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16 **IN THE UNITED STATES DISTRICT COURT**  
17 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

18 AHMED, ABDUL, AMIR, SIDDIQA,  
19 RAHMATULLAH, FATIMA, and MURSAL  
20 SADAT, on behalf of themselves and all others  
21 similarly situated,

22 Plaintiffs,

23 v.

24 U.S. DEPARTMENT OF HOMELAND  
25 SECURITY; ALEJANDRO MAYORKAS, in  
26 his official capacity as Secretary of Homeland  
27 Security; U.S. CITIZENSHIP AND  
28 IMMIGRATION SERVICES (USCIS); UR  
MENDOZA JADDOU, in her official capacity  
as Director of USCIS; TED H. KIM, in his  
official capacity as Associate Director of the  
Refugee, Asylum and International Operations  
Directorate at USCIS,

Defendants.

Case No.

**CLASS ACTION COMPLAINT  
FOR DECLARATORY AND  
INJUNCTION RELIEF**

**CLASS ACTION**  
**IMMIGRATION CASE**

**COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF**

**CASE NO.**

**PRELIMINARY STATEMENT**

1  
2 1. Plaintiffs are seven Afghan people who are seeking asylum in the United States. They  
3 were forced to flee Afghanistan after the U.S. military completed its withdrawal of troops and the  
4 Taliban regained control of the country in August 2021. Some of the Plaintiffs provided support to the  
5 U.S. military or the Afghan government. Others worked to advance women’s rights or come from  
6 ethnic and religious minorities. All of them had to leave Afghanistan because they justifiably feared  
7 reprisal or persecution from the Taliban.

8 2. The U.S. government, recognizing the moral imperative to protect and support the  
9 Afghan people who aided U.S. efforts in Afghanistan, launched an expedited resettlement effort called  
10 Operation Allies Welcome in August 2021. Under that operation, the U.S. government resettled  
11 Plaintiffs and other Afghan people who passed stringent security and background checks. The  
12 Department of Homeland Security (“DHS”) granted each person who entered the United States under  
13 Operation Allies Welcome two years of humanitarian parole so that they could apply for a more  
14 permanent immigration status—often, asylum—that will safeguard them from a return to Afghanistan.  
15 That two-year parole period will begin to expire in August 2023 for tens of thousands of Afghan  
16 people who fled Taliban persecution.

17 3. In September 2021, consistent with the objectives of Operation Allies Welcome,  
18 Congress acted to ensure that these Afghan people can safely resettle in the United States free of the  
19 delays that often plague immigration applications. In Section 2502 of the Extending Government  
20 Funding and Delivering Emergency Assistance Act, Pub. L. No. 117-43, 135 Stat. 377 (2021)  
21 (codified at 8 U.S.C. § 1101 note), Congress required Defendants DHS and United States Citizenship  
22 and Immigration Services (“USCIS”) to “expeditiously adjudicate” asylum applications for this  
23 population within 150 days—30 days faster than the timeline for adjudicating other asylum claims.

24 4. Congress’s intent was clear: Defendants must prioritize and expedite these asylum  
25 applications consistent with the urgent nature of the Operation Allies Welcome resettlement effort.  
26 Indeed, Congress’s mandated timeline should have meant that the vast majority of people who entered  
27 under Operation Allies Welcome would receive a decision on their asylum applications well before  
28

1 their parole ended, thereby allowing those granted asylum to transition from receiving parole to  
2 receiving asylum without a lapse in lawful status.

3 5. Defendants, however, have failed to adhere to Congress's timeline. Nearly two years  
4 after Congress enacted the 150-day deadline, Defendants have adjudicated only 11% of the asylum  
5 applications submitted by people who resettled in the United States under Operation Allies Welcome.  
6 Thousands of applications remain pending well past the 150-day adjudication deadline, and the safety  
7 of those applicants remains in limbo. For many of the spouses and children of people who applied for  
8 asylum, Defendants' failure to follow Congress's directive spells constant danger because these family  
9 members are stuck in Afghanistan, awaiting family reunification.

10 6. Defendants' delays are especially galling given that people fleeing the Taliban have  
11 extremely strong asylum claims. The Taliban's intolerance for those who do not hew to its beliefs—  
12 prominently including those who aided the United States, those who believe in women's rights or  
13 democratic institutions, and religious and ethnic minorities—is well documented. So, too, is the  
14 extensive vetting DHS conducted before allowing people evacuating Afghanistan into the  
15 United States. It is no surprise, then, that more than 99% of the applications that Defendants have  
16 completed have been granted.

17 7. Defendants' failure to act amounts to a repudiation of the non-discretionary obligation  
18 imposed by Congress to timely adjudicate the asylum applications filed by Plaintiffs and other  
19 similarly-situated Afghan refugees within 150 days of filing.

20 8. Pursuant to the Administrative Procedure Act (5 U.S.C. § 551 *et seq.*) and the  
21 Mandamus and Venue Act of 1962 (28 U.S.C § 1361), Plaintiffs request on behalf of themselves and  
22 a class of similarly-situated asylum applicants an order (1) declaring that Defendants have violated the  
23 150-day statutory deadline by failing to adjudicate their applications within that time frame,  
24 (2) compelling Defendants to prioritize any overdue asylum applications and adjudicate them within  
25 30 days, and (3) compelling Defendants to adjudicate all other eligible asylum applications within the  
26 150-day statutory time frame.

**JURISDICTION AND VENUE**

1  
2 9. This case arises under the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101  
3 *et seq.*, the regulations implementing the INA, the Administrative Procedure Act (“APA”), 5 U.S.C.  
4 § 701 *et seq.*, and the Mandamus and Venue Act of 1962, 28 U.S.C § 1361.

5 10. This Court has jurisdiction over the claims alleged against Defendants under 28 U.S.C.  
6 § 1331, as a civil action arising under the laws of the United States, and under the Mandamus and  
7 Venue Act of 1962, 28 U.S.C. § 1361.

8 11. This Court has authority to grant the requested declaratory and injunctive relief under  
9 5 U.S.C. §§ 701–706, 28 U.S.C. §§ 2201–02, 28 U.S.C. § 1361, Federal Rules of Civil Procedure 57  
10 and 65, and other applicable rules and laws.

11 12. The United States has waived its sovereign immunity under 5 U.S.C. § 702.

12 13. This Court has personal jurisdiction over Defendants in this case, owing to, among  
13 other things, Defendants’ presence and activities within the District as well as the nationwide nature  
14 of Defendants’ alleged unlawful conduct.

15 14. This District is a proper venue under 28 U.S.C. § 1391(e)(1) because Plaintiffs Ahmed,  
16 Amir, and Mursal Sadat, and other members of the proposed Class, reside in this District; a substantial  
17 part of the events or omissions giving rise to this claim have occurred within this District; and  
18 Defendants are officers or employees of the United States or agencies thereof acting in their official  
19 capacities. No real property is involved in this action.

20 **PLAINTIFFS<sup>1</sup>**

21 15. Plaintiffs are noncitizens who came to the United States from Afghanistan and who  
22 have applications for asylum that have been pending for more than 150 days. Each of them has an  
23 urgent need for their case to be resolved. Except where otherwise indicated, Plaintiffs are proceeding  
24 under pseudonyms consistent with their separately filed motion seeking leave to do so.

25 16. Plaintiff Ahmed worked for companies that contracted with the U.S. military and then  
26 served as a provincial government official. He is married and has six children, but he became separated

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28 <sup>1</sup> With the exception of Plaintiff Mursal Sadat, these names are pseudonyms. Plaintiffs have  
concurrently filed a Motion for Leave to Proceed Under Pseudonym.

1 from his wife as they sought to evacuate from the Kabul airport, and only one of his children was able  
2 to escape Afghanistan with him. His wife and other children—including his youngest daughter, who  
3 was born in 2022 and who he has never been able to meet—remain in hiding in Afghanistan, where  
4 the Taliban searched Ahmed’s old house and issued threats about him at his prior workplace. Ahmed’s  
5 son is dealing with depression and other mental health issues as a result of being involuntarily  
6 separated from his mother and siblings. Ahmed applied for asylum on July 18, 2022. His application  
7 has been outstanding for 275 days.

8 17. Plaintiff Abdul is a doctor. Before the Taliban took control of Afghanistan in 2021, he  
9 lived with his wife and children and worked as a doctor at a U.S. military hospital, a position which  
10 required him to undergo a background check. He and his family now live in Skokie, Illinois. He  
11 submitted an application for asylum in the United States on September 1, 2022, and completed an  
12 asylum interview on October 14, 2022. It has been 229 days since he filed his application, but he has  
13 not yet received a decision. Plaintiff Abdul’s uncertain fate causes him immense anxiety and prevents  
14 him from pursuing additional medical training. In addition, his family remains at high risk in  
15 Afghanistan because of his work as a doctor and affiliation with the United States.

16 18. Plaintiff Amir spent years assisting the previous Afghanistan government against the  
17 Taliban, and his brothers worked as translators and are now known targets for the Taliban back in  
18 Afghanistan. Since Amir left Afghanistan in August 2021, the Taliban has gone to his family’s home  
19 looking for Amir and his brothers. Amir has been waiting 260 days since he submitted an application  
20 for asylum in the United States on August 1, 2022. He has yet to receive a decision.

21 19. Plaintiff Siddiq is a student and journalist with family still in Afghanistan. Before the  
22 Taliban took control of Afghanistan in 2021, she lived with her father, mother, two sisters, and one  
23 brother. She currently lives in Chicago, Illinois and attends university. She submitted an application  
24 for asylum in the United States on August 26, 2022, and completed an asylum interview on October  
25 12, 2022. It has been 235 days since she filed her application, but she has not yet received a decision.  
26 In Afghanistan, Plaintiff Siddiq is a media personality and actively involved in human rights issues,  
27 but the lack of a decision in her asylum case is preventing her from pursuing a career in the United  
28 States and impacting her ability to focus on her education.



1 responsible for the administration and enforcement of the immigration laws, including compliance  
2 with applicable statutes and regulations. Secretary Mayorkas is sued in his official capacity.

3 25. Defendant USCIS is the agency within DHS tasked with adjudicating asylum  
4 applications. It is headquartered in Camp Springs, Maryland, but has field offices, including the San  
5 Francisco Asylum Office, within this District.

6 26. Defendant Ur Mendoza Jaddou is the Director of USCIS. Director Jaddou is sued in  
7 her official capacity.

8 27. Defendant Ted H. Kim is the Associate Director of the Refugee, Asylum and  
9 International Operations Directorate at USCIS. Associate Director Kim is sued in his official capacity.

10 **DIVISIONAL ASSIGNMENT**

11 28. Assignment to the San Francisco Division of the court is appropriate under Civil Local  
12 Rules 3-2(c) and 3-5(b). A substantial portion of the events at issue occurred in San Francisco, because  
13 the San Francisco Asylum Office is located at 75 Hawthorne Street, 7th Floor, in San Francisco,  
14 California. In addition, plaintiffs Amir, and Mursal Sadat reside in Contra Costa County, which is  
15 within the San Francisco division of this Court.

16 29. In addition, the cases of Plaintiffs Mursal, Ahmed, and Amir, and those of numerous  
17 other putative class members, are pending before the San Francisco Asylum Office.

18 **FACTUAL ALLEGATIONS**

19 **I. Countless Afghan People Supported the U.S. Government and Worked to Build  
20 Democracy and Human Rights in Afghanistan.**

21 30. In 2001, a coalition of forces led by the United States invaded Afghanistan in the  
22 aftermath of the September 11 attacks. At the time, the Taliban, an Islamic fundamentalist regime,  
23 controlled the country and strictly enforced its hardline interpretation of Sharia Law—Islam’s legal  
24 system as set forth in the Quran. Public demonstrations, as well as most forms of music, photography,  
25 and cinema, were banned.<sup>2</sup> Women and girls could not work, attend school, or leave home without a  
26

27  
28 <sup>2</sup> Clayton Thomas, *U.S. Military Withdrawal and Taliban Takeover in Afghanistan: Frequently Asked Questions*, CONGRESSIONAL RESEARCH SERVICES (Sept. 17, 2021), <https://bit.ly/43oiteA>.

1 male guardian, and they were required to cover their faces and bodies with burqas.<sup>3</sup> Anyone who  
2 violated the Taliban's rules faced public flogging, maiming, stoning, or execution.<sup>4</sup>

3 31. For more than 20 years thereafter, the United States maintained a strong military  
4 presence in Afghanistan. It did so to counter the Taliban, support the creation and maintenance of a  
5 democratically elected government, and aid reconstruction efforts within the country.<sup>5</sup> Many  
6 thousands of Afghan people—among them business owners, language interpreters, healthcare  
7 workers, and physical laborers—supported the U.S. military's efforts. Others worked to rebuild  
8 Afghan civil society and establish a democratically elected government. Still others supported and  
9 promoted civil rights, including equality for women, in direct conflict with the Taliban's beliefs.  
10 Supporting the United States and these ideals made people targets for the Taliban and other affiliated  
11 groups.<sup>6</sup>

12 32. The efforts of the Afghan people, and of the United States, bore fruit. In 2004, the  
13 Afghan people approved a new constitution and held democratic elections.<sup>7</sup> The mortality rate of  
14 children under five dropped by over 50 percent between 2000 and 2019.<sup>8</sup> During the same time period,  
15 Afghanistan's human development index (a summary of average achievements in key areas of human  
16 development tracked by the United Nations Development Programme) increased 45 percent.<sup>9</sup>  
17 "Between 2002 and 2019, Afghanistan's GDP per capita nearly doubled, and overall GDP nearly  
18 tripled, even accounting for inflation."<sup>10</sup> Between 2005 and 2017, literacy rates for Afghans aged 15  
19  
20

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21 <sup>3</sup> *Id.* at 32.

22 <sup>4</sup> *See id.* at 1, 32.

23 <sup>5</sup> *The U.S. War in Afghanistan (1999-2021)*, COUNCIL ON FOREIGN RELATIONS,  
<https://on.cfr.org/404UsWW>; *see also* Thomas, *supra* note 2, at 3–6.

24 <sup>6</sup> *See, e.g.*, U.S. DEP'T OF STATE, 2019 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES:  
AFGHANISTAN (2019), <https://bit.ly/3zRqmf2>.

25 <sup>7</sup> Sharon Otterman, *Afghanistan: The New Constitution*, COUNCIL OF FOREIGN RELATIONS (Feb. 3,  
2005), <https://on.cfr.org/3mv8lur>.

26 <sup>8</sup> *What We Need to Learn: Lessons from Twenty Years of Afghanistan Reconstruction*, SPECIAL  
INSPECTOR GENERAL FOR AFGHANISTAN RECONSTRUCTION (Aug. 2021), <https://bit.ly/3GAyB2X>.

27 <sup>9</sup> *Id.*

28 <sup>10</sup> *Id.*



1 to 24 increased by 28 percent for men and 19 points for women.<sup>11</sup> By 2018, 87 percent of Afghan  
 2 people lived less than two hours from medical care,<sup>12</sup> and life expectancy within the country increased  
 3 from 56 to 65—a 16 percent increase.<sup>13</sup>

4 33. In addition, the rights and freedoms of women and girls greatly expanded.<sup>14</sup> Between  
 5 2003 and 2017, female enrollment rates in primary school more than tripled, and female enrollment in  
 6 secondary education grew from six percent to 39 percent.<sup>15</sup> By 2019, women made up one-third of  
 7 Afghanistan’s university students and one-third of the country’s civil servants.<sup>16</sup> Women’s life  
 8 expectancy increased by 10 years, and their mortality rates during childbirth dropped by almost one-  
 9 third.<sup>17</sup>

10 **II. In August 2021, the United States Completed Its Withdrawal from Afghanistan, and**  
 11 **the Taliban Regained Control of the Country.**

12 34. On April 14, 2021, Present Biden announced that the United States would begin  
 13 withdrawing its troops from Afghanistan on May 1, 2021.<sup>18</sup> As soon as the withdrawal started, the  
 14 Taliban began an advance that captured significant sections of Afghanistan’s rural areas.<sup>19</sup> By July,  
 15 the Taliban began seizing border crossings, and the United States started evacuating Afghan people  
 16 who had previously worked for the United States or certain affiliated entities.<sup>20</sup> On August 6, the  
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18 <sup>11</sup> *Id.*

19 <sup>12</sup> John R. Allen & Vanda Felbab Brown, *The Fate of Women’s Rights in Afghanistan*, BROOKINGS:  
 20 THE BROOKINGS GENDER EQUALITY SERIES (Sep. 2020), <https://bit.ly/3miOpk0>.

21 <sup>13</sup> *What We Need to Learn: Lessons from Twenty Years of Afghanistan Reconstruction*, SPECIAL  
 22 INSPECTOR GENERAL FOR AFGHANISTAN RECONSTRUCTION (Aug. 2021), <https://bit.ly/3KqEPn7>.

23 <sup>14</sup> *Women in Afghanistan: The Back Story*, AMNESTY INTERNATIONAL UK (Nov. 24, 2022),  
 24 <https://bit.ly/3zOyoFg>.

25 <sup>15</sup> Allen & Felbab-Brown, *supra* note 13.

26 <sup>16</sup> Adam Gallagher, *To Protect Afghan Women’s Rights, U.S. Must Remain Engaged*, UNITED  
 27 STATES INSTITUTE OF PEACE (Oct. 23, 2019), <https://bit.ly/3motrQw>.

28 <sup>17</sup> Allen & Felbab-Brown, *supra* note 13.

<sup>18</sup> President Joseph R. Biden, *Remarks by President Biden on the Way Forward in Afghanistan*, THE  
 WHITE HOUSE: BRIEFING ROOM (Apr. 14, 2021), <https://bit.ly/3UvM3dS>.

<sup>19</sup> THOMAS, *supra* note 2, at 10–11.

<sup>20</sup> *Id.*; U.S. Embassy in Kabul, *Operation Allies Refuge*, U.S. EMBASSY IN AFGHANISTAN (July 17,  
 2021), <https://bit.ly/3KRkAjD>.

1 Taliban captured its first provincial capital in Afghanistan, and barely a week later, it controlled the  
2 entire country except for Kabul, the capital.<sup>21</sup>

3 35. On August 15, 2021, the Taliban entered Kabul and completed its takeover of  
4 Afghanistan. Then-President Ashraf Ghani fled the country.<sup>22</sup> The same day, the United States began  
5 evacuating thousands of people from Hamid Karzai International Airport in Kabul.<sup>23</sup> Many Afghan  
6 people with good reason to fear the Taliban converged on Kabul in the hope of fleeing to find safety  
7 and protection.<sup>24</sup>

8 36. On August 30, 2021, the United States completed its withdrawal of troops from  
9 Afghanistan.<sup>25</sup> Days later, the Taliban announced a caretaker government.<sup>26</sup> The Taliban has  
10 controlled Afghanistan ever since.

11 37. The hasty nature of the United States' final withdrawal from the country left many of  
12 its Afghan allies exposed. Aside from a brief ceasefire, the U.S.-Taliban withdrawal deal did not  
13 include protections for the countless Afghan people who had helped the U.S. military and worked to  
14 rebuild their country and government.<sup>27</sup> Further, freedoms for women and girls started to erode as soon  
15 as the Taliban returned to power. The acting mayor of Kabul, for instance, announced a plan to re-fill  
16 almost every municipal city job held by women with men.<sup>28</sup> Women involved in protests for women's  
17  
18  
19

20 <sup>21</sup> THOMAS, *supra* note 2, at 10.

21 <sup>22</sup> *Id.* at 10, 12–13.

22 <sup>23</sup> See John R. Hoehn & Jeremiah Gertler, *Afghan Aerial Evacuation in Context*, CONGRESSIONAL  
RESEARCH SERVICE (Aug. 24, 2021), <https://bit.ly/40Z0jyw>.

23 <sup>24</sup> *How the Taliban Stormed across Afghanistan in 10 Days*, BBC NEWS (Aug. 16, 2021),  
<https://bbc.in/40YZqpB>.

24 <sup>25</sup> *Human and Budgetary Costs to Date of the U.S. War in Afghanistan, 2001-2022*, BROWN  
UNIVERSITY: WATSON INSTITUTE INTERNATIONAL & PUBLIC AFFAIRS (Aug. 2021) (Aug. 2021),  
25 <https://bit.ly/3UrAwMO>.

26 <sup>26</sup> THOMAS, *supra* note 2, at 14.

27 <sup>27</sup> Remarks by President Biden on Afghanistan, THE WHITE HOUSE: BRIEFING ROOM (Aug. 16,  
2021), *available at* <https://bit.ly/41hX0IC>.

28 <sup>28</sup> *Taliban tells women and girls to stay home from work and school*, CBS NEWS (Sep. 20, 2021),  
<https://cbsn.ws/3nZVUg1>.

1 rights were arrested or disappeared without explanation.<sup>29</sup> The U.S. Embassy warned that the Taliban  
2 was committing war crimes.<sup>30</sup>

3 **III. The Biden Administration Launched Operation Allies Welcome to Coordinate the**  
4 **Resettlement of Afghan People in the United States.**

5 38. On August 29, 2021, the day before the United States completed its withdrawal from  
6 Afghanistan, the Biden administration announced Operation Allies Welcome. The administration  
7 launched the program “to support vulnerable Afghans, including those who worked alongside [the  
8 United States] in Afghanistan for the past two decades, as they safely resettle in the United States.”<sup>31</sup>  
9 President Biden directed DHS to lead and coordinate those efforts.

10 39. As part of Operation Allies Welcome, DHS coordinated with other federal agencies  
11 and nongovernmental organizations (“NGOs”) to conduct thorough security screening and vetting of  
12 those evacuated from Afghanistan prior to their entry into the United States.<sup>32</sup> The express purpose of  
13 this screening was to ensure that no Afghan person brought into the country posed a national security  
14 threat.<sup>33</sup> Processing, screening, and vetting occurred in Bahrain, Germany, Kuwait, Italy, Qatar, Spain,  
15 and the United Arab Emirates, and was conducted by intelligence, law enforcement, and  
16 counterterrorism professionals from agencies including DHS, the Department of Defense, the Federal  
17 Bureau of Investigation, and the National Counterterrorism Center.<sup>34</sup>

18 40. DHS lauded the thoroughness of its screening process and described it as follows:

19 The rigorous screening and vetting process, which is multi-layered and  
20 ongoing, involves biometric and biographic screenings, conducted by  
21 intelligence, law enforcement, and counterterrorism professionals from  
DHS and [Department of Defense], as well as the Federal Bureau of  
Investigation (FBI), National Counterterrorism Center (NCTC), and

22 <sup>29</sup> David Zucchino and Yaqoob Akbary, *Threatened and Beaten, Afghan Women Defy Taliban With Protests*, NEW YORK TIMES (Jan. 24, 2022), <https://nyti.ms/410oBIm>.

23 <sup>30</sup> Matthieu Aikins, *Inside the Fall of Kabul*, NEW YORK TIMES (Dec. 10, 2021), <https://nyti.ms/3KtQVMi>.

24 <sup>31</sup> *Operation Allies Welcome*, U.S. DEP’T HOMELAND SECURITY, <https://bit.ly/3o7LgDP> [hereinafter,  
25 “Operation Allies Welcome webpage”].

26 <sup>32</sup> See Operation Allies Welcome.

27 <sup>33</sup> Alejandro Mayorkas, *Secretary Mayorkas Delivers Remarks on Operation Allies*, U.S. DEP’T  
HOMELAND SECURITY Welcome (Sep. 10, 2021), <https://bit.ly/43ndfQj>.

28 <sup>34</sup> *Operation Allies Welcome Factsheet*, U.S. DEP’T HOMELAND SECURITY (Nov. 5, 2021), <https://bit.ly/3GBw9ca>.

1 additional intelligence community partners. This process includes  
2 reviewing fingerprints, photos and other biometric and biographic data for  
3 *every single* Afghan before they are cleared to travel to the United States.  
4 As with other arrivals at U.S. ports of entry, Afghan nationals undergo  
5 primary inspection when they arrive at a U.S. airport, and secondary  
6 inspection is conducted as the circumstances require.<sup>35</sup>

7 41. Additionally, Secretary Mayorkas stressed that, under DHS policy, no Afghan person  
8 could board a flight to the United States “until they are cleared” through this screening process, and  
9 that DHS undertook “quality-control checks at every step of the travel process, including while the  
10 individuals [were] in route” to the United States.<sup>36</sup>

11 42. Most people from Afghanistan who passed DHS’s rigorous screening and vetting  
12 process were granted humanitarian parole—a limited, temporary protection from removal—for a two-  
13 year period when they entered the United States. A person who receives humanitarian parole may  
14 enter the United States and, in the specific case of people who entered under Operation Allies  
15 Welcome, receive a 90-day work authorization (with the ability to extend that authorization for the  
16 full term of parole by application).<sup>37</sup> But parole does not amount to stable status.<sup>38</sup> For example, the  
17 two-year humanitarian parole came with conditions. People with parole must undergo medical  
18 screening, receive critical vaccinations, and comply with other reporting requirements. A person who  
19 failed to do so could see their parole and their corresponding right to work in the United States  
20 terminated. Parole also provides no path to lawful permanent resident status (*i.e.*, a green card) or U.S.  
21 citizenship.<sup>39</sup>

22 43. Public reports indicate that the United States has granted humanitarian parole to  
23 roughly 86,000 Afghan people, including Plaintiffs. This group includes civil society leaders,  
24 women’s rights activists, journalists, supporters of the United States’ mission, and many others who

24 <sup>35</sup> Operation Allies Welcome (emphasis added).

25 <sup>36</sup> Mayorkas, *supra* note 27.

26 <sup>37</sup> *Information for Afghan Nationals*, U.S. CITIZENSHIP AND IMMIGRATION SERVICES,  
<https://bit.ly/3ZV5f6d>.

27 <sup>38</sup> *Humanitarian or Significant Public Benefit Parole for Individuals Outside the United States*, U.S.  
CITIZENSHIP AND IMMIGRATION SERVICES, <https://bit.ly/3MAo00k>.

28 <sup>39</sup> Operation Allies Welcome.

1 supported democracy and civil rights in Afghanistan. The decision to grant humanitarian parole in this  
2 circumstance was an acknowledgement by the United States of its responsibility, which Secretary  
3 Mayorkas has described as a “moral imperative,”<sup>40</sup> to protect those who had put their lives at risk to  
4 support the United States’ interests. It also reflects the United States’ commitment to humanitarian  
5 values and a willingness to assist those in need, even in the face of significant logistical and political  
6 challenges.

7 44. To date, Defendants have not announced any blanket extension of humanitarian parole  
8 for any of the Afghan people evacuated to the United States under Operation Allies Welcome. Nor  
9 have Defendants announced any individualized mechanism for these Afghan people to seek to extend  
10 their parole. And there is, of course, no guarantee that any necessary application to extend parole  
11 would be adjudicated expeditiously.

12 **IV. Congress Required Defendants to Expeditiously Adjudicate the Asylum Applications of**  
13 **Plaintiffs and Other Afghan Refugees Like Them Within 150 Days of Filing.**

14 45. In September 2021, Congress—in a continuing resolution called the Extending  
15 Government Funding and Delivering Emergency Assistance Act, Pub. L. 117-43, 135 Stat. 344 (Sept.  
16 30, 2021)—did two things to ease the transition faced by Plaintiffs and other Afghan people who were  
17 resettling in the United States after being forced to evacuate from their home country.

18 46. First, Congress made Afghan people who were paroled into the United States between  
19 July 31, 2021, and September 30, 2022, eligible for the benefits “available to refugees.” Pub. L. 117-  
20 43, § 2502(a)-(b). These benefits include “resettlement assistance,” access to federal “entitlement  
21 programs,” and driver’s licenses or identification cards. *Id.* § 2502(b)(1) & (3). Under the continuing  
22 resolution, any Afghan person who entered in the relevant period and received two years of  
23 humanitarian parole remains eligible for these benefits until their parole expires.<sup>41</sup>

24 47. Second, Congress set a deadline for Defendants to adjudicate asylum applications  
25 submitted by people from Afghanistan who were paroled into the United States between July 31, 2021,

26 <sup>40</sup> Mayorkas, *supra* note 27.

27 <sup>41</sup> If a person is eligible for benefits and their spouse and children followed them to the United States  
28 and entered after September 30, 2022, their spouse and children are eligible for the same benefits.  
Pub. L. 117-43, § 2502(a)(1)(B).

1 and September 30, 2022. *See* Pub. L. 117-43, § 2502(c). Specifically, recognizing the importance of  
2 the “[e]xpeditious [a]djudication” of those applications, Congress required Defendants to adjudicate  
3 these applications “within 150 days after the date the application is filed” except for cases in which  
4 “exceptional circumstances” are present. *Id.*

5 48. This adjudication deadline is one month shorter than the standard 180-day time period  
6 for adjudicating asylum applications. *See* 8 U.S.C. § 1158(d)(5)(iii). Furthermore, although the general  
7 180-day deadline is subject to the statutory disclaimer that it is not “legally enforceable by any party  
8 against the United States” (8 U.S.C. § 1158(d)(7)), Congress chose not to subject the 150-day deadline  
9 in the continuing resolution to any such disclaimer.

10 49. Congress therefore made clear both that Defendants are required to prioritize and  
11 expedite asylum applications filed by Afghan people who were evacuated to the United States under  
12 Operation Allies Welcome, and that those people can enforce this obligation through the U.S. federal  
13 court system. The 150-day deadline also leaves no doubt that Congress intended for the vast majority  
14 (if not all) of these asylum applications to be adjudicated well before applicants’ humanitarian parole  
15 would start to expire in August 2023.

16 **V. Defendants Have Systematically Violated Congress’s Directive to Adjudicate Afghan**  
17 **Refugees’ Asylum Applications Within 150 Days.**

18 50. People who are paroled into the United States, like many noncitizens present in the  
19 country, may file an application for asylum with Defendant USCIS.<sup>42</sup> Such applications are referred  
20 to as “affirmative” asylum applications, because the people who file them are not defending against  
21 removal proceedings in immigration court.

22 51. As a general rule, a person is eligible for asylum in the United States if they satisfy the  
23 definition of “refugee” in the Immigration and Nationality Act, 8 U.S.C. § 1158(b)(1)(A)—which is  
24 to say, if they are “unable or unwilling to return to” their country of origin “because of persecution or  
25 a well-founded fear of persecution on account of race, religion, nationality, membership in a particular  
26 social group, or political opinion.” *Id.* § 1101(a)(42)(A).

27 \_\_\_\_\_  
28 <sup>42</sup> *See* 8 U.S.C. § 1158; *Asylum*, U.S. CITIZENSHIP AND IMMIGRATION SERVICES,  
<https://bit.ly/43spsDa>.

1 52. Exceptions to asylum eligibility apply to those who persecuted others, committed a  
2 particularly serious crime in the United States or a serious nonpolitical crime before arrival in this  
3 country, are a danger to national security, engage in or support terrorist activity, or were firmly  
4 resettled in a third country. 8 U.S.C. § 1158(b)(2)(A). Additional bars to asylum apply to individuals  
5 who have access to asylum in a safe third country, filed more than a year after their entry into the  
6 United States, or sought to file a successive asylum application. *Id.* § 1158(a)(2)(A)-(C).

7 53. A grant of asylum provides protection from removal, an automatic authorization to  
8 work without needing a work permit, the right to an unrestricted Social Security card, and other  
9 government benefits. People who receive asylum may also request permission to travel overseas and  
10 can petition to bring their spouse and children to the United States under a derivative asylum status.  
11 After one year, a person who received asylum may apply for lawful permanent resident status (a green  
12 card), and four years after receiving a green card, the person can apply for U.S. citizenship.<sup>43</sup>

13 54. According to statements made by Defendant USCIS at an April 3, 2023, stakeholder  
14 listening session, Defendants have received 15,697 asylum applications from Afghan people brought  
15 to the United States through Operation Allies Welcome. Despite having interviewed over 13,000 of  
16 these applicants, Defendants have only adjudicated about 1,700 applications—or 11% of the total  
17 number filed. To date, Defendants have denied asylum in only 7 cases, meaning that there is a 99.6%  
18 grant rate in the few cases Defendants have adjudicated.

19 55. This exceptionally high 99% grant rate reflects the severe danger that awaits women  
20 and girls, religious and ethnic minorities, people who aided the United States, and others if they return  
21 to Taliban-controlled Afghanistan. It also reflects the severe danger faced by these applicants' family  
22 members who have not yet been able to leave Afghanistan. And it reflects the fact that people  
23 evacuated from Afghanistan underwent unprecedented background checks to ensure they did not pose  
24 a risk to the United States before being allowed to enter the country.

25 56. On information and belief, Defendants expect to grant the vast majority of pending  
26 asylum applications subject to the 150-day deadline. Nevertheless, Defendants have failed to take  
27

28 <sup>43</sup> *Asylum in the United States*, AMERICAN IMMIGRATION COUNCIL, <https://bit.ly/3MATtul>.

1 necessary steps to adjudicate these applications in a timely fashion. Thousands of applications  
2 governed by the 150-day adjudication deadline remain pending even though the deadline has passed.

3 **VI. Afghanistan Remains Unsafe for Plaintiffs, Other Members of the Class, and Their**  
4 **Families.**

5 57. In the two years since the Taliban regained control of Afghanistan, conditions within  
6 the country have significantly deteriorated. More than 90% of the country suffers from food  
7 insecurity.<sup>44</sup> The country's economy has shrunk by 40%,<sup>45</sup> and an estimated 700,000 jobs have been  
8 lost.<sup>46</sup> Relief provided by other countries and organizations often is intercepted and misappropriated  
9 by the Taliban.<sup>47</sup> And despite claims by the Taliban that it would not adopt its hardline interpretation  
10 of Sharia law from the early 2000s, numerous reports indicate that the regime is stripping away many  
11 civil liberties and human rights from the Afghan people.<sup>48</sup>

12 58. After the United States withdrew from Afghanistan, the Taliban also intensified its hunt  
13 for members and supporters of the previous government as well as their family members.<sup>49</sup> Those at  
14 highest risk include Afghan people who worked for the military, police, and investigative units of the  
15 former government, and those who assisted U.S. and NATO troops.<sup>50</sup> Nearly 500 people affiliated  
16 with the U.S.-backed regime were killed extrajudicially or forcibly disappeared during the Taliban's  
17 first six months in power.<sup>51</sup>

18  
19 <sup>44</sup> Afghanistan: Economic Crisis Underlies Mass Hunger Governments, Taliban Need to Reach  
20 Urgent Agreement on Banking Issues, Human Rights Watch (Aug. 4, 2022), <https://bit.ly/3UuBoAb>.

21 <sup>45</sup> *For a Taliban-Ruled Afghanistan, and the Rest of the World, a Crisis Looms*, WALL STREET  
22 JOURNAL (Dec. 13, 2021), <https://on.wsj.com/3MzuA2o>.

23 <sup>46</sup> Richard Bennett, *Situation of human rights in Afghanistan*, HUMAN RIGHTS COUNCIL (Feb. 9,  
24 2023).

25 <sup>47</sup> *Donors pledging billions in aid to Afghanistan face a challenge: Navigating the Taliban*, CNBC  
26 (Sept. 17, 2021), <https://cnb.cx/3mkeRd3>.

27 <sup>48</sup> *Afghanistan: Taliban's Catastrophic Year of Rule* HUMAN RIGHTS WATCH (Aug. 11, 2022),  
28 <https://bit.ly/3Mv9BxM>.

<sup>49</sup> Zeerak Khurram, *Taliban carrying out door-to-door manhunt for Afghans on blacklist, report says*, NBC NEWS (Aug. 20, 2021), <https://nbcnews.to/3KRxw9e>.

<sup>50</sup> *Id.*

<sup>51</sup> Barbara Marcolini, Sanjar Sohail and Alexander Stockton, *The Taliban Promised Them Amnesty. Then They Executed Them.*, NEW YORK TIMES (Apr. 12, 2022), <https://nyti.ms/41h9Nc>.



1 59. Afghan women and girls are also especially vulnerable. In March 2022, the Taliban  
2 closed secondary schools for girls, meaning that Afghan girls would not be able to attend school  
3 beyond sixth grade.<sup>52</sup> Women have been stripped of their independence. In December 2021, the  
4 government issued a decree that women should not be offered transport in a vehicle unless they are  
5 accompanied by a close male relative and wearing a hijab.<sup>53</sup> Women have also been shut out of the  
6 workforce, except for some teachers, health workers, and NGO staff. De facto local authorities have  
7 even closed women-operated bazaars.<sup>54</sup> United Nations experts recently stated that 20 years of  
8 progress in women's rights has been erased since the Taliban regained control of Afghanistan.<sup>55</sup>

9 60. The Taliban have also persecuted members of minority communities. In particular, they  
10 have been directly implicated in the extrajudicial torture and killing of Hazara people, who form an  
11 ethnic minority in Afghanistan and many of whom hold less reactionary religious beliefs.<sup>56</sup> The  
12 Taliban have also failed to prevent or hold people accountable for numerous attacks on the Hazara  
13 people and other religious and ethnic minorities.<sup>57</sup> Compounding these issues, Hazara people have no  
14 meaningful government representation.<sup>58</sup>

15 61. Given these conditions, it is essential that the U.S. government timely adjudicate the  
16 asylum applications of Plaintiffs and other Afghan people who cannot safely live under Taliban rule  
17 and require a path to citizenship to start fresh in the United States.

18  
19  
20 <sup>52</sup> *The Taliban Continues to Target Activists, Journalists and Stifle Protests by Women with Impunity*, MONITOR (June 16, 2022), <https://bit.ly/411kHyP>.

21 <sup>53</sup> *No trips for Afghan women unless escorted by male relative: Taliban*, FRANCE24 (Dec. 26, 2021), <https://bit.ly/3Uvb4Gj>.

22 <sup>54</sup> *Afghanistan: Humanitarian Crisis Threatens Basic Human Rights*, UN NEWS (Dec. 14, 2021), <https://bit.ly/3KwA3En>.

23 <sup>55</sup> *Afghanistan: UN experts say 20 years of progress for women and girls' rights erased since Taliban takeover*, UN: OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS (Mar. 8, 2023), <https://bit.ly/402XniO>.

24 <sup>56</sup> *Afghanistan: Taliban Torture and Execute Hazaras in Targeted Attack – New Investigation*, AMNESTY INTERNATIONAL (Sep. 15, 2022), <https://bit.ly/3GAAAnB9>.

25 <sup>57</sup> *Afghanistan: ISIS Group Targets Religious Minorities*, HUMAN RIGHTS WATCH (Sep. 6, 2022), <https://bit.ly/401gIRx>.

26 <sup>58</sup> Farkhondeh Akbari, *The Risks Facing Hazaras in Taliban-Ruled Afghanistan*, GEORGE  
27 WASHINGTON PROGRAM ON EXTREMISM: NEXUS (Mar. 7, 2022), <https://bit.ly/402XAT8>.

1 **VI. Defendants' Violation of the Adjudication Deadline Is Harming Plaintiffs.**

2 62. Plaintiffs are stuck in a state of limbo. They and other Class members are effectively  
3 barred from bringing their spouses and children from Afghanistan to the United States until USCIS  
4 adjudicates their applications.<sup>59</sup> In the meantime, those family members face ongoing and serious  
5 danger from the Taliban. For example, the spouses and children of Plaintiffs Rahmatullah and Ahmed,  
6 who are included as derivatives on their asylum applications, remain in hiding in Afghanistan, where  
7 the Taliban has already searched their current or former homes. Plaintiff Abdul's uncle was captured  
8 and imprisoned by the Taliban in April 2022 as a means of retaliation for his work as a public doctor  
9 and his affiliation with the U.S. military and Afghan government. The Taliban searched Plaintiff  
10 Fatima's family house, looking for anything proving that her family worked with the United States,  
11 the Afghan National Army, or the Afghan government. Fatima's family members only survived this  
12 encounter because they had previously burned everything that showed their connection to the U.S.  
13 Army and its allies.

14 63. In addition, humanitarian parole for tens of thousands of people who evacuated  
15 Afghanistan will begin to expire in August—and once their parole expires, people will lose access to  
16 federal benefits such as Social Security and Medicaid and will be forced either to rely on an  
17 inconsistent hodgepodge of state benefits or to sink further into economic insecurity.

18 64. Students from Afghanistan especially will suffer once their parole expires. Currently,  
19 their humanitarian parole allows them to receive federal financial aid to enroll in postsecondary  
20 studies. The same financial aid is available to people who have received asylum in the United States,  
21 but not to those who have pending applications. Thus, absent prompt adjudication of their applications,  
22 evacuated people now enrolled in U.S. universities will face severe economic hardship when their

23 \_\_\_\_\_  
24 <sup>59</sup> Defendant USCIS theoretically allows people outside the United States to apply for humanitarian  
25 parole, and it has received almost 45,000 applications for humanitarian parole from Afghanistan—as  
26 well as more than \$19 million in attendant fees. Nevertheless, USCIS has failed to adjudicate the  
27 vast majority of those applications—in part because it paused all parole adjudications for Afghan  
28 people for two months—and also retroactively changed the criteria and procedures that apply to the  
applications. *See Agency Failures Make Obtaining Humanitarian Parole Almost Impossible for Afghans*, AM. IMMIGRATION COUNCIL (Mar. 16, 2023), <https://bit.ly/3KypC3g>. The Department of State's family reunification program, which is the only other method for people from Afghanistan who do not have asylum or another lasting immigration status to bring family members to the United States, has been similarly beset by severe delays.

1 parole ends. For example, Plaintiff Siddiqa has applied for federal financial aid to continue attending  
2 university in Illinois. Unless granted asylum, her ability to continue attending university may be in  
3 jeopardy.

4 65. Furthermore, the prolonged uncertainty that comes with having a long-pending  
5 application for asylum exacts severe costs. For some people, including the 12-year-old son of Plaintiff  
6 Ahmed, who has been separated from his mother for eighteen months, it contributes to depression and  
7 other serious mental health issues. Plaintiff Siddiqa also suffers anxiety due to the uncertain status of  
8 her application. She often isolates herself to avoid having to answer questions about her case and has  
9 trouble thinking about anything but her asylum case. For others, this state of limbo prevents them from  
10 rebuilding their lives. Plaintiff Abdul, for example, has suffered immense anxiety and depression due  
11 to the uncertainty surrounding his application. Although he has plans to pursue further medical  
12 training, it has been difficult for him to focus on anything other than his family's basic needs for  
13 survival while they await a decision on his application. Plaintiff Mursal Sadat, meanwhile, lives in  
14 constant fear of being deprived of her ability to work. She is the only source of financial support of  
15 her parents, who have serious health problems, and her siblings, who—like her parents—are stranded  
16 in Pakistan while they await a decision on their own application for authorization to enter the United  
17 States. And although she has a very close relationship with her family, her parole status does not allow  
18 her to travel to Pakistan to visit her family.

19 66. Thousands of people will be able to avoid further harm only if Defendants promptly  
20 adjudicate their asylum applications. Although some people who helped the U.S. government in  
21 Afghanistan are eligible for a Special Immigrant Visa (“SIV”), which includes the benefit of lawful  
22 permanent residency, SIVs are available only to translators, interpreters, and others who were directly  
23 employed by the U.S. government for at least one year. Those narrow categories exclude thousands of  
24 the most vulnerable people who evacuated Afghanistan during the U.S. withdrawal and who have  
25 applied for asylum as the only lasting alternative available to them.

26 67. While people from Afghanistan who entered the United States before March 15, 2022,  
27 may also apply for Temporary Protected Status (“TPS”), the existence of that benefit is not a  
28 justification for Defendants’ failure to comply with the statutory 150-day deadline. TPS is

1 temporary—it is available only in 18-month increments and is currently scheduled to expire on  
2 November 20, 2023—and its benefits are too limited to cure the harms described above. Further,  
3 although TPS lasts for only 18 months, Defendant USCIS is not timely adjudicating TPS applications  
4 for Afghan people, either.<sup>60</sup>

5 68. Defendants' practice or policy of failing to timely adjudicate asylum applications for  
6 people from Afghanistan thus has caused, and will continue to cause, serious and irreparable injury to  
7 Plaintiffs and other Afghan people who are allies and supporters of the United States.

8 **CLASS ACTION ALLEGATIONS**

9 69. Plaintiffs bring this action under Federal Rule of Civil Procedure 23 on behalf of a class  
10 of themselves and all others who are similarly situated. A class action is proper because this action  
11 involves questions of law and fact common to the proposed Class, the proposed Class is so numerous  
12 that joinder of all members is impractical, the claims of the Plaintiffs are typical of the claims of the  
13 members of the proposed Class, Plaintiffs and their counsel will fairly and adequately protect the  
14 interests of the proposed Class, and Defendants have acted or refused to act on grounds that apply  
15 generally to the proposed Class so that final injunctive relief or corresponding declaratory relief is  
16 appropriate respecting the proposed Class as a whole.

17 70. Plaintiffs seek to represent the following proposed nationwide Class:

18 All individuals from Afghanistan described by Pub. L. 117-43,  
19 § 2502(a)(1)(A), who have filed or will file applications for asylum that  
20 were not or will not be adjudicated within the required 150-day time frame  
21 under Pub. L. 117-43, § 2502(c)(2); except individuals where—because  
22 their asylum application or interview raised serious, readily articulable  
23 concerns about the applicability of a bar in 8 U.S.C. § 1158(b)(2)(A)—  
USCIS has, following the completion of the asylum interview, (1) requested  
24 that the applicant provide additional evidence about the applicant's prior  
25 actions; (2) recalled the applicant for a second interview; or (3) issued a  
26 Notice of Intent to Deny.

27 71. Pursuant to Rule 23(a)(1), the members of the proposed Class are so numerous that  
28 joinder of all potential class members is impracticable. Plaintiffs are not aware of the precise number  
of potential class members because Defendants are in the best position to identify such people. Upon

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<sup>60</sup> USCIS provides processing times for many TPS applications, but not for TPS applications from Afghan people. *See Processing Times*, USCIS, <https://bit.ly/2unKEum>.

1 information and belief, there are thousands of people for whom Defendants have failed or will fail to  
2 timely adjudicate their asylum application within the 150-day statutory time frame. The members of  
3 the proposed Class are readily identifiable by Defendants.

4 72. Under Rule 23(a)(2), there are questions of law and fact common to the proposed Class,  
5 including: (1) whether Defendants have a legal duty to provide asylum adjudications within the 150-  
6 day statutory time frame; (2) whether Defendants have unlawfully withheld such adjudications by  
7 failing to comply with the 150-day statutory time frame; and (3) whether Defendants have  
8 unreasonably delayed in adjudicating asylum applications for failure to comply with the 150-day  
9 statutory time frame. The action challenges Defendants' delay in adjudicating asylum applications in  
10 violation of the 150-day deadline, a practice or policy affecting all members of the proposed Class.

11 73. Pursuant to Rule 23(a)(3), Plaintiffs' claims are typical of the claims of the proposed  
12 Class, because each Plaintiff filed a Form I-589 application for asylum over 150 days ago and has not  
13 yet received a determination.

14 74. Pursuant to Rule 23(a)(4), Plaintiffs will fairly and adequately represent the interest of  
15 the proposed Class and have retained counsel from the National Immigrant Justice Center and  
16 Kirkland & Ellis LLP, who are experienced in federal litigation, class action litigation, and litigation  
17 concerning U.S. immigration laws. Plaintiffs have no interests that are antagonistic to the interests of  
18 members of the proposed Class, and the relief Plaintiffs seek will benefit all members of the proposed  
19 Class.

20 75. Pursuant to Rule 23(b)(2), Defendants have acted in ways generally applicable to the  
21 proposed Class, and injunctive or declaratory relief is proper with respect to the class as a whole.  
22 Plaintiffs seek only declaratory and injunctive relief broadly applicable to Plaintiffs and the members  
23 of the proposed Class and do not seek claims for compensatory relief.

24 **FIRST CAUSE OF ACTION**  
25 **UNLAWFUL WITHHOLDING OF ACTION, APA, 5 U.S.C. § 706(1)**

26 76. Plaintiffs reallege and incorporate by reference all of the allegations set forth in the  
27 preceding paragraphs as if set forth fully herein.  
28

1           77. Under the APA, “[a] person suffering legal wrong because of agency action, or  
2 adversely affected or aggrieved by agency action within the meaning of a relevant statute, is entitled  
3 to judicial review thereof.” 5 U.S.C. § 702. It further provides relief for a failure to act: “[t]he reviewing  
4 court shall . . . compel agency action unlawfully withheld or unreasonably delayed,” and “hold  
5 unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary, capricious,  
6 an abuse of discretion, or otherwise not in accordance with law . . .” 5 U.S.C. § 706; *see also* 5 U.S.C.  
7 § 555(b) (requiring agencies to complete actions within a “reasonable time”).

8           78. When Congress requires that an agency act within a certain amount of time, a court is  
9 obligated to compel the agency to act if it fails to comply within the mandated deadline, and a court  
10 must do so without balancing other factors. *See Biodiversity Legal Found. v. Badgley*, 309 F.3d 1166,  
11 1177 n.11 (9th Cir. 2002) (if “Congress has specifically provided a deadline for performance,” then  
12 “no balancing of factors is required or permitted”); *see also Ctr. for Food Safety v. Hamburg*, 954 F.  
13 Supp. 2d 965, 970–71 (N.D. Cal. 2013) (balancing test “inappropriate where Congress ha[s] set  
14 specific mandatory deadlines for agency action”); *Rosario v. USCIS*, 2017 WL 3034447, at \*9 (W.D.  
15 Wash. July 18, 2017).

16           79. Section 2502 of the Extending Government Funding and Delivering Emergency  
17 Assistance Act, Pub. L. No. 117-43, 135 Stat. 377 (2021) (codified at 8 U.S.C. § 1101 note) establishes  
18 that Defendants are required to *expeditiously* adjudicate Plaintiffs’ asylum applications, not including  
19 administrative appeal, “within 150 days after the date the application is filed.”

20           80. Defendants have a ministerial, non-discretionary duty to adjudicate asylum  
21 applications within the 150-day statutory timeframe. Even if they could be considered, no exceptional  
22 circumstances exist that could possibly excuse Defendants’ failure to adjudicate Plaintiffs’ asylum  
23 applications and the asylum applications of the putative class within the 150-day statutory timeframe.

24           81. Defendants have failed to act, which denied Plaintiffs’ access to the statutorily  
25 prescribed asylum process. Defendants’ failure to timely adjudicate Plaintiffs’ asylum applications,  
26 and the asylum applications of members of the Class, with the 150-day statutory timeframe, constitutes  
27 unlawfully withheld agency action.



1 of members of the Class, within the 150-day statutory time frame constitutes unreasonably delayed  
2 agency action in violation of the APA.

3 89. Defendants do not apply a rule of reason in adjudicating the affirmative asylum  
4 applications filed by Plaintiffs and the class. Congress has set a mandatory adjudication deadline.  
5 Health and welfare, not merely economic interests, are at stake. Because Congress has required  
6 Defendants to prioritize these applications, they may not instead choose to prioritize other types of  
7 applications. And as shown above, Defendants' delays threaten both the lives of family members still  
8 in Afghanistan and the livelihoods of Plaintiffs and class members themselves.

9 90. Plaintiffs and members of the proposed Class have suffered a "legal wrong" and have  
10 been "adversely affected or aggrieved" by agency inaction for which there is no adequate remedy in a  
11 court of law.

12 91. Plaintiffs and the members of the Class have suffered and will imminently suffer  
13 irreparable injury as a proximate result of Defendants' conduct, and are entitled to declaratory and  
14 injunctive relief under the APA.

15 **THIRD CAUSE OF ACTION**  
16 **MANDAMUS ACTION, 28 U.S.C. § 1361**

17 92. Plaintiffs reallege and incorporate by reference all of the allegations set forth in the  
18 preceding paragraphs as if set forth fully herein.

19 93. The Mandamus and Venue Act of 1962, 28 U.S.C. § 1361, states that "[t]he district  
20 courts shall have original jurisdiction of any action in the nature of mandamus to compel an officer or  
21 employee of the United States or any agency thereof to perform a duty owed to" Plaintiffs and the  
22 members of the Class.

23 94. Section 2502 of the Extending Government Funding and Delivering Emergency  
24 Assistance Act, Pub. L. No. 117-43, 135 Stat. 377 (2021) (codified at 8 U.S.C. § 1101 note) establishes  
25 that Defendants are required to *expeditiously* adjudicate Plaintiffs' asylum applications, not including  
26 administrative appeal, "within 150 days after the date the application is filed."  
27  
28



1 95. Plaintiffs and members of the Class have a clear and certain claim, “notwithstanding  
2 any other provision of law,” to have their asylum applications adjudicated in accordance with the 150-  
3 day statutory deadline.

4 96. Defendants have a clear ministerial, non-discretionary duty to adjudicate asylum  
5 applications within the 150-day statutory time frame. No exceptional circumstances exist to excuse  
6 Defendants’ failure to adjudicate their asylum applications within the 150-day statutory time frame.

7 97. Plaintiffs and the Class have no adequate remedy at law and no other means to compel  
8 Defendants to perform the duties owed to Plaintiffs and the members of the Class.

9 98. By failing to timely adjudicate asylum applications within the 150-day statutory time  
10 frame, Defendants have violated and continue to violate Section 2502(c)(2) of the Extending  
11 Government Funding and Delivering Emergency Assistance Act, Pub. L. No. 117-43, 135 Stat. 377.

12 99. Pursuant to 28 U.S.C. § 1361, the Court may order Defendants to timely adjudicate  
13 Plaintiffs’ asylum applications and the applications of members of the Class.

14 **REQUEST FOR RELIEF**

15 WHEREFORE, Accordingly, Plaintiffs respectfully ask the Court to:

- 16 A. Assume jurisdiction over this matter;
- 17 B. Certify the Class pursuant to Federal Rule of Civil Procedure 23(a) and 23(b)(2);
- 18 C. Appoint all Plaintiffs as representatives of the Class;
- 19 D. Appoint the National Immigrant Justice Center and Kirkland & Ellis LLP as class  
20 counsel pursuant to Federal Rule of Civil Procedure 23(g);
- 21 E. Issue a judgment declaring that Defendants have a non-discretionary duty to adjudicate  
22 the asylum applications of Plaintiffs and members of the putative class, not including administrative  
23 appeal, “within 150 days after the date the application is filed” under Section 2502 of the Extending  
24 Government Funding and Delivering Emergency Assistance Act, Pub. L. No. 117-43, 135 Stat. 377  
25 (2021) (codified at 8 U.S.C. § 1101 note);
- 26 F. Issue a judgment declaring that Defendants have unlawfully withheld asylum  
27 adjudications for Plaintiffs and the members of the Class in violation of the 150-day statutory deadline  
28 in Section 2502(c)(2), or, in the alternative, that Defendants’ adjudications of Plaintiffs asylum

1 applications and the asylum applications of the members of the proposed Class are unreasonably  
2 delayed in violation of Section 2502(c)(2);

3 G. Issue an order under 5 U.S.C. § 706(1) compelling Defendants to adjudicate within 30  
4 days the asylum applications of Plaintiffs and all members of the Class whose applications have been  
5 pending for more than 150 days;

6 H. Issue a writ of mandamus compelling Defendants to adjudicate within 30 days the  
7 asylum applications of Plaintiffs and all members of the Class whose applications have been pending  
8 for more than 150 days;

9 I. Grant declaratory and injunctive relief under 28 U.S.C. §§ 2201 and 2202, 5 U.S.C.  
10 § 702, and/or 28 U.S.C. § 1361.

11 J. Retain jurisdiction over this action and any attendant proceedings until Defendants  
12 have adjudicated the asylum applications of Plaintiffs and the members of the Class, and Defendants  
13 have communicated the completion of such adjudications to Plaintiffs and the Court;

14 K. Award Plaintiffs reasonable fees and costs under the Equal Access to Justice Act, 28  
15 U.S.C. § 2412(d), 5 U.S.C. § 504, and/or any other applicable law; and

16 L. Grant any and all such other relief as the Court deems just and equitable.  
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1 DATED: April 19, 2023

2 Respectfully Submitted,

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