadlines, and its undue delay has made it impossible for her to correct and resubmit her application again before the applicable deadlines have passed, then she will be irreparably harmed by the permanent loss of her job offer, income, health insurance, opportunity for STEM extended practical training, potential opportunity for her prospective employer to register on her behalf for the H-1B lottery, and ability to maintain her F-1 status and remain in the United States.
- (b) Beginning on October 8, 2020 and extending until the date her resubmitted application is approved, she has been and will be irreparably harmed by the temporary inability to work, earn income and enroll in employer-sponsored health insurance, and the potential lost opportunity for her prospective employer to register on her behalf for the H-1B lottery.
- (c) If USCIS eventually approves her resubmitted application but she loses her job offer because of USCIS's undue delay, then she faces an additional risk of irreparable harm because she must find another job and begin working within a maximum of 150 days of the date that her application is granted (depending upon

how many days she was unemployed during her initial OPT period), or else her F-1 status will expire.

- (d) Because USCIS did not approve her resubmitted application by December 7, 2020, she faces the risk of being irreparably harmed because her F-1 status expired on that date and she is subject to removal while her application is still pending.
- (e) Her driver's license has expired and she is unable to renew it until her resubmitted application is approved.

26. **Plaintiff** [REDACTED] **Yu** is a citizen of China who resides in Lake Mary, Florida and was in lawful F-1 status until her grace period expired on February 10, 2021. Ms. Yu attended the [REDACTED] and obtained a [REDACTED] degree in [REDACTED] [REDACTED] on December 12, 2020. On November 5, 2020, she submitted her OPT application with a requested start date of December 13, 2020 and a money order to the Texas lockbox. Defendants generated a receipt number on or about February 5, 2021, and cashed her money order on February 8, 2021. Ms. Yu has accepted a job offer and was supposed to start working on January 11, 2021, but was unable to do so because of Defendants' unlawful and undue delay in opening, processing and adjudicating her application. She must start working no later than February 20, 2021, or she will lose her job offer. She has suffered and faces the imminent threat of suffering the following irreparable harm:

- (a) If USCIS denies her application due to a technical error and its undue delay has made it impossible for her to correct and resubmit her application before the applicable deadlines have passed, then she will be irreparably harmed by the permanent loss of her job offer, income, health insurance, opportunity for optional practical training, opportunity for her prospective employer to register on her behalf

for the H-1B lottery, and ability to maintain her F-1 status and remain in the United States.

- (b) Beginning on January 11, 2021 and extending until the date she receives her EAD, she has been and will be irreparably harmed by the temporary inability to work, earn income and enroll in employer-sponsored health insurance, and the lost opportunity for her prospective employer to register on her behalf for the H-1B lottery.
- (c) If USCIS eventually approves her application but she loses her job offer because of USCIS's undue delay, then she faces an additional risk of irreparable harm because she must find another job and begin working within 90 days of the date that her OPT application is granted, or else her F-1 status will expire.
- (d) Because USCIS did not approve her application by February 10, 2021, she faces the risk of being irreparably harmed because her F-1 status expired on that date and she is subject to removal while her application is still pending.
- (e) Because USCIS did not approve her application and mail her EAD to her until after February 12, 2021, she will be irreparably harmed by a concomitant reduction in her 12-month OPT period, which must end by February 12, 2022.

27. **Plaintiff** [REDACTED] **Yue** is a citizen of China who resides in Pittsford, New York and is in lawful F-1 status. Ms. Yue attended the [REDACTED] and graduated with a [REDACTED] degree in [REDACTED] on December 18, 2020. On November 12, 2020, she submitted her initial OPT application with a requested start date of December 19, 2020 and a personal check to the Texas lockbox, but then determined that the check amount was incorrect. She resubmitted her OPT application with the correct check amount on December 3, 2020. Defendants rejected her

initial application due to having an incorrect filing fee. Defendants generated a receipt number for her resubmitted application on or about February 15, 2021 but have not yet cashed her check. Ms. Yue has accepted a job offer and has a start date of March 1, 2021. She faces the imminent threat of suffering the following irreparable harm:

- (a) If USCIS denies her resubmitted application due to a technical error and its undue delay has made it impossible for her to correct and resubmit her application before the applicable deadlines have passed, then she will be irreparably harmed by the permanent loss of her job offer, income, health insurance, opportunity for optional practical training, potential opportunity for her prospective employer to register on her behalf for the H-1B lottery, and ability to maintain her F-1 status and remain in the United States.
- (b) Beginning on March 1, 2021 and extending until the date she receives her EAD, she will be irreparably harmed by the temporary inability to work, earn income and enroll in employer-sponsored health insurance, and the potential lost opportunity for her prospective employer to register on her behalf for the H-1B lottery.
- (c) If USCIS eventually approves her application but she loses her job offer because of USCIS's undue delay, then she faces an additional risk of irreparable harm because she must find another job and begin working within 90 days of the date that her OPT application is granted, or else her F-1 status will expire.
- (d) If USCIS does not approve her application by February 16, 2021, then she faces the risk of being irreparably harmed because her F-1 status will expire on that date and she will be subject to removal while her application is still pending.

- (e) If USCIS does not approve her application and mail her EAD to her until after February 18, 2021, then she will be irreparably harmed by a concomitant reduction in her 12-month OPT period, which must end by February 18, 2022.

28. **Plaintiff** [REDACTED] **Zhang** is a citizen of China who resides in Houston, Texas and was in lawful F-1 status until her grace period expired on February 13, 2021. Ms. Zhang attended [REDACTED] and obtained a [REDACTED] degree in [REDACTED] on December 15, 2020. On November 5, 2020, she submitted her OPT application with a requested start date of January 25, 2021 and a money order to the Texas lockbox. Defendants generated a receipt number on February 4, 2021, and cashed her money order on February 10, 2021. Ms. Zhang has accepted a job offer and was supposed to start working on January 25, 2021, but was unable to do so because of Defendants' unlawful and undue delay in opening, processing and adjudicating her application. She has suffered and faces the imminent threat of suffering the following irreparable harm:

- (a) If USCIS denies her application due to a technical error and its undue delay has made it impossible for her to correct and resubmit her application before the applicable deadlines have passed, then she will be irreparably harmed by the permanent loss of her job offer, income, health insurance, opportunity for optional practical training, potential opportunity for her prospective employer to register on her behalf for the H-1B lottery, and ability to maintain her F-1 status and remain in the United States.
- (b) Beginning on January 25, 2021 and extending until the date she receives her EAD, she has been and will be irreparably harmed by the temporary inability to work, earn income and enroll in employer-sponsored health insurance, and the potential

lost opportunity for her prospective employer to register on her behalf for the H-1B lottery.

- (c) If USCIS eventually approves her application but she loses her job offer because of USCIS's undue delay, then she faces an additional risk of irreparable harm because she must find another job and begin working within 90 days of the date that her OPT application is granted, or else her F-1 status will expire.
- (d) Because USCIS did not approve her application by February 13, 2021, she faces the risk of being irreparably harmed because her F-1 status expired on that date and she is subject to removal while her application is still pending.
- (e) Because USCIS will not approve her application and mail her EAD to her until after February 15, 2021, she will be irreparably harmed by a concomitant reduction in her 12-month OPT period, which must end by February 15, 2022.

29. **Plaintiff** [REDACTED] **Zhang** is a citizen of China who resides in Columbus, Ohio and is in lawful F-1 status. Mr. Zhang attended [REDACTED] University and fulfilled the requirements of graduation with a [REDACTED] in [REDACTED] on January 8, 2021. On November 19, 2020, he delivered his OPT application with a requested start date of January 11, 2021 and a money order to the Arizona lockbox. Defendants generated a receipt number, and so presumably cashed his money order, on or about January 18, 2021. Mr. Zhang has accepted a job offer and was supposed to start working on January 11, 2021, but was unable to do so because of Defendants' unlawful and undue delay in opening, processing and adjudicating his application. He has suffered and faces the imminent threat of suffering the following irreparable harm:

- (a) If USCIS rejects or denies his application due to a technical error and its undue delay has made it impossible for him to correct and resubmit his application before

the applicable deadlines have passed, then he will be irreparably harmed by the permanent loss of his job offer, income, health insurance, opportunity for optional practical training, and ability to maintain his F-1 status and remain in the United States.

- (b) Beginning on January 11, 2021 and extending until the date he receives his EAD, he has been and will be irreparably harmed by the temporary inability to work, earn income and enroll in employer-sponsored health insurance.
- (c) If USCIS eventually approves his application but he loses his job offer because of USCIS's undue delay, then he faces an additional risk of irreparable harm because he must find another job and begin working within 90 days of the date that his application is granted, or else his F-1 status will expire.
- (d) If USCIS does not approve his application by March 9, 2021, then he faces the risk of being irreparably harmed because his F-1 status will expire on that date and he will be subject to removal while his application is still pending.
- (e) If USCIS does not approve his application and mail his EAD to him until after March 8, 2021, then he will be irreparably harmed by a concomitant reduction in his 12-month OPT period, which must end by March 8, 2022.

30. **Plaintiff** [REDACTED] **Zhou** is a citizen of China who resides in Austin, Texas and is in lawful F-1 status. Ms. Zhou attended the [REDACTED] and obtained a [REDACTED] degree in [REDACTED] on December 19, 2020. On November 25, 2020, she submitted her OPT application with a requested start date of February 15, 2021 and a personal check to the Texas lockbox. There is an amount of \$410 pending on Ms. Zhou's checking account as of February 13, 2021, but she has not received a receipt. Ms. Zhou has accepted a job offer and

initially had a start date of February 15, 2021; it has been pushed back to March 1, 2021 because of USCIS's undue delays. She faces the imminent threat of suffering the following irreparable harm:

- (a) If USCIS rejects or denies her application due to a technical error and its undue delay has made it impossible for her to correct and resubmit her application before the applicable deadlines have passed, then she will be irreparably harmed by the permanent loss of her job offer, income, health insurance, opportunity for optional practical training, opportunity for her prospective employer to register on her behalf for the H-1B lottery, and ability to maintain her F-1 status and remain in the United States.
- (b) Beginning on February 15, 2021 and extending until the date she receives her EAD, she has been and will be irreparably harmed by the temporary inability to work, earn income and enroll in employer-sponsored health insurance, and the lost opportunity for her prospective employer to register on her behalf for the H-1B lottery.
- (c) If USCIS eventually approves her application but she loses her job offer because of USCIS's undue delay, then she faces an additional risk of irreparable harm because she must find another job and begin working within 90 days of the date that her OPT application is granted, or else her F-1 status will expire.
- (d) If USCIS does not approve her application by February 17, 2021, then she faces the risk of being irreparably harmed because her F-1 status will expire on that date and she will be subject to removal while her application is still pending.

- (e) If USCIS does not approve her application and mail her EAD to her until after February 19, 2021, then she will be irreparably harmed by a concomitant reduction in her 12-month OPT period, which must end by February 19, 2022.

31. **Defendant United States Citizenship and Immigration Services** (“USCIS”) is charged with the statutory duty to adjudicate benefit applications pursuant to the Immigration and Nationality Act, 8 U.S.C. §1101 et. seq. This duty includes the clear and non-discretionary legal obligation to open, process and adjudicate OPT applications.

32. **Defendant Tracy Renaud** is the Senior Official Performing the Duties of the Director for the United States Citizenship and Immigration Services. She is generally charged with the duty to oversee the operations of USCIS and is responsible for ensuring that USCIS fairly and reasonably adjudicates applications for benefits pursuant to the Immigration and Nationality Act. She is also responsible for ensuring that USCIS complies with all of its legal obligations, including its clear and non-discretionary duty to open, process and adjudicate OPT applications. This action is brought against her in her official capacity.

33. **Defendant Ernest DeStefano** is the Chief of the Office of Intake and Document Production of USCIS. He is responsible for managing the USCIS Lockbox facilities, troubleshooting intake issues, and issuing receipt notices to applicants and petitioners. This action is brought against him in his official capacity.

34. **Defendant United States Immigration and Customs Enforcement** (“ICE”) is charged with the duty to oversee enforcement of the immigration and customs laws of the United States. Among other things, ICE is responsible for removing persons who are in violation of those laws. ICE also is responsible for managing the Student and Exchange Visitor Program (“SEVP”) and the Student and Exchange Visitor Information System (“SEVIS”).

35. **Defendant Tae Johnson** is the Acting Director of ICE. He is responsible for overseeing ICE's day-to-day operations. This action is brought against him in his official capacity.

36. **Defendant Corey Price** is the Acting Executive Associate Director for Enforcement and Removal Operations for ICE. This action is brought against him in his official capacity.

JURISDICTION

37. Plaintiffs incorporate the allegations in the foregoing paragraphs as if they were fully restated herein.

38. This Court has subject-matter jurisdiction of this action under 5 U.S.C. § 702 and 28 U.S.C. §§ 1331, 1361 and 1651.

VENUE

39. Venue is proper in this district and division under 28 U.S.C. § 1391(e)(1).

FACTUAL BACKGROUND

40. Plaintiffs incorporate the allegations in the foregoing paragraphs as if they were fully restated herein.

Regulatory Framework for F-1 Students

41. Before graduating and/or completing their studies, Plaintiffs and unnamed class members were nonimmigrants with F-1 status who pursued a full course of study in a college, university, or other academic institution that is approved for attendance by F-1 foreign students. 8 C.F.R. § 214.2(f)(1)(i)(A); 8 C.F.R. § 214.3(a)(1).

42. Each approved institution must issue a USCIS Form I-20 for each enrolled foreign student. 8 C.F.R. § 214.2(f)(1)(i)(A)(1)-(2). Among other things, Form I-20 requires information about the student, the school, and the program of study, including the program end date.

43. Each approved institution must name a Designated Official, Designated Student Official (“DSO”), and/or Principal Designated School Official (“PDSO”), who is authorized to issue a Form I-20 and input information into the Student and Exchange Visitor Information System (“SEVIS”), which is managed by ICE. 8 C.F.R. § 214.3(l)(1).

44. F-1 students can lawfully reside in the United States for the duration of status, i.e., for the time spent pursuing a full course of study at an approved institution and engaging in authorized practical training following completion of their studies. 8 C.F.R. § 214.2(f)(5)(i). F-1 students who are the beneficiaries of an H-1B petition may have their duration of status further extended under certain circumstances. 8 C.F.R. § 214.2(f)(5)(vi)(A).

Regulatory Framework for Optional Practical Training

45. F-1 students may apply to USCIS for authorization to complete a maximum period of twelve months of optional practical training (“OPT”) that is directly related to their major area of study. 8 C.F.R. § 214.2(f)(10)(ii)(A).

46. To apply for OPT, the student must obtain a recommendation from their DSO, who will provide a signed Form I-20 to the student, and also apply for an employment authorization document (“EAD”). 8 C.F.R. § 214.2(f)(11)(i)(A)-(B). They also must submit a \$410 filing fee.

47. USCIS is required to adjudicate an OPT application “on the basis of the DSO’s recommendation and other eligibility considerations.” 8 C.F.R. § 214.2(f)(11)(iii).

48. There is no cap on the number of OPT applications that can be approved.

49. On information and belief, it is rare for USCIS to deny an OPT application that is submitted by an F-1 student who meets all of the eligibility requirements and has timely filed an application.

50. Strict deadlines apply. An F-1 student “may properly file his or her [application] up to 90 days prior to his or her program end date and no later than 60 days after his or her program end date. *The student must also file ... within 30 days of the date the DSO enters the recommendation for OPT into his or her SEVIS record.*” 8 C.F.R. § 214.2(f)(11)(i)(B)(2) (emphasis added). Thus, Plaintiffs and unnamed class members have only a 30-day window to file their OPT applications.

51. An F-1 student who has completed a full course of study and any authorized practical training is permitted an additional 60-day period to prepare for departure from the United States. 8 C.F.R. § 214.2(f)(5)(iv). This is commonly referred to as the 60-day grace period.

52. The regulations do not extend the status of an F-1 student who timely submits an OPT application but does not receive a ruling from USCIS until after the 60-day grace period has expired. Those Plaintiffs and unnamed class members who fall into this category will lose (at least temporarily) their lawful status and be subject to removal from the United States by ICE.

53. Once an F-1 student’s OPT application is approved, they will either maintain or regain their lawful F-1 status. Specifically, “[f]or a student with approved post-completion OPT, the duration of status is defined as the period beginning on the date that the student’s application for OPT was properly filed and pending approval, including the authorized period of post-completion OPT, and ending 60 days after the OPT employment authorization expires.” 8 C.F.R. § 214.2(f)(10)(ii)(D).

54. F-1 students may not begin their OPT until the employment authorization date that is indicated on their EAD. 8 C.F.R. § 214.2(f)(10)(ii)(A). Employment authorization will begin on either the start date requested by the student or the date that USCIS adjudicates the application, whichever date is later. 8 C.F.R. § 214.2(f)(11)(i)(D).

55. The employment authorization period for post-completion OPT begins on the employment authorization date indicated on the EAD and ends at the conclusion of the maximum 12-month period of OPT eligibility. 8 C.F.R. § 214.2(f)(11)(iii)(A).

56. However, F-1 students must complete their OPT within 14 months following the date of completion of their studies. 8 C.F.R. § 214.2(f)(10)(ii)(A)(3).

57. Accordingly, if USCIS delays the approval of an OPT application for longer than two months after the date that the student completed his or her studies, then the length of available OPT training will be necessarily reduced to a period that is less than 12 months.

Regulatory Framework for STEM Extension Practical Training

58. F-1 students with a qualifying science, technology, engineering, or mathematics (STEM) degree may apply to USCIS for authorization to complete an extended 24-month period of OPT that follows their initial 12-month OPT period. 8 C.F.R. § 214.2(f)(10)(ii)(C). This 24-month period is referred to herein as the STEM Extension.

59. To apply for a STEM Extension, the student must submit a Form I-983 Training Plan signed by their employer to their DSO, obtain a recommendation from their DSO, and then apply for the STEM Extension, including an EAD. 8 C.F.R. § 214.2(f)(10)(ii)(C)(2), (6) & (7); 8 C.F.R. § 214.2(f)(11)(i)(C). They also must submit a \$410 filing fee.

60. USCIS is required to adjudicate a STEM Extension application “on the basis of the DSO’s recommendation and other eligibility considerations.” 8 C.F.R. § 214.2(f)(11)(iii).

61. There is no cap on the number of STEM Extension applications that can be approved.

62. On information and belief, it is rare for USCIS to deny a STEM Extension application that is timely submitted by an F-1 student who meets all of the eligibility requirements.

63. Strict deadlines apply. The F-1 student must apply for a STEM Extension “while in a valid period of post-completion OPT.” 8 C.F.R. § 214.2(f)(10)(ii)(C). The F-1 student may file “up to 90 days prior to the expiration date of the student’s current OPT employment authorization.” He or she also “must properly file his or her Form I-765 ... *within 60 days of the date the DSO enters the recommendation for the OPT extension into his or her SEVIS record.*” 8 C.F.R. § 214.2(f)(11)(C) (emphasis added). Thus, Plaintiffs and unnamed class members have only a 60-day window to file their STEM Extension applications.

64. While an F-1 student’s STEM Extension application is pending, his or her EAD and employment authorization is automatically extended for a period not to exceed 180 days until USCIS adjudicates the application, provided that the application was timely and properly filed and supported. 8 C.F.R. § 214.2(f)(11)(i)(C) & 8 C.F.R. § 274a.12(b)(6)(iv).

65. The employment authorization period for STEM Extension practical training begins on the day after the expiration of the initial 12-month OPT period and ends 24 months later, regardless of when USCIS approves the application. 8 C.F.R. § 214.2(f)(11)(iii)(A).

66. The regulations do not extend the 60-day grace period of an F-1 student whose STEM Extension application is rejected by USCIS after the grace period has expired. Those Plaintiffs and unnamed class members who fall into this category will immediately lose their lawful status and be subject to removal from the United States by ICE.

USCIS’s Legal Obligations And Procedures

67. USCIS requires most applicants for immigration benefits to submit their applications, along with any required fees (or fee waiver requests), to one of three USCIS “lockboxes” that are located in Phoenix, Arizona; Lewisville, Texas; and Chicago, Illinois.

68. USCIS opens every application and reviews it to ascertain whether basic filing requirements are met. USCIS will reject applications that are not (a) signed with a valid signature, (b) executed, (c) filed in accordance with the form's instructions, and (d) submitted with the correct fees. 8 C.F.R. § 103.2(a)(7)(ii).

69. If the basic filing requirements are met, then USCIS will accept the filing fees and issue a receipt to the applicant. The receipt date is the date that the application was actually received by USCIS, not the date that it was opened or processed.

70. USCIS should issue receipts within 1-2 days after actual receipt, since *federal law requires either same-day deposit or next-day deposit* of the monies received at its lockboxes. 31 U.S.C. § 3302(c); 31 C.F.R. § 206.5(a); Treasury Financial Manual Vol. I, Part 5, Chapter 2000, Section 2055.

71. Until recently, USCIS has usually issued receipts to applicants within a few days of actually receiving their applications, and within no more than one week.

72. Indeed, the Department of Justice recently stated that based on its experience, "USCIS typically provides a one-day turnaround in issuing fee receipts and most receipts are issued within seven days." 85 FR 81698, 81713.

73. USCIS fees are generally non-refundable regardless of whether the application is approved or denied, as well as how much time it take to process or adjudicate the application.

USCIS's Undue And Unlawful Delays

74. Beginning in or about October 2020, USCIS significantly slowed and/or stopped opening and processing applications submitted to its lockboxes in Arizona and Texas (particularly Texas). On information and belief, USCIS issued relatively few receipts in October, November and December for applications received at these lockboxes.

75. USCIS has not offered a plausible explanation for its apparent work stoppage with respect to the Arizona and Texas lockboxes.

76. On January 8, 2021, USCIS issued a news alert in which it stated that F-1 students who submitted applications for OPT and STEM Extensions may experience significant delays of up to four to six weeks before they receive their receipts.

77. USCIS further stated that “[t]he USCIS lockbox workforce is working extra hours and redistributing its workload in order to minimize delays.”

78. More than one month after USCIS made this representation, these harmful delays have continued notwithstanding USCIS’s attempts to resolve them.

79. USCIS’s deliberate indifference and/or intentional decision to significantly slow or stop opening and processing applications is arbitrary, capricious and in violation of the laws and Constitution of the United States.

80. Defendants were aware of facts from which the inference could be drawn that a substantial and specific risk of serious harm to Plaintiffs and unnamed class members existed.

81. On information and belief, Defendants drew that inference and nevertheless acted or failed to act in a manner that demonstrated reckless and callous indifference toward the rights of Plaintiffs and unnamed class members.

82. By failing to open and process applications in a timely manner, USCIS has violated its clear and non-discretionary legal duty to deposit fees remitted by applicants, including by Plaintiffs and unnamed class members, on the same day or next day after receiving such monies.

83. In addition, Defendants have unduly and unlawfully delayed the adjudication of applications submitted by Plaintiffs and unnamed class members, causing them to suffer serious and irreparable harm.

CLASS ALLEGATIONS

84. Plaintiffs incorporate the allegations in the foregoing paragraphs as if they were fully restated herein.

85. Pursuant to Rules 23(a) and 23(b)(2) of the Federal Rules of Civil Procedure, Plaintiffs bring this action on behalf of themselves and two nationwide classes:

OPT Class

All F-1 students who reside in the United States and submitted an OPT application to USCIS on or after October 1, 2020, and have experienced an undue delay in the opening, processing and/or adjudication of their application.

STEM Extension Class

All F-1 students who reside in the United States and submitted a STEM Extension application to USCIS on or after October 1, 2020, and have experienced an undue delay in the opening, processing and/or adjudication of their application.

86. The members of the proposed classes are so numerous that joinder of all of their members is impracticable. On information and belief, there are thousands of unnamed class members in each class.

87. There are numerous questions of law and fact that are common to the individual Plaintiffs and class members, including:

- a. Whether, beginning in October 2020, USCIS significantly slowed and/or stopped opening and processing applications submitted to its lockboxes in Arizona and Texas;
- b. Whether USCIS issued relatively few receipts in October, November and December 2020 for applications received at the Arizona and Texas lockboxes;

- c. Whether USCIS acted with deliberate indifference or intentionally slowed or stopped opening and processing applications submitted to the Arizona and Texas lockboxes;
- d. Whether USCIS has violated its clear and non-discretionary legal duty to deposit fees remitted by applicants, including by Plaintiffs and unnamed class members, on the same day or next day after they are actually received;
- e. Whether USCIS's actions and failures to act have caused irreparable injury to Plaintiff and unnamed class members;
- f. Whether USCIS's failure to open, process and adjudicate applications submitted by Plaintiffs and unnamed class members violates the laws and the Constitution of the United States;
- g. Whether USCIS's failure to open, process and adjudicate applications submitted by Plaintiffs and unnamed class members is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law;
- h. Whether USCIS has abused its power in an egregious and outrageous manner, without any reasonable justification in the service of a legitimate governmental objective, and with either an intention to harm Plaintiffs and unnamed class members or deliberate indifference;
- i. Whether USCIS's failure to open, process and adjudicate applications submitted by Plaintiffs and unnamed class members is in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;
- j. Whether this Court should compel USCIS to open, process and adjudicate applications submitted by Plaintiffs and unnamed class members on an

immediate basis, which actions have been unlawfully withheld and/or unreasonably delayed;

- k. Whether this Court should hold that USCIS acted unlawfully when it refused or delayed opening, processing and adjudicating applications submitted by Plaintiffs and unnamed class members;
- l. Whether this Court should issue a mandatory temporary restraining order, emergency writ of mandamus, preliminary and permanent injunctive relief, equitable relief and/or declaratory relief to remedy the irreparable harm that Plaintiffs and unnamed class members have suffered and face the imminent threat of suffering because of Defendants' actions and failures to act.

88. Plaintiffs' claims are typical of the claims asserted by the entire classes.

89. Plaintiffs will fairly and adequately protect the interests of the classes. There is no actual or potential conflict between members of the classes with respect to the relief sought in this lawsuit. Moreover, Plaintiffs are represented by a law firm and attorneys who are well-experienced with class actions.

90. Defendants are acting or refusing to act on grounds generally applicable to the classes, making appropriate temporary, mandamus, injunctive and corresponding declaratory relief with respect to the classes as a whole.

COUNT ONE
(Administrative Procedure Act, 5 U.S.C. § 706(1))

91. Plaintiffs incorporate the allegations in the foregoing paragraphs as if they were fully restated herein.

92. Pursuant to the Administrative Procedure Act, 5 U.S.C. § 706(1), this Court shall compel agency action that has been unlawfully withheld or unreasonably delayed.

93. USCIS is required to open and process applications submitted by Plaintiffs and unnamed class members in sufficient time for USCIS to deposit monies on the same day or next day following their actual receipt.

94. Until recently, USCIS issued receipts for submitted applications within 1-2 days of their actual receipt, and up to no more than one week.

95. Beginning in or around October 2020, however, USCIS significantly slowed and/or stopped opening, processing and adjudicating applications submitted to the Arizona and Texas lockboxes, thereby causing and threatening to cause irreparable injury to Plaintiff and unnamed class members.

96. USCIS has not proffered a plausible explanation for the apparent work stoppage at its Arizona and Texas lockboxes.

97. Defendants were aware of facts from which the inference could be drawn that a substantial and specific risk of serious harm to Plaintiffs and unnamed class members existed.

98. On information and belief, Defendants drew that inference and nevertheless acted or failed to act in a manner that demonstrated reckless and callous indifference toward the rights of Plaintiffs and unnamed class members.

99. USCIS has failed to satisfy its obligation to adjudicate applications submitted by Plaintiffs and unnamed class members without undue delay.

100. USCIS has failed to take discrete and non-discretionary agency actions that it is required to take.

101. Plaintiffs and unnamed class members have no other adequate remedy to redress USCIS's undue delay in opening, processing and adjudicating their applications.

102. USCIS's failure to open, process and adjudicate these applications will imminently cause substantial and concrete harm to Plaintiffs and unnamed class members, including the actual or threatened loss of their F-1 status and risk of removal by ICE; loss of job offers and benefits of employment including income, health insurance and ability to apply for the H-1B lottery; inability to resubmit an application that USCIS rejects based on a technical error because the applicable deadlines have passed; and inability to complete a full 12-month period of optional practical training.

103. Plaintiffs seek, on behalf of themselves and unnamed class members, a mandatory temporary restraining order and preliminary and permanent injunctive relief that requires USCIS to open, process and adjudicate applications submitted by Plaintiffs and unnamed class members on an immediate basis, and to provide weekly status reports to the Court and counsel.

104. Plaintiffs further seek, on behalf of themselves and unnamed class members, a declaration that USCIS has violated its legal obligations to open, process and adjudicate the applications submitted by Plaintiffs and unnamed class members.

105. Plaintiffs further seek, on behalf of themselves and unnamed class members, equitable relief that relieves them of the irreparable harm that they have suffered and are threatened with suffering, including the following relief:

- (a) an order that enjoins ICE from removing Plaintiffs and unnamed class members who have lost their F-1 status while their applications remain pending with USCIS;
- (b) an order that students whose grace period expired while they were waiting for USCIS to adjudicate their applications will remain in F-1 status until at least fourteen (14) days after their application has been adjudicated;

- (c) an order that requires USCIS not to reject applications submitted by Plaintiffs and unnamed class members for technical errors where such applications cannot be corrected and resubmitted within the applicable deadlines, and instead to accept such applications, issue a receipt, and issue a Request for Evidence to correct any alleged deficiencies;
- (d) in addition or in the alternative, an order that requires USCIS to accept and consider applications that are corrected and resubmitted by Plaintiffs and unnamed class members within sixty (60) days after the date that they are rejected, notwithstanding the expiration of the applicable deadlines; and
- (e) for OPT applications, an order that permits Plaintiffs and unnamed class members to complete their full 12 months of optional practical training running from the date that their application is approved, even if USCIS's undue delay means that they must complete it later than 14 months after the date they completed their studies.

106. Plaintiff further seeks an award of reasonable attorneys' fees and costs under the Equal Access to Justice Act.

COUNT TWO
(Writ of Mandamus, 28 U.S.C. § 1361)

107. Plaintiffs incorporate the allegations in the foregoing paragraphs as if they were fully restated herein.

108. Pursuant to 28 U.S.C. § 1361, this Court has original jurisdiction of this action in the nature of mandamus to compel Defendants USCIS, Renaud and DeStefano to perform a duty owed to Plaintiffs and unnamed class members.

109. Defendants have a clear legal duty to open and process applications submitted by Plaintiffs and unnamed class members in sufficient time for USCIS to deposit monies on the same day or next day following their actual receipt.

110. Defendants have a clear legal duty to conclude matters within a reasonable time under 5 U.S.C. § 555(b), which provides in relevant part: “With due regard for the convenience and necessity of the parties or their representatives and within a reasonable time, each agency shall proceed to conclude a matter presented to it.”

111. Defendants have a clear legal duty to complete proceedings within a reasonable time under 5 USC § 558(c), which provides in relevant part: “The agency, with due regard for the rights and privileges of all the interested parties and adversely affected persons and within a reasonable time, shall set and complete proceedings required to be conducted in accordance with sections 556 and 557 of this title or other proceedings required by law and shall make its decision.” 5 U.S.C. § 558(c).

112. Plaintiffs and unnamed class members have no other adequate remedy to redress Defendants’ undue delay in opening, processing and adjudicating their applications.

113. Defendants’ failure to open, process and adjudicate these applications will imminently cause substantial and concrete harm to Plaintiffs and class members, including the actual or threatened loss of their F-1 status and risk of removal by ICE; loss of job offers and benefits of employment including income, health insurance and ability to apply for the H-1B lottery; inability to resubmit an application that USCIS rejects based on a technical error because the applicable deadlines have passed; and inability to complete a full 12-month period of optional practical training.

114. Plaintiffs seek, on behalf of themselves and unnamed class members, a writ of mandamus that requires Defendants to open, process and adjudicate applications submitted by Plaintiffs and unnamed class members on an immediate basis, and to provide weekly status reports to the Court and counsel.

115. Plaintiffs further seek, on behalf of themselves and unnamed class members, equitable relief that relieves them of the irreparable harm that they have suffered and are threatened with suffering, including the following relief:

- (a) an order that enjoins ICE from removing Plaintiffs and unnamed class members who have lost their F-1 status while their applications remain pending with USCIS;
- (b) an order that students whose grace period expired while they were waiting for USCIS to adjudicate their applications will remain in F-1 status until at least fourteen (14) days after their application has been adjudicated;
- (c) an order that requires USCIS not to reject applications submitted by Plaintiffs and unnamed class members for technical errors where such applications cannot be corrected and resubmitted within the applicable deadlines, and instead to accept such applications, issue a receipt, and issue a Request for Evidence to correct any alleged deficiencies;
- (d) in addition or in the alternative, an order that requires USCIS to accept and consider applications that are corrected and resubmitted by Plaintiffs and unnamed class members within sixty (60) days after the date that they are rejected, notwithstanding the expiration of the applicable deadlines; and
- (e) for OPT applications, an order that permits Plaintiffs and unnamed class members to complete their full 12 months of optional practical training running from the date

that their application is approved, even if USCIS's undue delay means that they must complete it later than 14 months after the date they completed their studies.

116. Plaintiff further seeks an award of reasonable attorneys' fees and costs under the Equal Access to Justice Act.

COUNT THREE

(Administrative Procedure Act, 5 U.S.C. § 706(2) and the Due Process Clause of the Fifth Amendment to the United States Constitution (Substantive Due Process))

117. Plaintiffs incorporate the allegations in the foregoing paragraphs as if they were fully restated herein.

118. Pursuant to the Administrative Procedure Act, 5 U.S.C. § 706(2), this Court shall hold unlawful and set aside agency action, findings, and conclusions found to be (A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; (B) contrary to constitutional right, power, privilege, or immunity; or (C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right.

119. The Due Process Clause of the Fifth Amendment to the United States Constitution provides: "No person shall be ... deprived of life, liberty, or property, without due process of law." This Clause has been interpreted to include a right to substantive due process.

120. Plaintiffs and unnamed class members have liberty and/or property interests in their F-1 status, employment authorization, employment opportunities, OPT and/or STEM Extension practical training.

121. As legal aliens, Plaintiffs and unnamed class members are members of a suspect class. USCIS's challenged actions and failures to act that have deprived them of their liberty and/or property interests are therefore subject to strict scrutiny.

122. Defendants were aware of facts from which the inference could be drawn that a substantial and specific risk of serious harm to Plaintiffs and unnamed class members existed.

123. On information and belief, Defendants drew that inference and nevertheless acted or failed to act in a manner that demonstrated reckless and callous indifference toward the rights of Plaintiffs and unnamed class members.

124. Defendants' undue delay in opening, processing and adjudicating applications submitted by Plaintiffs and unnamed class members has intentionally, deliberately and/or willfully inflicted irreparable harm on them, including the deprivation of liberty and/or property interests.

125. Defendants' deliberate, willful and unlawful delay in opening, processing and adjudicating applications submitted by Plaintiffs and unnamed class members deprives them of rights protected by the Fifth Amendment to the United States Constitution and constitutes an egregious and outrageous abuse of governmental power that shocks the conscience.

126. Defendants' deliberate, willful and unlawful delay in opening, processing and adjudicating applications submitted by Plaintiffs and unnamed class members is without any reasonable justification in the service of a legitimate governmental objective.

127. Defendants' deliberate, willful and unlawful delay in opening, processing and adjudicating applications submitted by Plaintiffs and unnamed class members is either motivated by an intention to harm Plaintiffs and unnamed class members or constitutes deliberate indifference.

128. Defendants' failure to open, process and adjudicate applications will imminently cause substantial and concrete harm to Plaintiffs and class members, including the actual or threatened loss of their F-1 status and risk of removal by ICE; loss of job offers and benefits of employment including income, health insurance and ability to apply for the H-1B lottery; inability

to resubmit an application that USCIS rejects based on a technical error because the applicable deadlines have passed; and inability to complete a full 12-month period of optional practical training.

129. Plaintiffs seek, on behalf of themselves and unnamed class members, a temporary restraining order and preliminary and permanent injunctive relief that requires USCIS to open, process and adjudicate applications submitted by Plaintiffs and unnamed class members on an immediate basis, and to provide weekly status reports to the Court and counsel.

130. Plaintiffs further seek, on behalf of themselves and unnamed class members, equitable relief that relieves them of the irreparable harm that they have suffered and are threatened with suffering, including the following relief:

- (a) an order that enjoins ICE from removing Plaintiffs and unnamed class members who have lost their F-1 status while their applications remain pending with USCIS;
- (b) an order that students whose grace period expired while they were waiting for USCIS to adjudicate their applications will remain in F-1 status until at least fourteen (14) days after their application has been adjudicated;
- (c) an order that requires USCIS not to reject applications submitted by Plaintiffs and unnamed class members for technical errors where such applications cannot be corrected and resubmitted within the applicable deadlines, and instead to accept such applications, issue a receipt, and issue a Request for Evidence to correct any alleged deficiencies;
- (d) in addition or in the alternative, an order that requires USCIS to accept and consider applications that are corrected and resubmitted by Plaintiffs and unnamed class

members within sixty (60) days after the date that they are rejected, notwithstanding the expiration of the applicable deadlines; and

- (e) for OPT applications, an order that permits Plaintiffs and unnamed class members to complete their full 12 months of optional practical training running from the date that their application is approved, even if USCIS's undue delay means that they must complete it later than 14 months after the date they completed their studies.

131. Plaintiffs further seek, on behalf of themselves and unnamed class members, a declaration that Defendants have violated the guarantee of substantive due process inherent in the Due Process Clause of the Fifth Amendment to the United States Constitution.

132. Plaintiffs further seek an award of reasonable attorneys' fees and costs under the Equal Access to Justice Act.

COUNT FOUR

(Administrative Procedure Act, 5 U.S.C. § 706(2) and the Due Process Clause of the Fifth Amendment to the United States Constitution (Procedural Due Process))

133. Plaintiffs incorporate the allegations in the foregoing paragraphs as if they were fully restated herein.

134. Pursuant to the Administrative Procedure Act, 5 U.S.C. § 706(2), this Court shall hold unlawful and set aside agency action, findings, and conclusions found to be (A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; (B) contrary to constitutional right, power, privilege, or immunity; or (C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right.

135. The Due Process Clause of the Fifth Amendment to the United States Constitution provides: "No person shall be ... deprived of life, liberty, or property, without due process of law." This Clause has been interpreted to include a right to procedural due process.

136. Plaintiffs and unnamed class members have liberty and/or property interests in their F-1 status, employment authorization, OPT and/or STEM Extension practical training.

137. Defendants' undue delay in opening, processing and adjudicating applications submitted by Plaintiffs and unnamed class members has intentionally, deliberately and/or willfully inflicted irreparable harm on them, including the deprivation of liberty and/or property interests.

138. Defendants' deliberate, willful and unlawful delay in opening, processing and adjudicating applications submitted by Plaintiffs and unnamed class members deprives them of rights protected by the Fifth Amendment to the United States Constitution by depriving them of notice and/or a meaningful opportunity to be heard.

139. Defendants' failure to open, process and adjudicate applications will imminently cause substantial and concrete harm to Plaintiffs and class members, including the actual or threatened loss of their F-1 status and risk of removal by ICE; loss of job offers and benefits of employment including income, health insurance and ability to apply for the H-1B lottery; inability to resubmit an application that USCIS rejects based on a technical error because the applicable deadlines have passed; and inability to complete a full 12-month period of optional practical training.

140. Plaintiffs seek, on behalf of themselves and unnamed class members, a temporary restraining order and preliminary and permanent injunctive relief that requires USCIS to open, process and adjudicate applications submitted by Plaintiffs and unnamed class members on an immediate basis, and to provide weekly status reports to the Court and counsel.

141. Plaintiffs further seek, on behalf of themselves and unnamed class members, equitable relief that relieves them of the irreparable harm that they have suffered and are threatened with suffering, including the following relief:

- (a) an order that enjoins ICE from removing Plaintiffs and unnamed class members who have lost their F-1 status while their applications remain pending with USCIS;
- (b) an order that students whose grace period expired while they were waiting for USCIS to adjudicate their applications will remain in F-1 status until at least fourteen (14) days after their application has been adjudicated;
- (c) an order that requires USCIS not to reject applications submitted by Plaintiffs and unnamed class members for technical errors where such applications cannot be corrected and resubmitted within the applicable deadlines, and instead to accept such applications, issue a receipt, and issue a Request for Evidence to correct any alleged deficiencies;
- (d) in addition or in the alternative, an order that requires USCIS to accept and consider applications that are corrected and resubmitted by Plaintiffs and unnamed class members within sixty (60) days after the date that they are rejected, notwithstanding the expiration of the applicable deadlines; and
- (e) for OPT applications, an order that permits Plaintiffs and unnamed class members to complete their full 12 months of optional practical training running from the date that their application is approved, even if USCIS's undue delay means that they must complete it later than 14 months after the date they completed their studies.

142. Plaintiffs further seek, on behalf of themselves and unnamed class members, a declaration that Defendants have violated the guarantee of procedural due process inherent in the Due Process Clause of the Fifth Amendment to the United States Constitution.

143. Plaintiffs further seek an award of reasonable attorneys' fees and costs under the Equal Access to Justice Act.

COUNT FIVE
(Equitable Estoppel)

144. Plaintiffs incorporate the allegations in the foregoing paragraphs as if they were fully restated herein.

145. USCIS can be equitably estopped from enforcing its regulations against Plaintiffs and unnamed class members if it has engaged in affirmative misconduct and the elements of a claim for equitable estoppel have been met.

146. USCIS engaged in affirmative misconduct when it violated federal law by failing to open and process applications submitted by Plaintiffs and unnamed class members in sufficient time for USCIS to deposit monies on the same day or the next day after their actual receipt.

147. USCIS engaged in affirmative misconduct because it was aware of facts from which the inference could be drawn that a substantial and specific risk of serious harm to Plaintiffs and unnamed class members existed. On information and belief, Defendants drew that inference and nevertheless acted or failed to act in a manner that demonstrated reckless and callous indifference toward the rights of Plaintiffs and unnamed class members.

148. USCIS made a material representation when it represented, through its regulations, that if Plaintiffs and unnamed class members were to submit applications and pay a non-refundable fee of \$410, then USCIS would process and adjudicate the applications before Plaintiffs and unnamed class members lose their F-1 status on the 60th day after their program end date.

149. USCIS made a material representation when it represented, through its regulations, that if Plaintiffs and unnamed class members were to submit OPT applications and pay a non-refundable fee of \$410, and if USCIS were to reject the application based upon a technical error, then Plaintiffs and unnamed class members would have the ability to correct and resubmit their applications.

150. Plaintiffs and unnamed class members relied to their detriment on USCIS's misrepresentations by submitting their applications and paying the non-refundable fee of \$410.

151. Further, they relied on USCIS's misrepresentations to their detriment because (a) they have lost, or face the imminent risk of losing, their F-1 status before their applications are opened, processed and/or adjudicated, and/or (b) they have lost, or face the imminent risk of losing, their ability to correct and resubmit applications that USCIS rejects based on a technical error.

152. USCIS's failure to open, process and adjudicate applications will imminently cause substantial and concrete harm to Plaintiffs and class members, including the actual or threatened loss of their F-1 status and risk of removal by ICE; loss of job offers and benefits of employment including income, health insurance and ability to apply for the H-1B lottery; inability to resubmit an application that USCIS rejects based on a technical error because the applicable deadlines have passed; and inability to complete a full 12-month period of optional practical training.

153. Plaintiffs seek, on behalf of themselves and unnamed class members, a mandatory temporary restraining order and preliminary and permanent injunctive relief that requires USCIS to open, process and adjudicate applications submitted by Plaintiffs and unnamed class members on an immediate basis, and to provide weekly status reports to the Court and counsel.

154. Plaintiffs further seek, on behalf of themselves and unnamed class members, a declaration that USCIS has violated its legal obligations to open, process and adjudicate the applications submitted by Plaintiffs and unnamed class members.

155. Plaintiffs further seek, on behalf of themselves and unnamed class members, equitable relief that relieves them of the irreparable harm that they have suffered and are threatened with suffering, including the following relief:

- (a) an order that enjoins ICE from removing Plaintiffs and unnamed class members who have lost their F-1 status while their applications remain pending with USCIS;
- (b) an order that students whose grace period expired while they were waiting for USCIS to adjudicate their applications will remain in F-1 status until at least fourteen (14) days after their application has been adjudicated;
- (c) an order that requires USCIS not to reject applications submitted by Plaintiffs and unnamed class members for technical errors where such applications cannot be corrected and resubmitted within the applicable deadlines, and instead to accept such applications, issue a receipt, and issue a Request for Evidence to correct any alleged deficiencies;
- (d) in addition or in the alternative, an order that requires USCIS to accept and consider applications that are corrected and resubmitted by Plaintiffs and unnamed class members within sixty (60) days after the date that they are rejected, notwithstanding the expiration of the applicable deadlines; and
- (e) for OPT applications, an order that permits Plaintiffs and unnamed class members to complete their full 12 months of optional practical training running from the date that their application is approved, even if USCIS's undue delay means that they must complete it later than 14 months after the date they completed their studies.

156. Plaintiff further seeks an award of reasonable attorneys' fees and costs under the Equal Access to Justice Act.

IRREPARABLE HARM / INADEQUATE REMEDY AT LAW

157. Plaintiffs incorporate the allegations in the foregoing paragraphs as if they were fully restated herein.

158. Defendants' failure to open, process and adjudicate applications submitted by Plaintiffs and unnamed class members has deprived and/or threatens to imminently deprive them of their F-1 status, optional practical training and/or STEM Extension practical training, as well as the benefits of lawful employment, including but not limited to wages, income, health insurance, the ability to apply for the H-1B lottery, and a full 12 months of optional practical training. They also face the risk of being removed from the United States by ICE due to USCIS's undue delay.

159. Plaintiffs and unnamed class members have been and will be irreparably harmed because they cannot sue Defendants for monetary damages that would make them whole for these irreparable losses.

160. Plaintiffs and unnamed class members cannot be adequately compensated for these harms in an action at law for money damages.

WHEREFORE, Plaintiffs respectfully prays as follows:

- a) The Court enter a temporary restraining order, preliminary injunction and permanent injunction that enjoins ICE from removing Plaintiffs and unnamed class members who lose their F-1 status while waiting for USCIS to open, process and adjudicate their applications;
- b) The Court enter a mandatory temporary restraining order, preliminary injunction, permanent injunction and/or writ of mandamus that requires USCIS to open, process and adjudicate applications submitted by Plaintiffs and unnamed class members on an expedited and immediate basis, and to provide weekly status reports to the Court and counsel;

- c) The Court issue a declaration that Defendants have violated their legal obligations owed to Plaintiffs and unnamed class members;
- d) The Court issue equitable relief that relieves Plaintiffs and unnamed class members of the irreparable harm that they have suffered and are threatened with suffering, including the following relief:
 - (i) an order that students whose grace period expired while they were waiting for USCIS to adjudicate their OPT applications will remain in F-1 status until at least fourteen (14) days after their application is adjudicated;
 - (ii) an order that requires USCIS not to reject applications submitted by Plaintiffs and unnamed class members for technical errors where such applications cannot be corrected and resubmitted within the applicable deadlines, and instead to accept such applications, issue a receipt, and issue a Request for Evidence to correct any alleged deficiencies;
 - (iii) in addition or in the alternative, an order that requires USCIS to accept and consider applications that are corrected and resubmitted by Plaintiffs and unnamed class members within sixty (60) days after the date that they are rejected, notwithstanding the expiration of the applicable deadlines; and
 - (iv) for OPT applications, an order that permits Plaintiffs and unnamed class members to complete their full 12 months of optional practical training running from the date that their application is approved, even if USCIS's undue delay means that they must complete it later than 14 months after the date they completed their studies;

- e) Plaintiffs and unnamed class members recover their reasonable attorneys' fees and costs under the Equal Access to Justice Act; and
- f) Plaintiffs and unnamed class members have such other and further relief that the Court deems just and equitable.

Respectfully submitted,

s/ Caroline H. Gentry


Caroline H. Gentry, Trial Attorney (0066138)
Porter Wright Morris & Arthur LLP
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Dayton, OH 45402
Telephone: 937.449.6748
Facsimile: 937.449.6820
Email: cgentry@porterwright.com

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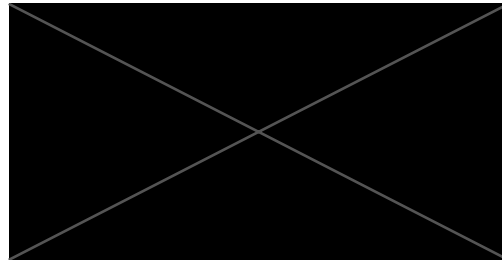
Robert H. Cohen (0009216)
Kirsten R. Fraser (0093951)
Porter Wright Morris & Arthur LLP
41 South High Street, Suites 2800-3200
Columbus, OH 43215
Telephone: 614.227.2066
Facsimile: 614.227.2100
Email: rcohen@porterwright.com
Email: kfraser@porterwright.com

Attorneys for Plaintiffs


VERIFICATION

I, _____  _____ [print name], declare under penalty of perjury under the laws of the United States that upon my personal knowledge and review of documents, the allegations of fact contained in the foregoing Verified Complaint with respect to my claims for relief are true and correct to the best of my knowledge and belief.

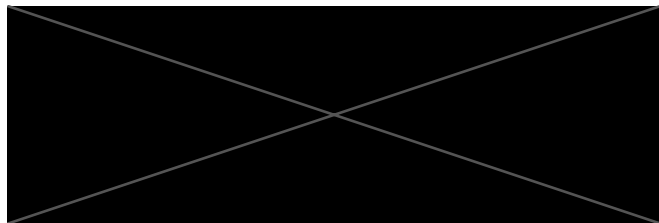
Executed this 15th__ day of February, 2021.



VERIFICATION

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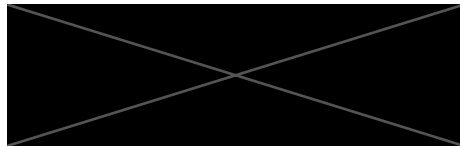
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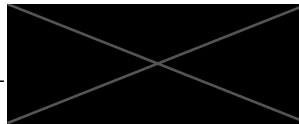


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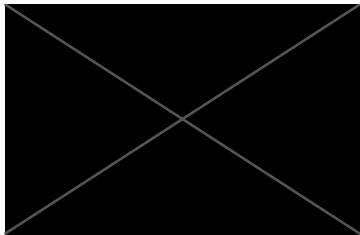


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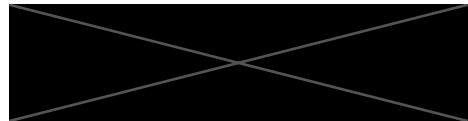
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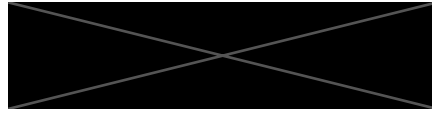
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[Signature]

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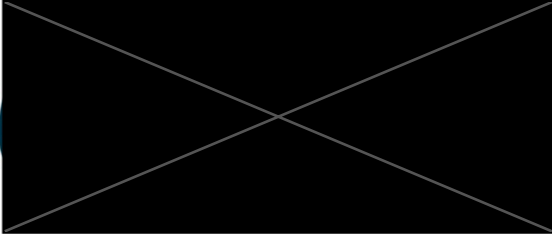


[Signature]


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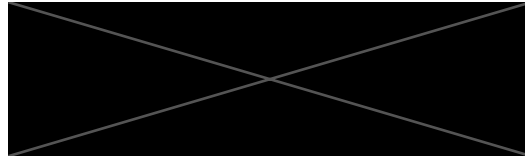
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Executed this _15_ day of February, 2021.

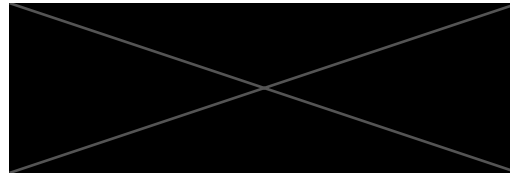


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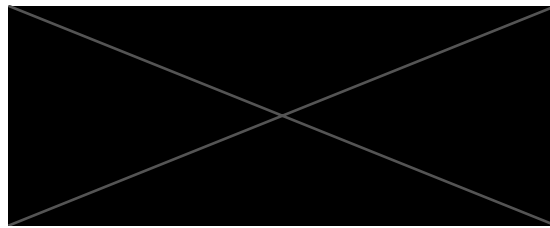
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VERIFICATION

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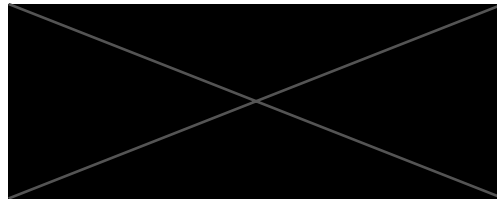
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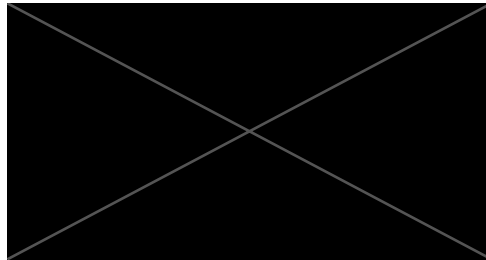
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I, _____ [print name], declare under penalty of perjury under the laws of the United States that upon my personal knowledge and review of documents, the allegations of fact contained in the foregoing Verified Complaint with respect to my claims for relief are true and correct to the best of my knowledge and belief.

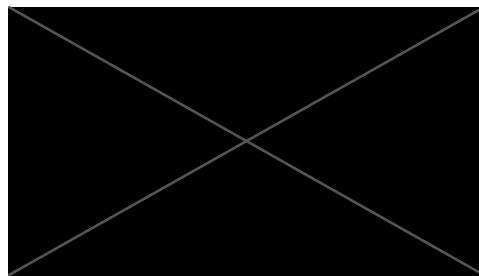
Executed this _15_ day of February, 2021.



VERIFICATION

I, _____  _____ [print name], declare under penalty of perjury under the laws of the United States that upon my personal knowledge and review of documents, the allegations of fact contained in the foregoing Verified Complaint with respect to my claims for relief are true and correct to the best of my knowledge and belief.

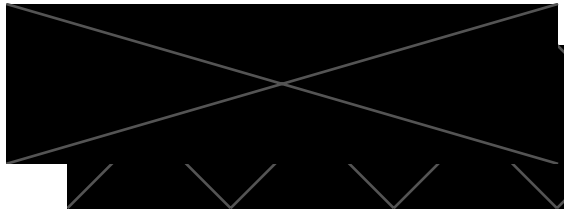
Executed this 15th day of February, 2021.




VERIFICATION

I, _____ [print name], declare under penalty of perjury under the laws of the United States that upon my personal knowledge and review of documents, the allegations of fact contained in the foregoing Verified Complaint with respect to my claims for relief are true and correct to the best of my knowledge and belief.

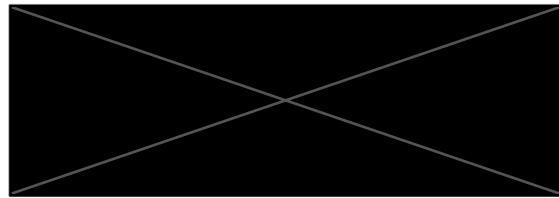
Executed this _15_ day of February, 2021.

A large black rectangular redaction box covers the signature area. Below the box, there are several small, faint, downward-pointing chevron marks.

VERIFICATION

I,  [print name], declare under penalty of perjury under the laws of the United States that upon my personal knowledge and review of documents, the allegations of fact contained in the foregoing Verified Complaint with respect to my claims for relief are true and correct to the best of my knowledge and belief.

Executed this 10th day of February, 2021.



VERIFICATION

I, _____ [print name], declare under penalty of perjury under the laws of the United States that upon my personal knowledge and review of documents, the allegations of fact contained in the foregoing Verified Complaint with respect to my claims for relief are true and correct to the best of my knowledge and belief.

Executed this _15_ day of February, 2021.

