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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

[REDACTED],
A# 2 [REDACTED],
[REDACTED], VA 20171;
YILIAN LI,
A# 2 [REDACTED],
[REDACTED], VA 20171,
Petitioners-Plaintiffs,
v.
UR M. JADDOU,
111 Massachusetts Ave.
Washington, DC 20529;
CORLISS A. JOSEPHS-CONWAY,
2675 Prosperity Ave, Fairfax, VA 20598;
MERRICK B. GARLAND,
950 Pennsylvania Avenue,
NW Washington, DC 20530,
Respondents-Defendants.

Case No. [REDACTED]

**PETITION FOR A
WRIT OF MANDAMUS
AND COMPLAINT FOR
DECLARATORY RELIEF**

Petitioner-Plaintiff, [REDACTED], is a citizen of China with two approved immigrant Visa petitions as an “EB-5” investor and as an engineer holding an advanced degree. He first applied for “adjustment of status” last December 2019, but his case has not yet been adjudicated by the U.S. Citizenship and Immigration Services.

Petitioner-Plaintiff, [REDACTED] is an applicant for adjustment of status as the spouse of Mr. [REDACTED].

Petitioners-Plaintiffs respectfully request this Court to issue a Writ of Mandamus pursuant to 28 U.S.C. § 1361 to compel the U.S. Citizenship and Immigration Services (“USCIS”) to adjudicate their applications for adjustment of status within a reasonable time.

JURISDICTION

This action arises under the United States Constitution and the statutes of the United States, including the Immigration and Nationality Act (“INA”), and the Administrative Procedure Act (“APA”).

This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. § 1331 (federal question), 28 U.S.C. §§ 2201 and 2202 (declaratory relief) and may review Respondents-Defendants’ actions or omissions under the APA, 5 U.S.C. § 555, 5 U.S.C. § 701 *et seq.*, and the Mandamus Act, 28 U.S.C. § 1361.

VENUE

Venue is properly laid in the District of Columbia under 28 U.S.C. § 1391(e), because it is a judicial district wherein a defendant in the action resides.

PARTIES

Petitioner-Plaintiff, [REDACTED] a citizen of China, residing at [REDACTED], Virginia 20171.

Petitioner-Plaintiff, [REDACTED], a citizen of China, residing at [REDACTED]
[REDACTED], Virginia 20171.

Respondent-Defendant, UR M. JADDOU, the Director of the U.S. Citizenship and Immigration Services, residing at 111 Massachusetts Ave., Washington, DC 20529, which is responsible for the overall oversight of the agency and to oversee, interpret, and enforce the INA.

CORLISS A. JOSEPHS-CONWAY, the Director of the U.S. Citizenship and Immigration Services, Washington Field Office, residing at 2675 Prosperity Ave, Fairfax, Virginia 20598 which is ultimately responsible for the adjudication of applications for adjustment of status pending with the Washington Field Office.

Respondent-Defendant, MERRICK B. GARLAND, the Attorney General of the United States, residing at 950 Pennsylvania Avenue, NW Washington, DC 20530, which is responsible for the overall administration of the U.S. Citizenship and Immigration Services, and the implementation and enforcement of the INA.

STATEMENT OF FACTS

1. Mr. [REDACTED] is a citizen of China that first entered the United States on a J-1 Visa on the year 2008.
2. In February 2014, Mr. [REDACTED] earned a Master of Science in Computer Science from Columbia University in New York.

3. On or about May 7, 2015, Mr. [REDACTED] filed an I-526 “Immigrant Petition by Alien Entrepreneur” after investing \$500,000 in a government-approved “Regional Center”.
4. On or about February 25, 2019, Mr. [REDACTED]’s employer filed an I-140 Immigration Petition for Alien Worker on his behalf, to classify him as a professional holding an advanced degree. The petition was approved on June 5, 2019.
5. On December 19, 2019, Mr. [REDACTED] applied for “adjustment of status” with USCIS on the basis of the approved I-526 petition.
6. In late 2020, Mr. [REDACTED] found out that the Regional Center where he had invested his \$500,000 engaged in a large-scale fraud.
7. Mr. [REDACTED] was later advised by his attorneys to withdraw his adjustment of status application premised on the approved I-526 immigrant investor petition. However, the case appears to be still pending.
8. On August 1, 2022, Mr. [REDACTED] filed a new adjustment of status application based on the approved I-140 petition filed by his employer.
9. On September 9, 2022, Ms. [REDACTED] applied for adjustment of status as a derivative beneficiary of Mr. [REDACTED].

10. On March 13, 2024, [REDACTED] appeared at the USCIS Washington Field Office for an interview on their pending adjustment of status applications.
11. Mr. [REDACTED] applications for adjustment of status remain neither approved nor denied.

EXHAUSTION OF REMEDIES

12. Petitioners-Plaintiffs have exhausted the administrative remedies to the extent required by law and their only remedy is by way of this judicial action.
13. There is no administrative mechanism in place for compelling USCIS to adjudicate an application for adjustment of status within a reasonable time.

EQUAL ACCESS TO JUSTICE ACT

14. If they prevail, Petitioners-Plaintiffs will seek attorneys' fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412.

CLAIMS FOR RELIEF

COUNT ONE

Agency Action Unlawfully Withheld (5 U.S.C. § 706)

15. Petitioners-Plaintiffs re-allege and incorporate by reference paragraphs 1 through 14 above as if set forth here in full.

16. The Administrative Procedure Act requires administrative agencies to conclude matters presented to them “within a reasonable time.” 5 U.S.C. § 555. A district court reviewing agency action may “compel agency action unlawfully withheld or unreasonably delayed.” 5 U.S.C. § 706(1).
17. The USCIS has neither approved nor denied [REDACTED] applications for adjustment of status.
18. The failure of the USCIS to make a final determination on [REDACTED] s applications for adjustment of status application is arbitrary, capricious, and not in accordance with federal law.
19. The USCIS has simply refused to adjudicate the applications for adjustment of status filed by [REDACTED].
20. Without intervention by a Court, the applications for adjustment of status filed by Mr. [REDACTED] will remain pending for an indefinite number of years.

COUNT TWO

(Declaratory and Mandamus Relief)

21. Petitioners-Plaintiffs re-allege and incorporate by reference paragraphs 1 through 20 above as if set forth here in full.
22. The Mandamus Act, 28 U.S.C. § 1361, provides that District Courts shall have

jurisdiction over any action in the nature of mandamus and may compel an officer or employee of the United States or any agency thereof to perform a duty owed to a petitioner.

23. Petitioners-Plaintiffs' claims as set forth in paragraphs 1 through 20 above qualify for mandamus relief because the statutory and Constitutional claims are clear, Respondents-Defendants' duties are not in doubt, and no other adequate legal remedy is available.
24. The Declaratory Judgment Act, 28 U.S.C. § 2201, *et. seq.*, provides the Court with the authority to declare the rights and other legal relations of any party.

PRAYER FOR RELIEF

WHEREFORE, Petitioners-Plaintiffs, [REDACTED], pray that this Court grant the following relief:

- a) Assume jurisdiction over this matter;
- b) Declare that Respondents-Defendants' actions violated the APA and Petitioners-Plaintiffs' rights under the INA, the Code of Federal Regulations, and the U.S. Constitution;
- c) Issue a Writ of Mandamus compelling USCIS to adjudicate Petitioners-Plaintiffs' applications for adjustment of status within a reasonable time;

- d) Award Petitioners-Plaintiffs reasonable costs and attorneys' fees;
and
- e) Grant any other and further relief which this Court deems just and
proper.

Dated: April 19, 2024

Respectfully submitted,

s/ Simone Bertollini
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