



IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA  
WESTERN DIVISION

CATHOLIC SOCIAL SERVICES, INC., )  
et al., )

CIV. NO. S-86-1343 LKK

Plaintiffs )

JOINT STIPULATION  
REGARDING SETTLEMENT

TOM RIDGE, Secretary, U.S. Department )  
of Homeland Security, et al., )

Defendants )

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2212 6<sup>th</sup> Street  
26 Berkley, CA 94710

7 COUNSEL FOR PLAINTIFFS  
28

1 Plaintiffs and Defendants, by and through their undersigned counsel, hereby agree and  
2 stipulate as follows:

3 1. Class Definition

4 The following subclasses are entitled to relief pursuant to this Settlement Agreement:

- 5 A. All persons who were otherwise prima facie eligible for legalization under section  
6 245A of the INA, and who tendered completed applications for legalization under  
7 section 245A of the INA and fees to an INS officer or agent acting on behalf of  
8 the INS, including a QDE, during the period from May 5, 1987 to May 4, 1988,  
9 and whose applications were rejected for filing because an INS officer or QDE  
10 concluded that they had traveled outside the United States after November 6, 1986  
11 without advance parole.
- 12 B. All persons who filed for class membership under Catholic Social Services, Inc. v.  
13 Reno, CIV No. S-86-1343 LKK (E.D. Cal.), and who were otherwise prima facie  
14 eligible for legalization under Section 245A of the INA, who, because an INS  
15 officer or QDE concluded that they had traveled outside the United States after  
16 November 6, 1986 without advance parole were informed that they were ineligible  
17 for legalization, or were refused by the INS or its QDEs legalization forms, and  
18 for whom such information, or inability to obtain the required application forms,  
19 was a substantial cause of their failure to timely file or complete a written  
20 application.

21 For purposes of the class definition as used in subparagraph B, the phrase "filed for class  
22 membership" shall be determined in accordance with 8 C.F.R. § 245a.10.

23 2. Notice to Defendants' Employees

24 Commencing within fourteen (14) days of the date on which this Settlement Agreement is  
25 approved by the district court, Defendants shall use good faith and reasonable efforts to distribute  
26 this Settlement Agreement or a summary attached as Exhibit 1 to all of their officers, agents and  
27 employees responsible for processing class membership claims or who may in the course of their  
28 duties supervise officers who detain or remove putative class members. Defendants shall use  
good faith and reasonable efforts to serve Class Counsel with copies of all supplemental  
instructions or guidelines issued their officers, agents or employees regarding implementation of  
this Settlement Agreement.

29 3. Notice to Class Members

30 In the event that this agreement is approved by the district court, Defendants shall, within  
31 sixty (60) days from the date of the court's approval, issue a press release and a Class Notice in  
32 English and Spanish (the texts of which are attached as Exhibit 2) announcing this Settlement  
33 Agreement. The press release, Class Notice, and Class Member Applications (attached as  
34 Exhibit 3) sheet shall be distributed to the media and community-based organizations according  
35 to BCIS's normal procedure for doing so, with a copy of these lists provided to Class Counsel.  
36 The press release, Class Notice and Class Member Applications shall be posted on Defendants'  
37 web site until the end of the application period referenced in paragraph 4 below. The press  
38 release, Class Notice and Class Member Applications shall also be made available at Defendants'  
district offices until the end of the application period referenced in paragraph 4 below. Within  
sixty (60) days of the district court's approval of this Settlement Agreement and during the  
remainder of the application period specified in paragraph 4, Defendants shall make available to

1 all persons, upon request, a copy of Form I-687, Class Member Applications and instructions,  
2 and Form I-765.

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8 4. Application Period.

9 In the event that this agreement is approved by the district court, the Defendants shall,  
10 within thirty (30) to sixty (60) days after the issuance of Notices required in paragraph 3 above,  
11 commence accepting CSS Class Membership Applications, and Form I-687, Application for  
12 Status as a Temporary Resident, with fee and supporting documentation, from class member  
13 applicants. Defendants shall continue to accept such applications for class membership and  
14 temporary permanent residence for a period of one year thereafter, and no longer. Applications  
15 shall be deemed filed on the date postmarked in accordance with the provisions at 8 C.F.R. §  
16 245a.12(a).

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25 5. Filing of Applications.

26 Individuals asserting a claim for relief under this Settlement Agreement shall file a CSS  
27 Class Membership Applications, and a Form I-687, Application for Status as a Temporary  
28 Resident, with fee and supporting documentation.

The fee for filing a Form I-687 shall be the fees applicable by regulation or Federal  
Register Notice at the time of filing the application(s). (The fee for filing a Form I-687, which  
has not changed since 1986, is currently \$185 per person with a family cap of \$420, but may be  
changed to reflect the current cost of adjudication). The fee for fingerprinting is currently \$50  
and the fee for filing Form I-765, Application for Employment Authorization, is currently \$120.  
Except as provided for in paragraph 10, applicants seeking employment authorization must file a  
Form I-765 with fee if they wish to receive an employment authorization document.

As to persons who previously filed for class membership, as that term is defined in  
paragraph 1 above, Defendants shall refund the fee for filing the Form I-687 if such person's  
application for class membership is denied pursuant to paragraphs 7 and 8 below.

As to those individuals who did not previously file for class membership, as that term is  
defined in paragraph 1 above, there shall be no refund of the fee for filing the Form I-687 if such  
person's application for class membership is denied pursuant to paragraphs 7 and 8 below.

6. Adjudication of Applications for Class Membership.

CSS Class Membership Applications should be granted if, based on responses to  
questions asked on the applications, it appears more probable than not that the applicant meets  
the class definition. A determination that an applicant is a class member is not binding in any  
manner on Defendants for the purposes of an adjudication on the merits of the application for  
temporary residence which shall be conducted de novo. Class Member Applications shall not be  
denied solely because applicants do not possess documentary evidence establishing class  
membership. Defendants shall treat information and materials submitted in connection with  
Class Member Application as confidential in accordance with 8 U.S.C. § 1255a(c)(5).

7. Intended Denials of Class Membership

Before denying an application for class membership, the Defendants shall forward the  
applicant or his or her representative a notice of intended denial explaining the perceived  
deficiency in the applicant's Class Member Application and providing the applicant thirty (30)  
days to submit additional written evidence or information to remedy the perceived deficiency.

1 8. Denial of Applications for Class Membership.

2 The Defendants shall send a written notice of the decision to deny an application for class  
3 membership to the applicant and his or her attorney of record, with a copy to Class Counsel. The  
4 notice shall explain the reason for the denial of the application, and notify the applicant of his or  
5 her right to seek review of such denial by a Special Master, on the document attached as Exhibit  
6 4. On review, neither the Defendants nor the applicant shall be permitted to submit new  
7 evidence to the Special Master.

8 9. Review by Special Master.

9 A. Selection of the Special Master. Each party shall select one person, from a list of  
10 three names recommended by the other party, to serve as a Special Master.  
11 Appeals from denial of applications for class membership shall be assigned  
12 randomly to a Special Master. The two Special Masters shall jointly designate the  
13 mailing address for appeals and determine procedures for random assignment.

14 B. Review of Decisions Involving Determination of Class Membership. Any  
15 decision by the Defendants denying an application for class membership may be  
16 appealed to a Special Master. Any such appeal must be post-marked within thirty  
17 (30) days of the date of mailing of the notice denying the application for class  
18 membership. The Special Master's review shall be based on the documents and  
19 other evidence submitted by the applicant, and any documentary evidence relied  
20 upon by the Defendants in reaching the decision to deny the application for class  
21 membership.

22 The Special Master shall be paid a fee of \$125 for adjudicating each appeal under  
23 subparagraph B. Payment of this fee shall be borne by the parties as follows:

24 (i) If the appeal involves a denial of class membership based on criminal or  
25 security-related grounds, the applicant is responsible for paying the entire  
26 fee; and

27 (ii) If the appeal involves a denial of class membership on other than criminal  
28 or security-related grounds, the fee shall be borne equally by Defendants  
and the applicant. The applicant's portion of the fee must accompany his  
or her notice of appeal. Defendants must submit their portion of the fee  
within thirty (30) days of being notified by the Special Master that an  
appeal has been duly filed.

29 C. Review of Other Decisions. An applicant who believes that Defendants have  
30 violated his or her individual rights pursuant to paragraphs 3, 4, 5, 7, 10, 12, and  
31 13 of this Settlement Agreement may file a claim with the Special Master.  
32 However, prior to filing any such claim, the applicant must advise Defendants by  
33 certified mail, or other documented delivery service to an address specified by  
34 Defendants, that he or she believes that Defendants have violated his or her rights  
35 under Paragraphs 3, 4, 5, 7, 10, 12, and 13. Defendants shall have forty-five (45)  
36 days from the date they are notified of the applicant's intent to file a claim under  
37 this paragraph in which to investigate and, if appropriate, rectify any deficiency.  
38 If fifty (50) days after notifying Defendants of his or her intent to file a claim, the  
39 applicant does not receive notice that Defendants have sustained the applicant's  
40 challenge, then the applicant may file his or her appeal to the Special Master. Any  
41 such appeal must be post-marked within eighty (80) days of the date the applicant  
42 advised Defendants of the alleged violation.

1 The Special Master shall be paid a fee of \$65 for adjudicating each appeal under this  
2 subparagraph C. The applicant must pay the entire fee at the time he or she files the  
3 notice of appeal. If the applicant prevails on the merits of his or her appeal, Defendants  
4 must reimburse the applicant the entire fee within a reasonable time after being notified  
5 that the applicant prevailed on appeal.

6 10. Renewal of Employment  
7 Authorization Documents.

8 The Defendants shall, without fee, reissue or renew for a period of one year employment  
9 authorization for aliens who were previously issued such employment authorization and advance  
10 parole pursuant to interim relief orders in Catholic Social Services, Inc. v. Reno, S-86-1343. An  
11 applicant shall be entitled to have his or her employment authorization renewed only during the  
12 application period and only one time under this provision.

13 11. Adjudication of Applications for Temporary Residence.

14 The Defendants shall adjudicate each application for temporary residence filed on Form I-  
15 687 in accordance with the provisions of section 245A of the Immigration and Nationality Act, 8  
16 U.S.C. § 1255a, regulations, and administrative and judicial precedents the INS followed in  
17 adjudicating I-687 applications timely filed during the IRCA application period. In adjudicating  
18 I-687s pursuant to this agreement, Defendants shall utilize the standards set forth in 8 CFR  
19 § 245a.18(c), or 8 CFR § 245a.2(k)(4), which ever is more favorable to the applicant. Failure to  
20 provide evidence other than affidavits shall not be the sole basis for finding that an alien failed to  
21 meet the continuous residence requirement. For purposes of establishing residence and presence  
22 in 8 C.F.R. § 245a.2(b), the term "until the date of filing" shall mean until the date the alien was  
23 "front-desked" or "discouraged from filing" consistent with the Class Definition. In evaluating  
24 the sufficiency of applicant's proof of residence, Defendants shall take into account the passage  
25 of time and attendant difficulties in obtaining corroborative documentation of unlawful  
26 residence.

27 12. Time for Determining Class Membership  
28 and Legalization Applications.

- 29 A. Defendants shall use good faith and reasonable efforts either to approve  
30 applications for class membership or issue notices of intended denials within  
31 ninety (90) days. If a notice of intended denial is issued, defendants shall  
32 endeavor to issue a final decision on the application for class membership within  
33 ninety (90) days after receipt of an applicant's supplemental evidence or  
34 explanation, if any.
- 35 B. Defendants shall use good faith and reasonable efforts to adjudicate class  
36 members' I-687 forms within one hundred and eighty (180) days of approval of  
37 their application for class membership.
- 38 C. If the aggregate volume of Form I-687 applications received under this Settlement  
39 Agreement and the Settlement Agreement reached in Newman v. DHS, Civ 87-  
40 4757-WDK (C.D. Cal), exceeds two hundred forty thousand it is anticipated that  
41 the approximate processing times referenced in subparagraphs A and B above will  
42 double.

1           13.    Removal of Class Applicants from the United States.

2           Defendants shall not remove from the United States or detain any putative class members  
3 who appear to be prima facie eligible for class membership under this Settlement Agreement and  
4 for legalization under section 245A of the INA. This paragraph shall not apply to any alien who  
5 is subject to detention or removal despite his or her having been previously determined to be  
6 eligible for class membership. For example, if, after having been deemed a class member, it is  
7 found that the alien has been convicted of a crime(s) that render(s) him or her ineligible for  
8 legalization, the alien may nevertheless be detained and removed from the United States.

9           14.    Reporting on Implementation of This Agreement.

10           Commencing four months after the beginning of the filing period, Defendants shall  
11 prepare quarterly reports setting forth the number of Class Membership applications, Forms I-  
12 687, and Forms I-765, that were received, approved, denied and pending. Copies of such reports  
13 shall be provided to Class Counsel. In the event Defendants believe good cause exists to extend  
14 the time periods set forth in paragraph 12 above, Defendants shall provide Class Counsel with a  
15 written explanation of such cause and proposed alternative target periods. The parties shall meet  
16 and confer in a good faith effort to resolve any disagreements over proposed new target periods  
17 prior to petitioning this District Court pursuant to paragraph 18 below.

18           15.    Costs and Attorneys Fees.

19           Defendants will pay plaintiffs attorneys fees and costs, as determined by a separate  
20 agreement.

21           16.    Duration of Agreement.

22           The parties agree that this agreement will become effective on the date it is approved by  
23 the Court. The agreement will remain in effect for one year after the Defendants adjudicate the  
24 last application for class membership. The Defendants agree to promptly notify Class Counsel of  
25 the date it adjudicates the last application for class membership.

26           17.    Dismissal of Complaint, Dissolution of Injunctive Orders and Other Decisions:

27           In the event the district court approves this Settlement Agreement, Plaintiffs agree to  
28 promptly move the court for dismissal with prejudice of each and every claim of the complaint,  
as amended, and the dissolution of any injunctive order(s) and other decisions entered by the  
district court.

          18.    Continuing Jurisdiction.

          The parties agree that notwithstanding the filing and granting of any motion pursuant to  
paragraph No. 17, the district court will retain jurisdiction in this action over only the matters  
described immediately below.

- A.    Claims by plaintiffs that the Defendants have engaged in a pattern and practice of  
              refusing to implement any of the relief set forth in this Agreement.
- B.    Claims by plaintiffs that the Defendants have expressly repudiated this  
              Agreement.

1 C. At least sixty (60) days prior to bringing any action pursuant to this provision, the  
2 parties shall meet and confer in a good faith effort to resolve any of their  
differences.


3 D. Any action under this provision must be brought within one year after the  
4 Defendants adjudicate the last application for class membership.

5 19. Class Counsel.

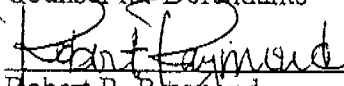
6 Class Counsel for the purposes of this Settlement Agreement is Peter Schey and Carlos R.  
7 Holguin, Center for Human Rights and Constitutional Law, 256 S. Occidental Blvd., Los  
8 Angeles, CA 90057, telephone (213) 388-8693, facsimile (213) 386-9494, email  
9 amnestycoordinator@centerforhumanrights.org.

10 20. This agreement is conditioned upon approval by the Secretary of the U.S.  
11 Department of Homeland Security, and the Deputy Attorney General, United States Department  
12 of Justice.

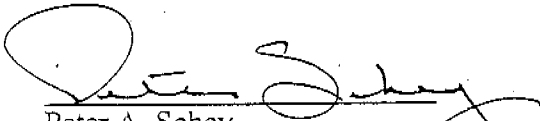
13 21. This agreement is subject to approval by the United States District Court pursuant  
14 to Federal Rule of Civil Procedure 23.

15   
16 \_\_\_\_\_  
17 Earle B. Wilson  
18 U.S. Department of Justice  
19 P.O. Box 878, Ben Franklin Station  
20 Washington, DC 20044  
21 202-616-4277

22 ~~Counsel for Defendants~~

23   
24 \_\_\_\_\_  
25 Robert R. Raymond  
26 Associate General Counsel  
27 U.S. Department of Homeland Security  
28 Bureau of Citizenship and Immigration  
Services

Dated: 4-28-03

  
\_\_\_\_\_  
Peter A. Schey  
Carlos R. Holguin  
Center for Human Rights  
and Constitutional Law  
256 S. Occidental Blvd.  
Los Angeles, CA 90057  
(213) 388-8693  
Counsel for Plaintiffs

Dated: 5-18-03

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

CATHOLIC SOCIAL SERVICES, INC.,—  
IMMIGRATION PROGRAM, ET AL.,

Plaintiffs,

v.

TOM RIDGE, SECRETARY, DEPARTMENT  
OF HOMELAND SECURITY, ET AL.,

Defendants.

Case No. Civ S-86-1343-LKK

ATTACHMENT 1

(SUMMARY OF SETTLEMENT)

This is a summary of a settlement filed in this case and approved by the Court on \_\_\_\_\_, 2003 (hereinafter "CSS settlement").

1. Class definition

The following persons are entitled to benefits under this CSS settlement:

A. All persons who are otherwise prima facie eligible for legalization under § 245A of the INA, and who tendered completed applications for legalization under § 245A of the INA and fees to an INS officer or agent acting on behalf of the INS, including a QDE, during the period from May 5, 1987 to May 4, 1988, and whose applications were rejected for filing because an INS officer or QDE concluded that they had traveled outside the United States after November 6, 1986 without advance parole.

B. All persons who filed for class membership under *Catholic Social Services, Inc. v. Reno*, CIV No. S-86-1343 LKK (E.D. Cal.), ("CSS") and who are otherwise prima facie eligible for legalization under § 245A of the INA, who, because an INS officer or QDE concluded that they had traveled outside the United States after November 6, 1986 without advance parole were informed that they were ineligible for legalization, or were refused by the INS or its QDEs legalization forms, and for whom such information, or inability to obtain the required application forms, was a substantial cause of their failure to timely file or complete a written application.

As used in subparagraph (B) the phrase "filed for class membership" includes the spouses and children of persons who actually filed for class membership as provided in

2. Distribution of CSS settlement or this summary.

The CSS settlement requires that within fourteen (14) days from the date on which the district court approves the settlement, or on which the separate settlement in *Newman et al v. INS et al.*, 87-4757-WDK (CWx) (C.D. Cal.), ("Newman") is approved by the court, whichever is later, the Department of Homeland Security ("DHS") must use good faith and reasonable efforts to distribute the CSS settlement or this summary thereof to all DHS officers, agents and employees who will be responsible for processing class membership claims. The DHS must also use good faith and reasonable efforts to provide the CSS settlement or summary to all DHS personnel who may in the course of their duties detain or remove individuals who may be CSS class members. DHS must use good faith and reasonable efforts to serve Class Counsel with copies of all supplemental instructions or guidelines it issues regarding implementation of this Settlement Agreement.

3. Notice to Class Members

The CSS settlement requires the Bureau of Citizenship and Immigration Services ("BCIS") to issue a press release and a Class Notice in English and Spanish (the texts of which are attached as Attachments 2 and 3) announcing the CSS settlement within 60 days following the court's approval of the agreement. The press release, Class Notice, and Class Member Application sheet (attached as Attachment 4) must be distributed to the media and community-based organizations according to the BCIS's normal procedure for doing so. BCIS shall provide class counsel with a copy of the lists to which these materials are distributed. The press release, Class Notice, Class Member Applications and Appeal to Special Master of Denial of Class Membership shall be posted on the BCIS's web site until the end of the application period referenced in ¶ 4 below. The press release, Class Notice, Class Member Applications and Appeal to Special Master of Denial of Class Membership shall also be made available at BCIS district offices until the end of the application period referenced in ¶ 4 below. Within 60 days of this Settlement Agreement and during the remainder of the application period specified in ¶ 4, BCIS shall make available to all persons, upon request, a copy of Form I-687, CSS Class Member Applications and instructions, and Form I-765.

4. Application Period.

Within 30 to 60 days after notice is issued to class members under ¶ 3, above, BCIS shall begin accepting CSS Class Membership Applications and Forms I-687, Application for Status as a Temporary Resident, with fee and supporting documentation, from class member applicants. BCIS shall continue to accept such applications for class membership and temporary residence for a period of one year thereafter, and no longer. Applications shall be deemed filed on the date postmarked in accordance with the provisions at 8 C.F.R. § 245a.12(a).

5. Filing of Applications.

Individuals asserting a claim for relief under the CSS settlement must file a CSS Class Membership Application and a Form I-687, Application for Status as a Temporary Resident, with fee and supporting documentation.

The fee for filing all forms in connection with the application process shall be the fees applicable by regulation or Federal Register Notice at the time of filing the application(s). Except as provided in ¶ 10 below, applicants must file a Form I-765 with fee if they wish to receive an employment authorization document.

If a person previously filed for class membership as that term is defined in ¶ 1 above, BCIS shall refund the fee for filing the Form I-687 if such person's application for class membership is denied. Individuals who did not previously "file for class membership" as that term is defined in ¶ 1 above, shall receive no refund of the fee for filing the Form I-687 if such person's application for class membership is denied.

6. Adjudication of class member applications and legalization applications

The BCIS will approve CSS Class Membership Applications if, based on responses to questions asked on the application, it appears more probable than not that the applicant meets the class definition. A determination that an applicant is a class member is not binding in any manner for the purposes of an adjudication on the merits of the application for temporary residence, which shall be conducted *de novo*. Class Member Applications shall not be denied solely because applicants do not possess documentary evidence establishing class membership. The DHS must treat information and materials submitted in connection with Class Member Application as confidential in accordance with 8 U.S.C. § 1255a(c)(5).

7. Intended Denials of Class Membership

Before denying an application for class membership, the applicant or his or her representative shall be sent a notice of intended denial explaining the perceived deficiency in the applicant's Class Member Application and providing the applicant 30 days to submit additional written evidence or information to remedy the perceived deficiency.

8. Denial of Applications for Class Membership.

The BCIS shall send written notice of a decision to deny an application for class membership to the applicant and his or her attorney of record, with a copy to Class Counsel. The notice shall explain the reasons for the denial of the application and notify the applicant of his or her right to seek review of such denial by a Special Master, on the document attached as Attachment 5, a copy of which should be mailed to the applicant along with the notice of decision. On review, neither the BCIS nor the applicant shall be permitted to submit new evidence to the Special Master.

9. Review by Special Master.

A. Selection of the Special Masters. Each party shall select one person, from a list of three names recommended by the other party, to serve as a Special Master. Appeals from denials of applications for class membership shall be assigned randomly to a Special Master. The two Special Masters shall jointly designate the mailing address for appeals and determine procedures for random assignment.

B. Review of Decisions Involving Determination of Class Membership. Any decision by BCIS denying an application for class membership may be appealed to a Special Master. Any such appeal must be post-marked within 30 days of the date of mailing of the notice denying the application for class membership. The Special Master's review shall be based on the documents and other evidence submitted by the applicant, and any documentary evidence the BCIS relies on in reaching the decision to deny the application for class membership.

The Special Master shall be paid a fee of \$125 for adjudicating each appeal under subparagraphs (i) and (ii) below. Payment of this fee shall be paid by the parties as follows:

(i) If the appeal involves a denial of class membership based on criminal or security-related grounds, the applicant is responsible for paying the entire fee; and

(ii) If the appeal involves a denial of class membership on other than criminal or security-related grounds, the fee shall be paid equally by the BCIS and the applicant. The applicant's portion of the fee must accompany his or her notice of appeal. The BCIS must submit its portion of the fee within 30 days of being notified by the Special Master that an appeal has been duly filed.

C. Review of Other Decisions. An applicant who believes that DHS has violated his or her individual rights pursuant to ¶¶ 3, 4, 5, 7, 10, 12, or 13 of the Settlement Agreement may file a claim with the Special Master. However, prior to filing any such claim, the applicant must advise the DHS by certified mail, or other documented delivery service to an address specified by DHS, that he or she believes that DHS has violated his or her rights under paragraphs 3, 4, 5, 7, 10, 12, or 13. DHS shall have 45 days from the date it is notified of the applicant's intent to file a claim under this paragraph in which to investigate and, if appropriate, rectify any deficiency. If 50 days after notifying DHS of his or her intent to file a claim, the applicant does not receive notice that defendants have sustained the applicant's challenge, then the applicant may file his or her appeal to the Special Master. Any such appeal must be post-marked within 80 days of the date the applicant advised Defendants of the alleged violation.

The Special Master shall be paid a fee of \$65 for adjudicating each appeal under this subparagraph C. The applicant must pay the entire fee at the time he or she

files the notice of appeal. If the applicant prevails on the merits of his or her appeal, DHS must reimburse the applicant the entire fee within a reasonable time after being notified that the applicant prevailed on appeal.

10. Renewal of Employment Authorization Documents

The BCIS shall, without fee, reissue or renew for a period of one year employment authorization to applicants in the class defined herein who were previously issued such employment authorization pursuant to interim relief orders in *Catholic Social Services, Inc. v. Reno*, CIV No. S-86-1343 LKK (E.D. Cal.). An applicant shall be entitled to have his or her employment authorization renewed only during the application period and only one time under this provision.

11. Adjudication of Applications for Temporary Residence.

BCIS shall adjudicate each application for temporary residence filed on Form I-687 in accordance with the provisions of § 245A of the Immigration and Nationality Act, 8 U.S.C. § 1255a, regulations, and administrative and judicial precedents the INS followed in adjudicating I-687 applications timely filed during the IRCA application period. In adjudicating I-687s pursuant to this agreement, BCIS shall utilize the standards set forth in 8 C.F.R. § 245a.18(c), or 8 C.F.R. § 245a.2(k)(4), which ever is more favorable to the applicant. For purposes of establishing residence and presence in 8 C.F.R. § 245a.2(b), the term, "until the date of filing" shall mean until the date the alien was "front-desked" or "discouraged from filing" consistent with the Class Definition. In evaluating the sufficiency of applicants' proof of residence, the BCIS shall take into account the passage of time and attendant difficulties in obtaining corroborative documentation of unlawful residence. An application shall not be denied solely because the applicant seeks to establish continuous unlawful residence only with affidavits or declarations.

12. Time for Determining Class Membership and Legalization Applications.

- A. BCIS shall use good faith and reasonable efforts either to approve applications for class membership or issue notices of intended denials within ninety (90) days of receipt. If a notice of intended denial is issued, the BCIS shall endeavor to issue a final decision on the application for class membership within ninety (90) days after receipt of an applicant's supplemental evidence or explanation, if any.
- B. BCIS shall use good faith and reasonable efforts to adjudicate class members' I-687 forms within one hundred and eighty (180) days of approval of their application for class membership.
- C. If the aggregate number of Form I-687 applications received under the CSS settlement and the settlement reached in *Newman v. DHS*, Civ. 87-4757-WDK (C.D. Cal.), exceeds 240,000, it is anticipated that the approximate processing times referenced in subparagraphs A and B above will double.

13. Removal of Class Applicants from the United States.

DHS shall not remove from the United States or detain any putative class member who appears to be *prima facie* eligible for class membership under the CSS settlement and for legalization under section 245A of the INA. This paragraph shall not apply to any alien who is subject to detention or removal despite his or her having been previously determined to be eligible for class membership. For example, if, after having been deemed a class member, it is found that the alien has been convicted of a crime that renders him or her ineligible for legalization, the alien may nevertheless be detained and removed from the United States.

14. Reporting on Implementation of This Agreement.

Commencing four months after the beginning of the filing period, BCIS shall prepare quarterly reports setting forth the number of Class Membership applications, Forms I-687, and Forms I-765, that were received, approved, denied and pending. Copies of such report shall be provided to Class Counsel. In the event BCIS believes good cause exists to extend the time periods set forth in ¶ 12, BCIS shall provide Class Counsel with a written explanation of such cause and proposed alternative target periods.

15. Duration of Agreement.

The CSS settlement will remain in effect for one year after the BCIS adjudicates the last application for class membership. BCIS will promptly notify Class Counsel of the date it adjudicates the last application for class membership.

17. Dismissal of Complaint, Dissolution of Injunctive Orders and Other Decisions.

In the event the district court approves the CSS settlement, the plaintiffs will promptly move the court for dismissal with prejudice of each and every claim of the complaint, as amended, and the dissolution of any injunctive order(s) and other decisions entered by the district court.

18. Continuing Jurisdiction.

The district court will retain jurisdiction in this action over only the matters described immediately below.

- A. Claims that DHS has engaged in a pattern and practice of refusing to implement any of the relief set forth in the CSS settlement.
- B. Claims that DHS has expressly repudiated the CSS settlement.
- C. At least sixty (60) days prior to bringing any action pursuant to this provision, the parties shall meet and confer in a good faith effort to resolve their differences.
- D. Any action under this provision must be brought within one year after BCIS

adjudicates the last application for class membership.

19. Class Counsel.

Class Counsel for the purposes of this Settlement Agreement are Peter Schey and Carlos R. Holguin, Center for Human Rights and Constitutional Law, 256 S. Occidental Blvd., Los Angeles, CA 90057, telephone (213) 388-8693, facsimile (213) 386-9484, e-mail [amnestycoordinator@centerforhumanrights.org](mailto:amnestycoordinator@centerforhumanrights.org).

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

CATHOLIC SOCIAL SERVICES, INC.,—  
IMMIGRATION PROGRAM, ET AL.,

Plaintiffs,

v.

TOM RIDGE, SECRETARY, DEPARTMENT  
OF HOMELAND SECURITY, ET AL.,

Defendants.

Case No. Civ S-86-1343-LKK

ATTACHMENT 2

(CLASS NOTICE)

IMPORTANT CSS CLASS NOTICE

This Notice contains important information about your rights. Please read it carefully.

*Who is a CSS Class Member?* You may be a CSS Class Member if —

1. You lived unlawfully in the United States from before January 1, 1982, until some time between May 5, 1987 and May 4, 1988 (the application period for the amnesty program) when you (or your parent or spouse) attempted to file a completed application and application fee with a representative of the Immigration and Naturalization Service ("INS") including a Qualified Designated Entity ("QDE"), but had the application and fee refused by that representative because you had traveled outside of the United States after November 6, 1986, and returned without INS permission, and you were otherwise eligible for legalization; or
2. you (or your parent or spouse) applied for a work permit under the CSS case, and during the application period you had been informed by an INS officer or QDE employee that you were ineligible for legalization because you had traveled outside of the United States after November 6, 1986, and returned without INS permission, or were refused by the INS or its QDEs legalization forms on account of that travel, and that information, or inability to obtain the application forms, was a substantial cause of your failure to timely file or complete a written application, and you were otherwise eligible for legalization.

QDEs were usually community-based, non-profit organizations (such as Catholic Charities) which were authorized to accept amnesty applications for the INS.

*What proof do I need of class membership?*

You do not need a copy of your (or your spouse or parent's) original 1987-88 amnesty application to prove you are a class member. You must fill out a CSS "Class Membership Application." You may also submit additional statements or evidence showing that you or your parent or spouse were turned away by the INS or a QDE between May 5, 1987 and May 4, 1988, such as statements from friends or relatives.

*What are the benefits of Class Membership?*

Class members may apply for amnesty under the 1986 law. Class members who are eligible for amnesty under the 1986 law, who show that they lived in the United States continuously and unlawfully from before January 1982 until the time the INS turned them away in 1987-88, may be granted employment authorization, permission to travel abroad, and "Temporary Resident Status." Eighteen months later class members granted Temporary Resident Status may apply for permanent resident status.

*How do I apply for CSS Class Membership?*

You may ask the Bureau of Citizenship and Immigration Services ("BCIS") (the agency which used to be called the INS) or a community organization or lawyer for (1) a "CSS Class Membership Application," and (2) an "Application for Temporary Resident Status (I-687)." These documents are also available on the internet at the BCIS website or at [www.centerforhumanrights.org](http://www.centerforhumanrights.org). You must submit the Class Membership and I-687 applications to the BCIS between \_\_\_\_\_, 2003 and \_\_\_\_\_ 2004.

You may contact the lawyers representing the class at (213) 388-8693, ext. 100, or by mail addressed to Center for Human Rights, 256 S. Occidental Blvd., Los Angeles, Ca. 90057, or by email to [amnestycoordinator@centerforhumanrights.org](mailto:amnestycoordinator@centerforhumanrights.org)

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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

CATHOLIC SOCIAL SERVICES, INC.,—  
IMMIGRATION PROGRAM, ET AL.,

Plaintiffs,

v.

TOM RIDGE, SECRETARY, DEPARTMENT  
OF HOMELAND SECURITY, ET AL.,

Defendants.

Case No. Civ S-86-1343-LKK

ATTACHMENT 3

(CLASS MEMBER CLAIM  
AND INSTRUCTIONS)

12 INSTRUCTIONS

13 This claim must be completed by all persons who believe they are CSS class members and wish to  
14 apply to legalize their status under the 1986 Immigration Reform and Control Act. You may  
consult with a community organization, church group or lawyer to help you fill out this form.

15 Who is a CSS Class Member?

16 You may be a CSS Class Member if you:

- 17 (1) lived continuously and illegally in the United States from *before* January 1, 1982, *until*  
18 some time between May 5, 1987 and May 4, 1988, when you (or your parent or spouse)  
visited the INS or a Qualified Designated Entity (QDE) to apply for the 1986 "amnesty"  
19 program, *and*  
20 (2) you (or your parent or spouse) were turned away by the INS or the QDE because you (or  
your parent or spouse) had, or the INS thought that you had, traveled outside the U.S. after  
21 November 6, 1986 without INS permission.

22 You may be a class member *whether or not* at the time you (or your parent or spouse) visited an  
INS or QDE office to apply for amnesty between May 5, 1987 and May 4, 1988, you had a  
23 complete written application and fee ready to be filed.

24 QDEs were usually community-based non-profit organizations (such as Catholic Charities) which  
were authorized to accept amnesty applications for the INS.

25 Must I have presented a complete application to the INS during the amnesty application period  
26 to be a class member?

27 No, but class members (or their parents or spouse) must have visited an INS or QDE office during  
the amnesty application period (May 5, 1987 to May 4, 1988), advised an INS or QDE official  
28

1 that they wished to apply for amnesty, advised the INS or QDE (or the INS or QDE believed) that  
2 they had traveled outside the United States without INS permission after November 6, 1986, and  
3 been told that they were ineligible to apply for amnesty.

4 You may also be a class member if you attempted to file a complete amnesty application and fee  
5 with the INS or a QDE during the amnesty application period (May 5, 1987 to May 4, 1988), or  
6 your parent or spouse tried to do so, and the application was rejected because you or your parent  
7 or spouse had traveled outside the United States without INS permission after November 6, 1986,  
8 or the INS believed you had done so.

9 **What proof do I need that I was turned away by the INS during the application period?**

10 You do *not* need a copy of the amnesty application you or your parent or spouse may have filled  
11 out or presented to the INS during the 1987-88 application period.

12 Fill in the CSS Class Membership Application, including as much information as you remember  
13 about the visit to an INS or QDE office when you were turned away between May 5, 1987 and  
14 May 4, 1988.

15 While it is not required, you may strengthen your claim if you attach statements from any  
16 relatives or friends who know that you were turned away by the INS or a QDE when trying to  
17 apply for amnesty during the application period (May 5, 1987 to May 4, 1988). For example, if  
18 you are still in contact with someone who went with you to the INS or a QDE when you were  
19 turned away, or who helped you fill out an application that was rejected, that person can provide  
20 you with a statement explaining what they remember.

21 **What are the benefits of Class Membership?**

22 Persons whom the BCIS (formerly the INS) or the Court determines are class members may apply  
23 for employment authorization, travel permits, family unity benefits, Temporary Resident Status,  
24 and, later, permanent resident status under the 1986 amnesty law.

25 **How do I obtain the forms to apply for CSS class membership and legalization?**

26 You can obtain the forms from your local BCIS (formerly called the INS) office. Local  
27 community groups or an immigration lawyer's office may also have the forms available. You can  
28 also obtain the forms from the BCIS web site,  
29 <http://www.immigration.gov/graphics/formsfee/forms/index.htm>, or class counsels'  
30 web page, [www.centerforhumanrights.org](http://www.centerforhumanrights.org).

31 **When must I file my application?**

32 You must submit the applications to the BCIS between \_\_\_\_\_, 2003, and  
33 \_\_\_\_\_, 2004. Applications must be postmarked no later than \_\_\_\_\_,  
34 2004.

35 **How do I file my application?**

36 You must mail your Class Membership Claim and Form I-687 with a filing fee in the amount of  
37 \$255 to the following address: CSS Class Member Claims, Bureau of Immigration and  
38 Citizenship Services, \_\_\_\_\_. The BCIS will normally respond within 90 days  
39 by either sending you an approval notice, a denial notice, or a notice that it intends to deny your  
40 application unless you provide additional information.

1 If you receive an approval notice, the BCIS will proceed to decide your I-687 legalization  
2 application, which it should normally do within 120 days of approving the Class Membership  
3 Claim.

4 If the BCIS decides that you are *not* a class member, your I-687 application fee will be refunded.  
5 Your refund will be delayed if you appeal the decision that you are not a class member. If the  
6 appeal decides that you are a class member, BCIS will then process your legalization application.  
7 If the appeal decides that you are not a class member, your application fee will be refunded.

8 [Note that if you did not apply for a work permit under CSS, your \$255 filing fee is not  
9 refundable.]

10 **Be sure to keep a copy of everything that you submit to the BCIS and if possible obtain  
11 proof of mailing from the U.S. Post Office. You may also send a copy of your application to  
12 class counsel at the Center for Human Rights and Constitutional Law, address below.**

13 *What if the BCIS intends to deny my applications?*

14 Applicants whose applications for Class Membership or legalization the BCIS intends to deny  
15 will be sent a notice of intended denial and you will have at least 30 days to correct whatever  
16 problems the BCIS identifies in either the application for Class Membership or the legalization  
17 application.

18 *What if the BCIS denies my applications?*

19 If the BCIS denies your Class Member Claim you may appeal to a Special Master—someone  
20 appointed by the Court—to reconsider your Class Member Application.

21 If your application for legalization is denied, you will be sent instructions on how you may appeal  
22 that decision administratively.

23 *Will the BCIS use the information in my Class Member Application or legalization application  
24 to deport me?*

25 No. Unless you commit fraud, all information you submit in connection with a CSS Class  
26 Member Application or legalization application may be used only to decide those applications and  
27 not to obtain a deportation order against you.

28 *Will I receive permission to work and travel abroad while my applications are being decided?*

Yes, so long as it appears from your applications that you probably meet the requirements of class  
membership and eligibility for legalization. Individuals to whom the INS previously granted a  
CSS work permit (whether or not you still have that work permit), are entitled to renew their work  
authorizations for one year without a fee. You may apply to renew your old work permit at your  
local BCIS office. You may also apply for advance parole to travel abroad. After that, you may  
apply to renew work permits or obtain travel documents with a fee until your legalization  
application has been finally administratively decided.

If you were never issued a CSS work permit and you now want a work permit, you must file a  
Class Membership Application, I-687 legalization application, and I-765 application for  
employment authorization with all appropriate fees.

*Do not contact the Court for information. For assistance, you may contact the lawyers  
representing the class at (213) 388-8693 ext. 100, or by mail at Center for Human Rights, 256*

*S. Occidental Blvd., Los Angeles, Ca. 90057, or email  
amnestycoordinator@centerforhumanrights.org*

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## CSS/Newman (LULAC) Class Membership Worksheet

Last Name	First Name	Middle Initial	A Number

Please complete this Class Membership worksheet if you are applying for legalization under the Immigration Reform and Control Act of 1986 (IRCA), 8 U.S.C. § 1255a, pursuant to the settlement agreements reached in Catholic Social Services v. Ashcroft et al. (CSS) or Newman v. Ashcroft et al. (Newman/LULAC).

In order to apply, answer every question on this Class Membership worksheet and staple it, with any attachments, to the top of your completed and signed Application for Status as a Temporary Resident (Form I-687). Please clearly mark your response in the boxes provided below:

- |   | YES                      | NO                       |
|---|--------------------------|--------------------------|
| 1. During the period between May 5, 1987 and May 4, 1988, did you (or a parent or spouse) visit an INS office to apply for legalization, but were turned away because the INS or the QDE believed that (1) you had traveled outside the United States after November 6, 1986, without advance parole, OR (2) you had traveled outside the United States and returned after January 1, 1982, with a visitor's visa, student visa, or any other type of visa or travel document?                                | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Did you enter the United States before January 1, 1982, and then reside in continuous unlawful status, except for brief absences, from before 1982 until the date you (or your parent or spouse) were turned away by the INS when you (or your parent or spouse) tried to apply for legalization in 1987-88?   | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Were you continuously physically present in the United States, except for brief, casual and innocent departures from November 6, 1986 until the date you (or your parent or spouse) were turned away by the INS when you (or your parent or spouse) tried to apply for legalization?   | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. Have you ever been convicted of a felony or three or more misdemeanors, or have you ever been convicted of crimes, or committed acts which make you inadmissible pursuant to any provision of the Immigration and Nationality Act including but not limited to: 212(a)(2)(A)(i)(I) (crime involving moral turpitude); 212(a)(2)(B) (multiple criminal convictions); 212(a)(2)(C)(controlled substance traffickers); 212(a)(2)(A)(i)(II) (controlled substances); 212(a)(3) (security and related grounds)? | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. Did you (or your parent or spouse) apply for a work permit or otherwise register for class membership under <u>CSS</u> or <u>Newman/LULAC</u> before October 1, 2000. If "yes," attach copies of any available proof (for example, your <u>CSS</u> or <u>Newman</u> work permit).  | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. When you (or your parent or spouse) visited the INS or a QDE during the legalization application period, did you (or your parent or spouse) bring with you a completed legalization application and fee?   | <input type="checkbox"/> | <input type="checkbox"/> |

NOTE: If you answered "Yes" to questions 1, 2, and 3, "No" to question 4, and "Yes" to either question 5 or 6, your answers indicate that you may be eligible for legalization under the settlement agreements.

I certify, under the penalty of perjury under the laws of the United States of America, this worksheet and the evidence submitted with it is all true and correct. I authorize the release of any information from my records that the Department of Homeland Security needs to determine eligibility for the benefit I am seeking.

I understand that information I provide in connection with this Class Membership Worksheet is confidential and may not be used to arrest or deport me or for any purpose unrelated to the adjudication of this Class Membership Worksheet except as provided in 8 U.S.C. § 1255a(c)(5).

Signature

Date

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE EASTERN DISTRICT OF CALIFORNIA  
3

4 CATHOLIC SOCIAL SERVICES, INC.,—  
5 IMMIGRATION PROGRAM, ET AL.,

6 Plaintiffs,

7 v.

8 TOM RIDGE, SECRETARY, DEPARTMENT  
9 OF HOMELAND SECURITY, ET AL.,

10 Defendants.  
11

Case No. Civ S-86-1343-LKK

ATTACHMENT 4

(APPEAL TO SPECIAL MASTER OF  
DENIAL OF CLASS MEMBERSHIP)

12 Instructions

13 Use this form if you wish to appeal a final denial of class membership. Appeals will be decided  
14 by a CSS Special Master.

15 Do not use this form if you have only received a Notice of Intent to Deny your class membership  
16 application.

17 Mail this form, along with a copy of your Class Membership Application and the final denial of  
18 your Class Membership Application, to CSS Special Master, PO Box \_\_\_\_\_.

19 Fee: With this appeal form you must enclose a check or money order in the amount of \$65 made  
20 payable to "CSS Special Master."

21 If you do not have a copy of your Class Membership Application, mail this form, your final  
22 denial, and your check or money order to the Special Master at the address listed above. The  
23 Special Master will obtain a copy of your Class Membership Application.

24 Copy: Be sure to keep a copy of everything that you mail to the CSS Special Master.

25 Complete the information requested below.

26 Name \_\_\_\_\_

27 Address \_\_\_\_\_

28 City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Telephone ( ) \_\_\_\_\_ INS A number (if any) \_\_\_\_\_

1) Do you have and have you attached a copy of your Class Membership application form?  
Yes /\_\_\_/ No /\_\_\_/

1) You must attach a copy of the denial of your CSS Class Membership application form. Have you attached a copy? Yes /  / No /  /

2) You must attach a check or money order payable to CSS Special Master in the amount of \$65. Have you attached a check or money order as required? Yes /  / No /  /

If your application for Class Membership was denied because you have a prior criminal conviction, you must attach a check or money order payable to CSS Special Master in the amount of \$125. Have you attached a check or money order as required? Yes /  / No /  /

3) Explain why you believe your application for Class Membership was incorrectly denied. You are not required to fill in this section, but may do so if you wish. You may attach a separate sheet of paper with you explanation if it is too long to fit on this page.

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(Please use additional sheets of paper if you need more space to explain your complaint)

Dated: \_\_\_\_\_

Signature \_\_\_\_\_