

EXHIBIT A

1 CROWELL & MORING LLP
Emily Tomoko Kuwahara (SBN 252411)
2 Christopher Cadena (SBN 284834)
515 South Flower St., 40th Floor
3 Los Angeles, CA 90071
Telephone: 213.622.4750
4 Facsimile: 213.622.2690
ekuwahara@crowell.com
5 ccadena@crowell.com

6 CROWELL & MORING LLP
7 Austin Sutta (SBN 300425)
3 Embarcadero Center, 26th Floor
8 San Francisco, CA 94111
Telephone: 415.986.2800
9 Facsimile: 415.986.2827
asutta@crowell.com

10 *Attorneys for Amici Curiae*
11 *Asian Americans Advancing Justice | AAJC,*
Asian American Legal Defense and Education Fund, and
12 *National Women’s Law Center*
13 *And 60 other amici curiae*

14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA
16

17 LA CLINICA DE LA RAZA;
18 CALIFORNIA PRIMARY CARE
ASSOCIATION; MATERNAL AND
19 CHILD HEALTH ACCESS;
20 FARMWORKER JUSTICE; COUNCIL
ON AMERICAN ISLAMIC
21 RELATIONS-CALIFORNIA; AFRICAN
COMMUNITIES TOGETHER; LEGAL
22 AID SOCIETY OF SAN MATEO
COUNTY; CENTRAL AMERICAN
23 RESOURCE CENTER, and KOREAN
24 RESOURCE CENTER,

25 Plaintiffs,

26 v.

27 DONALD J. TRUMP, in his Official
28 Capacity as President of the United States;

Case No. 4:19-cv-04980-PJH

MEMORANDUM OF LAW OF *AMICI CURIAE* ASIAN AMERICANS ADVANCING JUSTICE | AAJC, ASIAN AMERICAN LEGAL DEFENSE AND EDUCATION FUND, NATIONAL WOMEN’S LAW CENTER AND 60 OTHER *AMICI* IN SUPPORT OF PLAINTIFFS’ MOTION FOR PRELIMINARY INJUNCTION

1 UNITED STATES DEPARTMENT OF
2 HOMELAND SECURITY; UNITED
3 STATES CITIZENSHIP AND
4 IMMIGRATION SERVICES; KENNETH
5 T. CUCCINELLI, in his Official Capacity
6 as Acting Director of U.S. Citizenship and
7 Immigration Services; and KEVIN K.
8 MCALEENAN, in his Official Capacity as
9 Acting Secretary of the Department of
10 Homeland Security,

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
Defendants.

TABLE OF CONTENTS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

	Page
INTEREST OF AMICI CURIAE	1
I. INTRODUCTION	2
II. ARGUMENT	3
A. Evaluation of Discriminatory Intent Includes Historical Background, Prior Events, and Discriminatory Impact.....	3
B. A Public Charge Has Been Defined as Dependency on the Government.....	3
C. The Trump Administration’s Discriminatory Statements Establish an Inference that the Regulation is Motivated by Racial Animus	4
1. President Trump’s Statements Establish an Inference of Animus	4
2. Statements by Trump Administration Officials Also Establish an Inference of Racial Animus	7
3. Other Immigration-Related Policies Demonstrate Racial Bias.....	10
D. The Regulation Will Disproportionately Impact Immigrants of Color.....	10
1. The English Proficiency Requirement is a Proxy for Race.....	12
2. Chilling Effects Were Evident Before the Regulation Was Finalized.....	12
3. Visa Denials Show the Regulation is Excluding Immigrants of Color.....	13
E. Immigrant Women Are Particularly and Severely Harmed by the Regulation	13
III. CONCLUSION	15

TABLE OF AUTHORITIES

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Page(s)

Cases

Batalla Vidal v. Nielsen,
291 F. Supp. 3d 160 (E.D.N.Y. 2018)4, 5

CASA de Maryland, Inc. v. Trump,
355 F. Supp. 3d 307 (D. Md. 2018)6

Centro Presente v. DHS,
332 F. Supp. 3d 393, 415 (D. Mass. 2018)4

New York v. United States Department of Commerce,
315 F. Supp. 3d 766 (S.D.N.Y. 2018).....7

Ramos v. Nielsen,
321 F. Supp. 3d 1083, 1100 (N.D. Cal. 2018)4, 7

*Regents of University of California v. United States Department of Homeland
Security*,
298 F. Supp. 3d 1304 (N.D. Cal. 2018)5, 6

Saget v. Trump,
345 F. Supp. 3d 287, 303 (E.D.N.Y.2018)4, 6

Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.,
429 U.S. 252 (1977).....3, 4

Statutes

Immigration Act of 1882, 22 Stat. 214 (1882).....3

Other Authorities

8 CFR § 212.22(a).....11

8 CFR §§ 212.22(c)(2)(i), 212.22(b)(4)(i)11

64 Fed. Reg. at 28,6774

84 Fed. Reg. at 41,39711

84 Fed. Reg. at 41,50211

1 *An Overview of U.S. Refugee Law and Policy*, AMERICAN IMMIGRATION COUNCIL
 2 (June 18, 2019),
 3 <https://www.americanimmigrationcouncil.org/research/overview-us-refugee-law-and-policy>10

4 Andrew Kaczynski, *Trump Official Has Talked About Undocumented Immigrants as ‘Invaders’ Since at Least 2007*, CNN POLITICS (Aug. 17,
 5 2019), <https://www.cnn.com/2019/08/17/politics/kfile-ken-cuccinelli-immigration-invasion-rhetoric/index.html>.8, 9

6
 7 Ariel G. Ruiz, Jie Zong, & Jeanne Batalova, *Immigrant Women in the United States*, MIGRATION POL’Y INST. (Mar. 20,
 8 2015), <https://www.migrationpolicy.org/article/immigrant-women-united-states>.14

9
 10 *Changes to the ‘Public Charge’ Instructions in the U.S. State Department’s Manual*, NAT’L IMMIGR. L. CTR.(Feb. 8, 2018), <https://www.nilc.org/wp-content/uploads/2018/02/NILC-FAM-Summary-2018.pdf>.13

11
 12 Custom Tabulation by Manatt Phelps & Philips LLP, *Public Charge Proposed Rule: Potentially Chilled Population Data Dashboard* (Oct. 11, 2018),
 13 <https://www.manatt.com/Insights/Articles/2018/Public-Charge-Rule-Potentially-Chilled-Population>.....11

14
 15 Elaina Plott, *The New Stephen Miller*, THE ATLANTIC (Aug. 14, 2019),
 16 <https://www.theatlantic.com/politics/archive/2019/08/who-is-ken-cuccinelli/596083/>.8

17
 18 Ellen Nakashima, *Justice Dept. admits error but won’t correct report linking terrorism to immigration*, THE WASH. POST (Jan. 3, 2019),
 19 https://www.washingtonpost.com/world/national-security/justice-dept-admits-error-but-wont-correct-report-linking-terrorism-to-immigration/2019/01/03/cd29997a-0f69-11e9-831f-3aa2c2be4cbd_story.html?noredirect=on&utm_term=.c7ef942c5829.....9, 10

20
 21 Executive Order 13769 of January 27, 2017,
 22 <https://www.govinfo.gov/content/pkg/FR-2017-02-01/pdf/2017-02281.pdf>10

23
 24 Gabby Orr & Andrew Restuccia, *How Stephen Miller Made Immigration Personal*, POLITICO (Apr. 22, 2019), <https://www.politico.com/story/2019/04/22/stephen-miller-immigration-trump-1284287>.9

25
 26 Gary J. Gates, *LGBT Adult Immigrants in the United States*, THE WILLIAMS INST. (Mar. 2013), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBTImmigrants-Gates-Mar-2013.pdf>.16

27
 28

1 Geneva Sands, *Trump administration to allow longer detention of migrant*
 2 *families*, CNN POLITICS (Aug. 22, 2019),
 3 <https://www.cnn.com/2019/08/21/politics/immigration-family-detention-flores/index.html>10

4 Giselle Aguilar Hass, Psy.D., et al., *Battered Immigrants and U.S. Citizen Spouses,*
 5 *Legal Momentum* (Apr. 24, 2016), http://niwaplibrary.wcl.american.edu/wp-content/uploads/2015/BB_RSRCH_ImmVictims_Battered_Imm.pdf.....15, 16

6 Hamutal Bernstein, et al., *One in Seven Adults in Immigrant Families Reported*
 7 *Avoiding Public Benefit Programs in 2018*, URBAN INST. (May 2019),
 8 https://www.urban.org/sites/default/files/publication/100270/one_in_seven_adults_in_immigrant_families_reported_avoiding_publi_7.pdf13

9 Heidi Beirich, *Attacking the Constitution: State Legislators for Legal Immigration*
 10 *& the Anti-Immigrant Movement*, SOUTHERN POVERTY L. CTR. (Mar. 1, 2011),
 11 <https://www.splcenter.org/20110228/attacking-constitution-state-legislators-legal-immigration-anti-immigrant-movement>8

12 *The Impact of Immigrant Women on America’s Labor Force*, AM. IMMIGR.
 13 COUNCIL (Mar. 8,
 14 2017), <https://www.americanimmigrationcouncil.org/research/impact-immigrant-women-americas-labor-force>.14

15 *Infant Mortality*, CTRS. FOR DISEASE CONTROL AND PREVENTION (Mar. 27, 2019),
 16 <https://www.cdc.gov/reproductivehealth/maternalinfanthealth/infantmortality.htm>.15

17 *Inside the Numbers: How Immigration Shapes Asian American and Pacific*
 18 *Islander Communities*, ASIAN AMERICANS ADVANCING JUSTICE (June 12,
 19 2019), https://www.advancingjustice-aaajc.org/sites/default/files/2019-07/1153_AAJC_Immigration_Final_0.pdf.12, 13

20 Jacey Fortin, *‘Huddled Masses’ in Statue of Liberty Poem are European, Trump*
 21 *Official Says*, N.Y. TIMES (Aug. 14, 2019),
 22 <https://www.nytimes.com/2019/08/14/us/cuccinelli-statue-liberty-poem.html>.....8

23 Jasmine Aguilera, *Trump’s New Restrictions on Asylum Seekers Violate U.S. and*
 24 *International Law, Experts Say*, TIME (July 24, 2019),
 25 <https://time.com/5626498/trump-asylum-rule-international-law/>.....10

26 Jason Zengerle, *How America Got to ‘Zero Tolerance’ on Immigration: the Inside*
 27 *Story*, THE N.Y. TIMES MAG. (July 16, 2019),
 28 <https://www.nytimes.com/2019/07/16/magazine/immigration-department-of-homeland-security.html>.....9

1 Jeanne Batalova & Jie Zong, *The limited English proficient population in the*
 2 *United States*, MIGRATION POL’Y INST. (July 8, 2015),
 3 [https://www.migrationpolicy.org/article/limited-english-proficient-population-](https://www.migrationpolicy.org/article/limited-english-proficient-population-united-states#Age,%20Race,%20and%20Ethnicity)
 4 [united-states#Age,%20Race,%20and%20Ethnicity](https://www.migrationpolicy.org/article/limited-english-proficient-population-united-states#Age,%20Race,%20and%20Ethnicity).12

4 Jie Zong & Jeanne Batalova, *South American Immigrants in the United States*,
 5 MIGRATION POL’Y INST. (Nov. 7,
 6 2018), [https://www.migrationpolicy.org/article/south-american-immigrants-](https://www.migrationpolicy.org/article/south-american-immigrants-united-states#EnglishProficiency)
 7 [united-states#EnglishProficiency](https://www.migrationpolicy.org/article/south-american-immigrants-united-states#EnglishProficiency)13

7 Jynnah Radford, *Key findings about U.S. immigrants*, PEW RES. CTR. (June 17,
 8 2019), [https://www.pewresearch.org/fact-tank/2019/06/17/key-findings-about-](https://www.pewresearch.org/fact-tank/2019/06/17/key-findings-about-u-s-immigrants/)
 9 [u-s-immigrants/](https://www.pewresearch.org/fact-tank/2019/06/17/key-findings-about-u-s-immigrants/)12

9 Marc Fisher, *Cuccinelli, a Righteous, Faith-Driven Warrior Who Delights in*
 10 *Provocation, Will Join Trump Administration*, THE WASH. POST (May 22,
 11 2019), [https://www.washingtonpost.com/politics/cuccinelli-a-righteous-faith-](https://www.washingtonpost.com/politics/cuccinelli-a-righteous-faith-driven-warrior-who-delights-in-provocation-will-join-trump-administration/2019/05/21/ffb2f1d4-7bde-11e9-a5b3-34f3edf1351e_story.html?noredirect=on)
 12 [administration/2019/05/21/ffb2f1d4-7bde-11e9-a5b3-](https://www.washingtonpost.com/politics/cuccinelli-a-righteous-faith-driven-warrior-who-delights-in-provocation-will-join-trump-administration/2019/05/21/ffb2f1d4-7bde-11e9-a5b3-34f3edf1351e_story.html?noredirect=on)
 13 [34f3edf1351e_story.html?noredirect=on](https://www.washingtonpost.com/politics/cuccinelli-a-righteous-faith-driven-warrior-who-delights-in-provocation-will-join-trump-administration/2019/05/21/ffb2f1d4-7bde-11e9-a5b3-34f3edf1351e_story.html?noredirect=on).8

13 Medha D. Makhoul, *Symposium: The Public Charge Rule as Public Health*
 14 *Policy*, 16 IND. HEALTH L. REV. 177, 179-80 (2019).....3

14 *National Intimate Partner & Sexual Violence Survey: 2010 Summary Report at 39-*
 15 *40 & tbl. 4.3*, CTRS. FOR DISEASE CONTROL AND PREVENTION(Nov. 2010),
 16 https://www.cdc.gov/violenceprevention/pdf/nisvs_report2010-a.pdf.15

17 Peter Baker, *Trump Supports Plan to Cut Legal Immigration by Half*, THE N.Y.
 18 TIMES, (Aug. 2, 2017),
 19 <https://www.nytimes.com/2017/08/02/us/politics/trump-immigration.html>.9

19 Phillip Connor & Gustavo López, *5 facts about the U.S. rank in worldwide*
 20 *migration*, PEW RES. CTR. (May 18, 2016), [https://www.pewresearch.org/fact-](https://www.pewresearch.org/fact-tank/2016/05/18/5-facts-about-the-u-s-rank-in-worldwide-migration/)
 21 [tank/2016/05/18/5-facts-about-the-u-s-rank-in-worldwide-migration/](https://www.pewresearch.org/fact-tank/2016/05/18/5-facts-about-the-u-s-rank-in-worldwide-migration/).....12

21 *Pregnancy Mortality Surveillance System*, CTRS. FOR DISEASE CONTROL AND
 22 PREVENTION (June 4, 2019),
 23 [https://www.cdc.gov/reproductivehealth/maternalinfanthealth/pregnancy-](https://www.cdc.gov/reproductivehealth/maternalinfanthealth/pregnancy-mortality-surveillance-system.htm)
 24 [mortality-surveillance-system.htm](https://www.cdc.gov/reproductivehealth/maternalinfanthealth/pregnancy-mortality-surveillance-system.htm).15

24 Randy Capps et al., *Gauging the Impact of DHS’ Public-Charge Rule on U.S.*
 25 *Immigration*, MIGRATION POL’Y INST. (Nov.
 26 2018), [https://www.migrationpolicy.org/research/impact-dhs-public-charge-](https://www.migrationpolicy.org/research/impact-dhs-public-charge-rule-immigration)
 27 [rule-immigration](https://www.migrationpolicy.org/research/impact-dhs-public-charge-rule-immigration).12

1 Sarah Flood, Miriam King, Renae Rodgers, Steven Ruggles, and J. Robert Warren.
 2 Integrated Public Use Microdata Series, Current Population Survey: Version
 3 6.0 [dataset]. Minneapolis, MN: IPUMS, 2018.
<https://doi.org/10.18128/D030.V6.0>14, 15

4 *Serving LGBTQ Immigrants and Building Welcoming Communities*, CTR. FOR AM.
 5 PROGRESS (Jan. 24,
 6 2018), [https://www.americanprogress.org/issues/lgbt/reports/2018/01/24/4453
 08/serving-lgbtq-immigrants-building-welcoming-communities/](https://www.americanprogress.org/issues/lgbt/reports/2018/01/24/445308/serving-lgbtq-immigrants-building-welcoming-communities/).....16

7 Shannon Dooling, *Trump Administration ends protection for migrants’ medical
 8 care*, NPR (Aug. 27, 2019),
[https://www.npr.org/2019/08/27/754634022/trump-administration-ends-
 9 protection-for-migrants-medical-care](https://www.npr.org/2019/08/27/754634022/trump-administration-ends-protection-for-migrants-medical-care)10

10 Stuart Anderson, *USCIS Immigration Delays Grow Longer and Longer*, FORBES
 11 (Jan. 31, 2019), [https://www.forbes.com/sites/stuartanderson/2019/01/31/uscis-
 12 immigration-delays-grow-longer-and-longer/#24a22b3c2254](https://www.forbes.com/sites/stuartanderson/2019/01/31/uscis-immigration-delays-grow-longer-and-longer/#24a22b3c2254).....10

13 Ted Hesson, *Emails show Stephen Miller pressed hard to limit green cards*,
 POLITICO (Aug. 2, 2019), [https://www.politico.com/story/2019/08/02/stephen-
 14 miller-green-card-immigration-1630406](https://www.politico.com/story/2019/08/02/stephen-miller-green-card-immigration-1630406).2

15 Ted Hesson, *Exclusive: Visa Denials to Poor Mexicans Skyrocket Under Trump’s
 16 State Department*, POLITICO (Aug. 6,
 2019), [https://www.politico.com/story/2019/08/06/visa-denials-poor-
 17 mexicans-trump-1637094](https://www.politico.com/story/2019/08/06/visa-denials-poor-mexicans-trump-1637094).2, 14

18 Torrie Hester et al., *Historians’ Comment on Proposed Rule on Inadmissibility on
 19 Public Charge Grounds* (Oct. 5, 2018), [https://www.ilcm.org/wp-
 20 content/uploads/2018/10/Historians-comment-FR-2018-21106.pdf](https://www.ilcm.org/wp-content/uploads/2018/10/Historians-comment-FR-2018-21106.pdf).3

21 *USCIS to End Certain Categorical Parole Programs*, U.S. CITIZENSHIP AND
 22 IMMIGRATION SERVS. (Aug. 2, 2019), [https://www.uscis.gov/news/news-
 23 releases/uscis-end-certain-categorical-parole-
 24 programs?utm_source=NCAPA+Mailing+List&utm_campaign=7d6254c499-
 25 EMAIL_CAMPAIGN_2019_08_02_09_52_COPY_01&utm_medium=email
 26 &utm_term=0_57801d6f38-7d6254c499-
 27 228973925&mc_cid=7d6254c499&mc_eid=511cfa134e](https://www.uscis.gov/news/news-releases/uscis-end-certain-categorical-parole-programs?utm_source=NCAPA+Mailing+List&utm_campaign=7d6254c499-EMAIL_CAMPAIGN_2019_08_02_09_52_COPY_01&utm_medium=email&utm_term=0_57801d6f38-7d6254c499-228973925&mc_cid=7d6254c499&mc_eid=511cfa134e).....10

28 *When health care isn’t caring: LGBT immigrants and immigrants living with HIV*,
 Lambda Legal,
[https://www.lambdalegal.org/sites/default/files/publications/downloads/whic-
 insert_lgbt-immigrants-and-immigrants-living-with-hiv.pdf](https://www.lambdalegal.org/sites/default/files/publications/downloads/whic-insert_lgbt-immigrants-and-immigrants-living-with-hiv.pdf).16

INTEREST OF *AMICI CURIAE*

1
2 **Asian Americans Advancing Justice | AAJC** (“**Advancing Justice - AAJC**”) is a
3 nonprofit, nonpartisan organization that seeks to promote a fair and equitable society for all by
4 working for civil and human rights and empowering Asian American, Native Hawaiian, and
5 Pacific Islander (AANHPI) communities. Advancing Justice- AAJC advances its mission through
6 advocacy, public policy, public education, and litigation. Advancing Justice-AAJC is one of the
7 nation’s leading experts on issues of importance to the Asian American community, including
8 immigration and immigrants’ rights. Advancing Justice-AAJC is part of a national affiliation,
9 Asian Americans Advancing Justice, made up of five separate and independent organizations,
10 including affiliates in Atlanta, Chicago, Los Angeles, and San Francisco.

11 The **Asian American Legal Defense and Education Fund (AALDEF)**, founded in
12 1974, is a national organization that protects and promotes the civil rights of Asian Americans.
13 By combining litigation, advocacy, education, and organizing, AALDEF works with Asian
14 American communities across the country to secure human rights for all. AALDEF advocates for
15 fair immigration policies that recognize the human rights of undocumented immigrants in the
16 United States, promote family reunification, enforce worker protections for all, eliminate racial
17 and ethnic profiling, and end other discriminatory practices that violate due process. AALDEF
18 also provides legal assistance to undocumented immigrants who are eligible for the Deferred
19 Action for Childhood Arrivals (DACA) program and to individuals who are seeking to adjust
20 their status to lawful permanent residence.

21 The **National Women’s Law Center (NWLC)** is a nonprofit legal advocacy organization
22 dedicated to the advancement and protection of the legal rights of women and girls and the rights
23 of all people to be free from sex discrimination. Since its founding in 1972, NWLC has focused
24 on issues of key importance to women and girls, including economic security, employment,
25 education, and health, with special attention to areas impacting low-income women and those
26 who face multiple and intersecting forms of discrimination. NWLC has fought for gender equity
27 in the courts, within public policy and in our larger society.

28 60 other organizations have signed on as *amici curiae*. See App. A for statements of

1 interest.

2 **I. INTRODUCTION**

3 The most recent attempt by the Trump Administration to exclude immigrants of color, this
4 time by modifying the current standards for a “public charge,” viewed in light of the
5 Administration’s anti-immigrant statements and combined with the disproportionate impact of
6 this new regulation on immigrants of color, establishes a discriminatory intent violative of the
7 Equal Protection Clause.

8 The new Department of Homeland Security (“DHS”) Regulation (the “Regulation”)
9 upends how public charge determinations have been implemented, adding a host of non-cash-
10 based programs as well as other factors that may be considered. Throughout the history of the
11 “public charge” rule, one thing has remained constant—“public charge” has always meant
12 primary dependency on the government. Currently, the rule is implemented via explicit standards
13 narrowly focused on people primarily dependent on the government through cash assistance or
14 institutionalization for long-term care. The punitive and subjective nature of the new Regulation
15 is emblematic of the Trump Administration’s well-documented animus toward immigrant
16 communities of color, which has been recognized by courts around the country and by the media.
17 As the architect of this Administration’s immigration policy Stephen Miller acknowledges, the
18 new public charge rule is “transformative.” And the “transformation” will disproportionately fall
19 on the shoulders of immigrant communities of color, which comprise approximately 90 percent of
20 the 25.9 million people who would be impacted by the Regulation. Ted Hesson, *Emails show*
21 *Stephen Miller pressed hard to limit green cards*, POLITICO (Aug. 2, 2019).¹ The Regulation’s
22 changes also create particular harms for immigrant women of color, including those who are
23 elderly, pregnant, survivors of intimate partner violence, have disabilities and/or are lesbian, gay,
24 bisexual, transgender, and queer (“LGBTQ”) individuals. *Amici curiae* respectfully submit that
25 the Regulation is unconstitutional because its promulgation was motivated, at least in part, by
26 racial animus.

27 _____
28 ¹ <https://www.politico.com/story/2019/08/02/stephen-miller-green-card-immigration-1630406>.

1 **II. ARGUMENT**

2 **A. Evaluation of Discriminatory Intent Includes Historical Background, Prior**
 3 **Events, and Discriminatory Impact**

4 “Proof of racially discriminatory intent or purpose is required to show a violation of the
 5 Equal Protection Clause.” *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252,
 6 265 (1977) (“*Arlington Heights*”). Determining whether racial discrimination is a motivating
 7 factor “demands a sensitive inquiry into such circumstantial and direct evidence of intent as may
 8 be available.” *Id.* at 266. The Supreme Court noted in *Arlington Heights* that determining
 9 discriminatory intent may be “relatively easy” when “[t]he impact of the official action whether
 10 it ‘bears more heavily on one race than another’” is clear or when a “clear pattern, unexplainable
 11 on grounds other than race” is apparent. *Id.* In less clear-cut cases, a racially discriminatory intent
 12 may still be found through the historical background of the law, the “specific sequence of events
 13 leading up to the challenged decision,” “departures from the normal procedural sequence,” or “the
 14 legislative or administrative history.” *Id.*

15 **B. A Public Charge Has Been Defined as Dependency on the Government**

16 The concept of a “public charge” can be traced back to colonial “poor laws,” which
 17 required towns to provide aid, often in the form of shelter in almshouses, for its permanent
 18 residents who could not provide for themselves. *See* Medha D. Makhlouf, *Symposium: The Public*
 19 *Charge Rule as Public Health Policy*, 16 IND. HEALTH L. REV. 177, 179-80 (2019). The localities
 20 could also expel non-residents who became dependent on the town. *Id.* In 1882, Congress passed
 21 the first federal law prohibiting the landing of “any convict, lunatic, idiot, or any person unable to
 22 take care of himself or herself without becoming a public charge.” Immigration Act of 1882, 22
 23 Stat. 214 (1882); *see also* Torrie Hester et al., *Historians’ Comment on Proposed Rule on*
 24 *Inadmissibility on Public Charge Grounds* (Oct. 5, 2018) at 2.² In 1891, this provision was
 25 changed to include those who were “likely to become a public charge.” Makhlouf, 16 IND.
 26 HEALTH L. REV. at 181-82. In 1999, the INS reaffirmed that a “public charge” refers to an
 27 immigrant considered primarily dependent on the government for subsistence, as demonstrated by

28 ² <https://www.ilcm.org/wp-content/uploads/2018/10/Historians-comment-FR-2018-21106.pdf>.

1 either receipt of public cash assistance for income maintenance or institutionalization for long-
2 term care at government expense. *See, e.g.*, Public Charge Grounds, 64 Fed. Reg. at 28,677.

3 The new Regulation, however, dramatically expands the applicability of the public charge
4 test beyond cash assistance and institutionalization, marking a stark departure from the past.
5 When the expanded list of criteria is examined in light of the current Administration’s statements
6 and positions on immigration, it becomes clear that this change in the public charge rule is being
7 used to target certain populations of immigrants and is motivated by racial animus.

8 **C. The Trump Administration’s Discriminatory Statements Establish an**
9 **Inference that the Regulation is Motivated by Racial Animus**

10 The Trump Administration’s racist, anti-immigrant statements, combined with the
11 disproportionate impact of the new regulation on immigrants of color, establish discriminatory
12 intent in violation of the Equal Protection Clause. *See Arlington Heights*, 429 U.S. at 265-66;
13 *Centro Presente v. DHS*, 332 F. Supp. 3d 393, 415 (D. Mass. 2018) (“[T]he combination of a
14 disparate impact on particular racial groups, statements of animus by people plausibly alleged to
15 be involved in the decision-making process, and an allegedly unreasoned shift in policy [is]
16 sufficient to allege plausibly that a discriminatory purpose was a motivating factor in a
17 decision.”). In case after case alleging, *inter alia*, violations of the Equal Protection Clause, courts
18 have examined the “disheartening number” of discriminatory statements made by President
19 Trump and denied the government’s motions to dismiss, repeatedly finding that such statements
20 are “more than sufficient to support a plausible inference of the President’s animus based on race
21 and/or national origin/ethnicity against non-white immigrants.” *Saget v. Trump*, 345 F. Supp. 3d
22 287, 303 (E.D.N.Y.2018). The revision to the public charge rule appears to be another vehicle
23 through which this Administration endeavors to effectuate its “‘wider strategic goal’ on
24 immigration,” proffering a pretextual justification in order to veil its discriminatory intent. *Ramos*
25 *v. Nielsen*, 321 F. Supp. 3d 1083, 1100 (N.D. Cal. 2018).

26 **1. President Trump’s Statements Establish an Inference of Animus**

27 Federal courts have consistently found President Trump’s statements sufficient to
28 establish an inference that a challenged policy was motivated by racial animus. In *Batalla Vidal v.*

1 *Nielsen*, the court denied the government’s motion to dismiss Plaintiffs’ equal protection claim,
2 finding it was plausible that President Trump’s decision to end the Deferred Action for Childhood
3 Arrival (“DACA”) program “was substantially motivated by discriminatory animus” toward
4 Latinos and Mexicans in particular. 291 F. Supp. 3d 260, 277 (E.D.N.Y. 2018). The court
5 considered statements made by the President, including: “(1) then-candidate Trump’s assertions
6 that Mexican immigrants are not Mexico’s ‘best,’ but are ‘people that have lots of problems,’ ‘the
7 bad ones,’ ‘criminals, drug dealers, [and] rapists’; (2) Trump’s characterization of individuals
8 who protested outside a campaign rally as ‘thugs who were flying the Mexican flag’; (3) Trump’s
9 statements that a U.S.-born federal judge of Mexican descent could not fairly preside over a
10 lawsuit against Trump[] . . . because the judge was ‘Mexican’ and Trump intended to build a wall
11 along the Mexican border; and (4) . . . characterizations of Latino/a immigrants as criminals,
12 ‘animals,’ and ‘bad hombres.’” *Id.* at 276–77 (citations omitted). The Court noted that these
13 “racial slurs” constituted “overt expressions of prejudice,” and concluded “[a]t the very least, one
14 might reasonably infer that a candidate who makes overtly bigoted statements on the campaign
15 trail might be more likely to engage in similarly bigoted action once in office.” *Id.* at 278.

16 In *Regents of University of California v. United States Department of Homeland Security*,
17 another case challenging the Administration’s DACA rescission, this Court examined statements
18 of animus made by Candidate and President Trump, including (1) his tweet that “[d]ruggies, drug
19 dealers, rapists and killers are coming across the southern border,” and corresponding question,
20 “When will the U.S. get smart and stop this travesty?”; (2) his claim that the Mexican government
21 “send[s] the bad ones over because they don’t want to pay for them”; and (3) his reference to
22 undocumented immigrants as “animals” who are responsible for “the drugs, the gangs, the cartels,
23 the crisis of smuggling and trafficking, MS 13.” 298 F. Supp. 3d 1304, 1314 (N.D. Cal. 2018). In
24 denying the government’s motion to dismiss plaintiff’s equal protection claim, this Court
25 determined that President Trump’s “clear cut indications of racial prejudice on the campaign
26 trail” constituted “circumstantial evidence of intent” admissible to show a discriminatory
27 purpose, reasoning, “[t]hese statements were not about the rescission [of DACA] . . . but they still
28 have relevance to show racial animus against people south of our border,” and found that such

1 allegations “raise a plausible inference that racial animus towards Mexicans and Latinos was a
2 motivating factor in the decision to end DACA.” *Id.* at 1314-15 (citations omitted).

3 Similarly, in *Saget*, the court found Plaintiffs had plausibly alleged that President Trump’s
4 decision to end Temporary Protected Status (“TPS”) for Haitians was predicated upon an animus
5 “based on race . . . against non-white immigrants in general and Haitians in particular,” thereby
6 violating the Equal Protection Clause. 345 F. Supp. 3d at 303. The court relied upon statements
7 made by President Trump, including: his remark that 15,000 Haitians who had received visas in
8 2017 “all have AIDS”; his statement that once Nigerian immigrants had seen the United States,
9 they would never go back to their “huts” in Africa; his question posed in a meeting about a draft
10 immigration plan regarding Haiti, among other countries in Latin America and Africa, wherein he
11 asked, “Why are we having all these people from shithole countries come here,” coupled with his
12 question, “Why do we need more Haitians,” prior to insisting that they be removed from an
13 immigration deal; and his expressed preference for more immigrants from countries like Norway,
14 which is predominantly white. *Id.* (citations omitted). Denying defendants’ motion to dismiss, the
15 court held, “[t]hese allegations are more than sufficient to support a plausible inference of the
16 President’s animus based on race and/or national origin/ethnicity against non-white immigrants in
17 general and Haitians in particular.” *Id.*

18 In *CASA de Maryland, Inc. v. Trump*, a similar equal protection challenge was brought to
19 the decision to terminate TPS status for El Salvador. 355 F. Supp. 3d 307 (D. Md. 2018).
20 Denying the government’s motion to dismiss, the court considered “a lengthy list of disparaging
21 statements and actions made by President Donald Trump regarding Latino immigrants,” including
22 President Trump’s “refus[al] to condemn two of his supporters who ‘urinated on a sleeping
23 Latino man and beat him with a metal pole,’ instead saying only that they were ‘passionate,’” and
24 a speech he gave in Poland wherein he “expressed the need to protect ‘the West’ and
25 ‘civilization’ from forces from ‘the South or the East.’” *Id.* at 315. The court noted that
26 Defendants could not argue that President Trump’s statements were not evidence of
27 discriminatory motive, stating, “[o]ne could hardly find more direct evidence of discriminatory
28 intent towards Latino immigrants. He has broadly painted Latino immigrants as drug-users,

1 criminals, and rapists.” *Id.* at 325. The court observed, “Racially charged code words may
2 provide evidence of discriminatory intent by sending a clear message and carrying the distinct
3 tone of racial motivations and implications.” *Id.* at 326 (citations omitted).

4 In *Ramos v. Nielsen*, another equal protection challenge to the termination of TPS
5 designations for Haiti, Sudan, El Salvador, and Nicaragua, this Court determined that plaintiffs
6 had provided sufficient evidence that “President Trump harbors an animus against non-white,
7 non-European aliens which influenced his (and thereby the Secretary’s) decision to end the TPS
8 designation,” and granted plaintiffs’ motion for a preliminary injunction. 336 F. Supp. 3d 1075,
9 1100 (N.D. Cal. 2018). This Court considered the following statements made by President
10 Trump: his call for “‘a total and complete shutdown of Muslims entering the United States’”; a
11 speech wherein “he used MS-13 – a gang . . . having ties to Mexico and Central America – to
12 disparage immigrants, indicating that they are criminals and comparing them to snakes”; and a
13 statement wherein he told “European leaders that they ‘better watch themselves’ because a wave
14 of immigration of (*sic*) ‘changing the culture of their countries,’ which he characterized as being
15 ‘a very negative thing for Europe.’” *Id.* at 1100-01.

16 Finally, in *New York v. United States Department of Commerce*, the New York District
17 Court denied the government’s motion to dismiss plaintiffs’ equal protection claim challenging
18 the addition of a citizenship question on the 2020 census questionnaire, and catalogued President
19 Trump’s statements referring to immigrants of color, including: “(1) his assertion . . . that certain
20 immigrants ‘turn out to be horrendous They’re not giving us their best people, folks,’; and
21 (2) his comment . . . that ‘[w]e have people coming into the country, or trying to come in. . . . You
22 wouldn’t believe how bad these people are. These aren’t people, these are animals’” 315 F.
23 Supp. 3d 766, 810 (S.D.N.Y. 2018).

24 2. Statements by Trump Administration Officials Also Establish an 25 Inference of Racial Animus

26 Trump Administration officials involved in the public charge decision-making process
27 have also made statements demonstrating racial animus. For example, when asked whether the
28 Regulation aligns with the ethos inscribed on The New Colossus, the sonnet at the base of the

1 Statute of Liberty reading, “[G]ive me your tired, your poor, your huddled masses yearning to be
 2 free,” Kenneth T. Cuccinelli II, acting director of USCIS, claimed the poem was, in fact,
 3 referring to “people coming from Europe,” and added his own caveat: “Give me your tired and
 4 your poor who can stand on their own two feet, and who will not become a public charge.” Jacey
 5 Fortin, *‘Huddled Masses’ in Statue of Liberty Poem are European, Trump Official Says*, N.Y.
 6 TIMES (Aug. 14, 2019).³ This statement is consistent with Cuccinelli’s historical rhetoric and
 7 policy positions regarding immigrants of color. In 2008 as a Virginia state senator, Cuccinelli
 8 introduced legislation that would have allowed employers to fire those who didn’t speak English
 9 in the workplace, who would then be ineligible for unemployment benefits. Elaina Plott, *The New*
 10 *Stephen Miller*, THE ATLANTIC (Aug. 14, 2019).⁴ On a talk radio show in 2012, Cuccinelli
 11 compared immigrants to rats, opining that a D.C. law that prevented animal workers from killing
 12 rats “is worse than our immigration policy. You can’t break up rat families.” Marc Fisher,
 13 *Cuccinelli, a Righteous, Faith-Driven Warrior Who Delights in Provocation, Will Join Trump*
 14 *Administration*, THE WASH. POST (May 22, 2019).⁵ Further, Cuccinelli was a founding member of
 15 State Legislators for Legal Immigration (“SLLI”), a group that described undocumented
 16 immigrants as “foreign invaders” responsible for “serious infectious diseases, drug running, gang
 17 violence, human trafficking, terrorism.”⁶ Andrew Kaczynski, *Trump Official Has Talked About*
 18 *Undocumented Immigrants as ‘Invaders’ Since at Least 2007*, CNN POLITICS (Aug. 17, 2019).⁷
 19 Speaking with Breitbart radio in October 2018 about Central American migrants reportedly
 20 planning to seek asylum in the U.S., Cuccinelli argued states could use “war powers” to block

21 ³ <https://www.nytimes.com/2019/08/14/us/cuccinelli-statue-liberty-poem.html>.

22 ⁴ <https://www.theatlantic.com/politics/archive/2019/08/who-is-ken-cuccinelli/596083/>.

23 ⁵ https://www.washingtonpost.com/politics/cuccinelli-a-righteous-faith-driven-warrior-who-delights-in-provocation-will-join-trump-administration/2019/05/21/ffb2f1d4-7bde-11e9-a5b3-34f3edf1351e_story.html?noredirect=on.

24 ⁶ SLLI has highlighted its “working partnership” with the Federation for American Immigration
 25 Reform, which has been listed as a hate group by the Southern Poverty Law Center since 2007 for
 26 its white nationalist agenda. Heidi Beirich, *Attacking the Constitution: State Legislators for Legal*
 27 *Immigration & the Anti-Immigrant Movement*, SOUTHERN POVERTY L. CTR. (Mar. 1, 2011),
 28 <https://www.splcenter.org/20110228/attacking-constitution-state-legislators-legal-immigration-anti-immigrant-movement>.

⁷ <https://www.cnn.com/2019/08/17/politics/kfile-ken-cuccinelli-immigration-invasion-rhetoric/index.html>.

1 their entry, stating “We’ve been being invaded for a long time, and so the border states clearly
2 qualify here to utilize this power themselves . . . and because they’re acting under war powers,
3 there’s no due process . . . Literally, you don’t have to keep them, no catch and release, no
4 nothing. You just point them back across the river and let them swim for it.” *Id.*

5 Stephen Miller, President Trump’s senior policy advisor, also has a history of anti-
6 immigrant sentiment. Miller has his own interpretation of The New Colossus, telling a reporter,
7 “[t]he poem that you’re referring to was added later. It’s not actually part of the original Statue of
8 Liberty.” Peter Baker, *Trump Supports Plan to Cut Legal Immigration by Half*, THE N.Y. TIMES,
9 (Aug. 2, 2017).⁸ While discussing the methodology utilized by the Administration to determine
10 how to institute travel restrictions, Miller allegedly argued that additional African and Asian
11 nations should face restrictions as well, stating, “[t]hese are shitty countries with a lot of
12 criminals. Why aren’t they under restrictions?” Jason Zengerle, *How America Got to ‘Zero
13 Tolerance’ on Immigration: the Inside Story*, THE N.Y. TIMES MAG. (July 16, 2019)⁹. In an
14 attempt to demonize immigrants, Miller reportedly pressured U.S. Immigration and Customs
15 Enforcement officials to include more details, such as pending criminal charges, in press releases
16 about immigrants they had apprehended, detained or planned to report, possibly in violation of
17 their privacy rights. Gabby Orr & Andrew Restuccia, *How Stephen Miller Made Immigration
18 Personal*, POLITICO (Apr. 22, 2019).¹⁰ A subsequent policy crafted by Miller required that federal
19 agencies write new rules that exclude non-citizens from protections under federal privacy law. *Id.*

20 Finally, DOJ and DHS have gone so far as to issue erroneous reports about crimes
21 committed by immigrants to bolster claims that immigrants are criminals, and to allegedly
22 substantiate President Trump’s assertion that family-based immigration – so-called “chain
23 migration’ – is a threat. Ellen Nakashima, *Justice Dept. admits error but won’t correct report*

24
25
26 ⁸ <https://www.nytimes.com/2017/08/02/us/politics/trump-immigration.html>.

27 ⁹ <https://www.nytimes.com/2019/07/16/magazine/immigration-department-of-homeland-security.html>.

28 ¹⁰ <https://www.politico.com/story/2019/04/22/stephen-miller-immigration-trump-1284287>.

1 *linking terrorism to immigration*, THE WASH. POST (Jan. 3, 2019).¹¹ Following a lawsuit, DOJ
 2 acknowledged their statistics contained “editorial errors” and “could cause some readers of the
 3 report to question its objectivity,” and that in future reports, the DOJ could “strive to minimize
 4 the potential for misinterpretation.” *Id.* But, DOJ refused to retract or correct the document. *Id.*

5 **3. Other Immigration-Related Policies Demonstrate Racial Bias**

6 These racist and anti-immigrant statements have manifested via the current
 7 Administration’s immigration policies. The Administration has attempted to: (1) end DACA and
 8 TPS designations; (2) ban entry of nationals from eight Muslim-majority countries¹²; (3) slash
 9 refugee admissions¹³; (4) impose new restrictions on asylum seekers¹⁴; (5) make changes to the
 10 processing of immigration applications¹⁵; (6) end parole for Filipino WWII veterans¹⁶; (7) end the
 11 *Flores* settlement, which limits prolonged detention of children¹⁷; and (8) deny deportation
 12 deferral requested for medical reasons.¹⁸ The Regulation’s drastic changes to the public charge
 13 rule provide yet another example of this Administration’s anti-immigrant and racist policies.
 14

15 ¹¹ https://www.washingtonpost.com/world/national-security/justice-dept-admits-error-but-wont-correct-report-linking-terrorism-to-immigration/2019/01/03/cd29997a-0f69-11e9-831f-3aa2c2be4cbd_story.html?noredirect=on&utm_term=.c7ef942c5829.

16 ¹² Executive Order 13769 of January 27, 2017, <https://www.govinfo.gov/content/pkg/FR-2017-02-01/pdf/2017-02281.pdf>.

17 ¹³ *An Overview of U.S. Refugee Law and Policy*, AMERICAN IMMIGRATION COUNCIL (June 18, 2019), <https://www.americanimmigrationcouncil.org/research/overview-us-refugee-law-and-policy>.

18 ¹⁴ Jasmine Aguilera, *Trump's New Restrictions on Asylum Seekers Violate U.S. and International Law, Experts Say*, TIME (July 24, 2019), <https://time.com/5626498/trump-asylum-rule-international-law/>.

19 ¹⁵ Stuart Anderson, *USCIS Immigration Delays Grow Longer and Longer*, FORBES (Jan. 31, 2019), <https://www.forbes.com/sites/stuartanderson/2019/01/31/uscis-immigration-delays-grow-longer-and-longer/#24a22b3c2254>.

20 ¹⁶ *USCIS to End Certain Categorical Parole Programs*, U.S. CITIZENSHIP AND IMMIGRATION SERVS. (Aug. 2, 2019), https://www.uscis.gov/news/news-releases/uscis-end-certain-categorical-parole-programs?utm_source=NCAPA+Mailing+List&utm_campaign=7d6254c499-EMAIL_CAMPAIGN_2019_08_02_09_52_COPY_01&utm_medium=email&utm_term=0_57801d6f38-7d6254c499-228973925&mc_cid=7d6254c499&mc_eid=511cfa134e.

21 ¹⁷ Geneva Sands, *Trump administration to allow longer detention of migrant families*, CNN POLITICS (Aug. 22, 2019), <https://www.cnn.com/2019/08/21/politics/immigration-family-detention-flores/index.html>.

22 ¹⁸ Shannon Dooling, *Trump Administration ends protection for migrants’ medical care*, NPR (Aug. 27, 2019), <https://www.npr.org/2019/08/27/754634022/trump-administration-ends-protection-for-migrants-medical-care>.

1 **D. The Regulation Will Disproportionately Impact Immigrants of Color**

2 The new Regulation significantly expands the applicability of the public charge test. The
 3 Regulation requires the agency to consider whether the individual’s annual household gross
 4 income is at least 125% of the federal poverty level (“FPL”), and it includes as a “heavily
 5 weighted positive factor” an income of at least 250% of the FPL. Regulation, to be codified as 8
 6 CFR §§ 212.22(c)(2)(i), 212.22(b)(4)(i). The Regulation also sets thresholds relating to the
 7 receipt of public benefits, instructing that the totality of circumstances¹⁹ determination looks to
 8 “all factors that are relevant to whether the alien is more likely than not” to receive one or more of
 9 the newly expanded categories of public benefits for an aggregate of 12 months over a 36-month
 10 period. 84 Fed. Reg. at 41,502 (to be codified as 8 CFR § 212.22(a)). The newly expanded list of
 11 public benefits now includes healthcare coverage through Medicaid, Supplemental Nutrition
 12 Assistance Program (SNAP), and Section 8 rental assistance.

13 These drastic revisions to the public charge determination will disproportionately impact
 14 immigrant communities of color, who comprise 90% of the 25.9 million people who would be
 15 impacted by the Regulation. *See* Custom Tabulation by Manatt Phelps & Philips LLP, *Public*
 16 *Charge Proposed Rule: Potentially Chilled Population Data Dashboard* (Oct. 11,
 17 2018).²⁰ Among those potentially affected by the Regulation, an estimated 70% are Latinx, 12%
 18 are Asian American and Pacific Islander, and 7% are Black. *Id.* Moreover, the Regulation will
 19 likely create a higher risk of denial for immigrants from Mexico and Central America (with 60%

20
 21 ¹⁹ The Regulation’s changes to the totality of the circumstances test further enable a
 22 discriminatory application. Previously, affidavits of support were regularly used to override
 23 public charge determinations. The new Regulation, however, instructs officials not only to
 24 consider whether the applicant has a legally sufficient affidavit of support, but also to
 25 independently weigh the *sponsor’s* income and resources, relationship to the applicant and
 26 likelihood of supporting the applicant, or “any other related considerations.” 84 Fed. Reg. 41,397
 27 (Aug. 14, 2019). The Regulation does not identify the standards for evaluating these factors.
 28 *Id.* The Regulation thus invites officials to make decisions based on their personal assumptions,
 signaling a dangerous departure from the standards-driven practice of the public charge rule of
 the past several decades.

²⁰ <https://www.manatt.com/Insights/Articles/2018/Public-Charge-Rule-Potentially-Chilled-Population>, using 2012-2016 5-Year American Community Survey Public Use Microdata Sample (ACS/PUMS); 2012-2016 5-Year American Community Survey (ACS) estimates accessed via American FactFinder; Missouri Census Data Center (MCDC).

1 of recent immigrants having two or more negative factors), the Caribbean (48%), Asia (41%),
 2 South America (40%), and Africa (34%), compared to the risk for immigrants from Europe,
 3 Canada, Australia, and New Zealand, only 27% of whom could be expected to have two or more
 4 negative factors. Randy Capps et al., *Gauging the Impact of DHS' Public-Charge Rule on U.S.*
 5 *Immigration*, MIGRATION POL'Y INST. (Nov. 2018).²¹ Further, Mexican and Central American
 6 immigrants, the express targets of President Trump's statements of racial animus, will be most
 7 significantly affected by the Regulation. Twenty-six percent of immigrants in the U.S. come from
 8 Mexico, making it the top country of origin. Phillip Connor & Gustavo López, *5 facts about the*
 9 *U.S. rank in worldwide migration*, PEW RES. CTR. (May 18, 2016).²² Denials of admission under
 10 the Regulation will be drawn along color lines.

11 **1. The English Proficiency Requirement is a Proxy for Race**

12 Under the Regulation, immigration officers are permitted to consider English proficiency
 13 or limited English proficiency ("LEP") as a positive or negative factor. English-language
 14 proficiency thus serves as a proxy to restrict non-white immigration.²³ Of the total foreign-born
 15 LEP population residing in the U.S., 39% were born in Mexico, comprising the largest group by
 16 far, followed by Chinese LEP immigrants at 6%. Jeanne Batalova & Jie Zong, *The limited*
 17 *English proficient population in the United States*, MIGRATION POL'Y INST. (July 8, 2015).²⁴
 18 Further, 64% of the total U.S. LEP population speaks Spanish. *Id.* Fifty-two percent of Asian
 19 American immigrants and approximately 45% of foreign-born Pacific Islanders are LEP. *Inside*
 20 *the Numbers: How Immigration Shapes Asian American and Pacific Islander Communities* at 14.

21 ²¹ <https://www.migrationpolicy.org/research/impact-dhs-public-charge-rule-immigration>.

22 ²² <https://www.pewresearch.org/fact-tank/2016/05/18/5-facts-about-the-u-s-rank-in-worldwide-migration/>; Jynnah Radford, *Key findings about U.S. immigrants*, PEW RES. CTR. (June 17, 2019),
 23 <https://www.pewresearch.org/fact-tank/2019/06/17/key-findings-about-u-s-immigrants/>.

24 ²³ DHS justified adding English proficiency as a factor in the public charge determination based
 25 on a general correlation between English proficiency and employment and/or income. But those
 26 factors are already considered, making the addition of this factor of English proficiency
 27 superfluous, except as a way to further weed out generally non-white immigrants.

28 ²⁴ <https://www.migrationpolicy.org/article/limited-english-proficient-population-united-states#Age,%20Race,%20and%20Ethnicity>.

1 ASIAN AMERICANS ADVANCING JUSTICE (June 12, 2019).²⁵ Hmong, Cambodian, Vietnamese,
 2 Laotian, Nepalese, Korean, and Chinese American immigrant seniors range from between 95%-
 3 84% LEP. *Id.* In 2017, approximately 46% of South American immigrants over age 5 reported
 4 LEP. Jie Zong & Jeanne Batalova, *South American Immigrants in the United States*, MIGRATION
 5 POL'Y INST. (Nov. 7, 2018).²⁶ Half or more of Venezuelans, Peruvians, Colombians, and
 6 Ecuadorans reported limited English proficiency. *Id.*

7 2. Chilling Effects Were Evident Before the Regulation Was Finalized

8 A 2019 study conducted by the Urban Institute found extensive evidence of chilling
 9 effects in immigrant communities of color even before the Regulation was finalized. Hamutal
 10 Bernstein, et al., *One in Seven Adults in Immigrant Families Reported Avoiding Public Benefit*
 11 *Programs in 2018*, URBAN INST. (May 2019).²⁷ For example, Latinx adults in immigrant families
 12 were more than twice as likely as non-Hispanic white and non-Hispanic non-white adults in
 13 immigrant families to report chilling effects in their families. *Id.* at 2. In other words, immigrant
 14 communities of color are increasingly avoiding health, nutrition, or social services out of fear.²⁸
 15 This study also found that chilling effects extended to families where all non-citizen members had
 16 green cards (14.7%) or where all foreign-born members were naturalized citizens (9.3%). *Id.*

17 3. Visa Denials Show the Regulation is Excluding Immigrants of Color

18 In January 2018, the Trump Administration announced revisions to the Foreign Affairs
 19 Manual ("FAM"), which provides instructions to officials in U.S. embassies and consulates
 20 abroad. *Changes to the 'Public Charge' Instructions in the U.S. State Department's Manual*,

21 _____
 22 ²⁵ https://www.advancingjustice-aaajc.org/sites/default/files/2019-07/1153_AAJC_Immigration_Final_0.pdf.

23 ²⁶ <https://www.migrationpolicy.org/article/south-american-immigrants-united-states#EnglishProficiency>.

24 ²⁷ https://www.urban.org/sites/default/files/publication/100270/one_in_seven_adults_in_immigrant_families_reported_avoiding_public_benefit_programs_in_2018.pdf ("Urban Institute Study").

25 ²⁸ The failure of the Administration to address the disparate impact of the Regulation further
 26 evidences a discriminatory intent sufficient to sustain an arbitrary and capricious claim made
 27 pursuant to the Administrative Procedure Act, given the manner in which Defendants ignore the
 28 number of studies and comments documenting the disparate impact on immigrants of color.
 Plaintiff's Memorandum of Points and Authorities in Support of their Motion for Preliminary
 Injunction at pp. 5-6. (Dkt. No. 35).

1 NAT'L IMMIGR. L. CTR.(Feb. 8, 2018).²⁹ The 2018 FAM guidance included changes to the
 2 treatment of a sponsor's affidavit of support and the use of non-cash benefits. In the months after
 3 the FAM revisions had taken effect, preliminary data showed 12,179 immigrant visa rejections
 4 between October 1, 2018 and July 29, 2019. Ted Hesson, *Exclusive: Visa Denials to Poor*
 5 *Mexicans Skyrocket Under Trump's State Department*, POLITICO (Aug. 6, 2019).³⁰ The State
 6 Department had denied 5,343 immigrant visa applications for Mexican nationals on public charge
 7 grounds, up over 750-fold from fiscal year 2016. *Id.* Visa applicants from countries including
 8 India, Pakistan, Bangladesh, Haiti, and the Dominican Republic also saw significant increases in
 9 denials predicated on the risk of becoming a public charge. *Id.* This spike in visa denials shows
 10 the Trump Administration is using the public charge rule to exclude immigrants of color.

11 **E. Immigrant Women Are Particularly and Severely Harmed by the Regulation**

12 The Regulation is particularly harmful to the most vulnerable groups of immigrant women
 13 who can least afford to lose access to programs that support their safety, independence, and
 14 economic security for fear of harming their immigration status. In general, immigrant women of
 15 color are at higher risk of economic insecurity than men, and are overrepresented in low-wage
 16 jobs. *The Impact of Immigrant Women on America's Labor Force*, AM. IMMIGR. COUNCIL (Mar.
 17 8, 2017).³¹ Further, immigrant women of color face a substantial wage gap as compared to native-
 18 born men: Black, Latinx, and Asian immigrant women make 58, 48, and 83 cents respectively for
 19 every dollar made by a white, non-Hispanic native-born man. ³² And more than half of all
 20 immigrant women live in a household with children, compared to 43 percent of immigrant men
 21 and 28 percent of native-born women, putting additional strain on already limited resources. Ariel
 22 G. Ruiz, Jie Zong, & Jeanne Batalova, *Immigrant Women in the United States*,

23
 24 ²⁹ <https://www.nilc.org/wp-content/uploads/2018/02/NILC-FAM-Summary-2018.pdf>.

25 ³⁰ <https://www.politico.com/story/2019/08/06/visa-denials-poor-mexicans-trump-1637094>.

26 ³¹ <https://www.americanimmigrationcouncil.org/research/impact-immigrant-women-americas-labor-force>.

27 ³² Nat'l Women's Law Ctr. Calculations based on U.S. Census Bureau, 2017 Current Population
 28 Survey, using Sarah Flood, Miriam King, Renae Rodgers, Steven Ruggles, and J. Robert Warren. Integrated Public Use Microdata Series, Current Population Survey: Version 6.0 [dataset]. Minneapolis, MN: IPUMS, 2018. <https://doi.org/10.18128/D030.V6.0>.

1 MIGRATION POL'Y INST. (Mar. 20, 2015).³³

2 The Regulation will cause concrete harm to immigrant women's health by discouraging
3 their use of food, housing assistance, and health coverage. In 2016, women constituted almost
4 47% of non-citizen Medicaid recipients, compared to men at 39% and children at 14%.³⁴ And,
5 though pregnant women's use of Medicaid is exempted under the Final Rule, the Regulation will
6 likely discourage women from obtaining prenatal care, exacerbating already elevated maternal
7 and infant mortality rates among Black and Latinx women. *Infant Mortality*, CTRS. FOR DISEASE
8 CONTROL AND PREVENTION (Mar. 27, 2019);³⁵ *Pregnancy Mortality Surveillance System*, CTRS.
9 FOR DISEASE CONTROL AND PREVENTION (June 4, 2019).³⁶ Likewise, women with disabilities rely
10 upon benefits like SNAP and Medicaid. The Regulation further targets women with chronic
11 health conditions and disabilities by allowing DHS to consider health conditions as part of the
12 totality of circumstances test.

13 Additionally, the Regulation has a detrimental impact on immigrant women who are
14 survivors of domestic violence and sexual assault. Some groups of women of color face higher
15 rates of intimate partner violence. *National Intimate Partner & Sexual Violence Survey: 2010*
16 *Summary Report at 39-40 & tbl. 4.3*, CTRS. FOR DISEASE CONTROL AND PREVENTION (Nov.
17 2010).³⁷ The Regulation incentivizes survivors to remain in the households of their sponsors,
18 regardless of safety concerns, to the extent they are dependent on their sponsors' household
19 income to satisfy the Regulation's requirements. Without access to resources from public benefits
20 and work authorization, immigrant survivors may stay longer in abusive relationships and sustain
21 more severe physical and emotional consequences as a result than non-immigrant survivors.
22 Giselle Aguilar Hass, Psy.D., et al., *Battered Immigrants and U.S. Citizen Spouses*, *Legal*

23 ³³ <https://www.migrationpolicy.org/article/immigrant-women-united-states>.

24 ³⁴ Nat'l Women's Law Ctr. calculations based on U.S. Census Bureau, 2017 Current Population
25 Survey, using Sarah Flood, Miriam King, Renae Rodgers, Steven Ruggles, and J. Robert Warren.
Integrated Public Use Microdata Series. Current Population Survey: Version 6.0 [dataset].
Minneapolis, MN: IPUMS, 2018. <https://doi.org/10.18128/D030.V6.0>.

26 ³⁵ <https://www.cdc.gov/reproductivehealth/maternalinfanthealth/infantmortality.htm>.

27 ³⁶ <https://www.cdc.gov/reproductivehealth/maternalinfanthealth/pregnancy-mortality-surveillance-system.htm>.

28 ³⁷ https://www.cdc.gov/violenceprevention/pdf/nisvs_report2010-a.pdf.

1 *Momentum* (Apr. 24, 2016) at 2.³⁸ The Regulation thus puts immigrant survivors of domestic
2 violence at risk by disincentivizing the use of essential economic supports.

3 Finally, the Regulation has significant harmful effects on LGBTQ immigrants of color and
4 their families. Of the 637,000 documented LGBT foreign-born adults in the U.S., approximately
5 77% are non-white. Gary J. Gates, *LGBT Adult Immigrants in the United States*, THE WILLIAMS
6 INST. (Mar. 2013).³⁹ Because of continuing discrimination, LGBTQ immigrants face additional
7 challenges in accessing and maintaining education, employment, housing, and health care, and
8 may be more likely to need assistance with basic family supports. *Serving LGBTQ Immigrants
9 and Building Welcoming Communities*, CTR. FOR AM. PROGRESS (Jan. 24, 2018).⁴⁰ Further,
10 available statistics show that LGB immigrants of color are more likely than white LGB
11 immigrants to experience discrimination while receiving health care services and to receive
12 substandard care. *When health care isn't caring: LGBT immigrants and immigrants living with
13 HIV*, Lambda Legal.⁴¹

14 This Regulation puts immigrant women in the untenable position of living in fear that the
15 use of Medicaid, nutrition or housing assistance could negatively impact their immigration status.
16 The health, well-being, and safety of the most vulnerable immigrant women are at stake.

17 **III. CONCLUSION**

18 For the foregoing reasons, *amici curiae* respectfully urges the Court to conclude that the
19 Regulation is unlawful and unconstitutional.

20
21
22
23 ³⁸ http://niwaplibrary.wcl.american.edu/wp-content/uploads/2015/BB_RSRCH_ImmVictims_Battered_Imm.pdf.

24 ³⁹ <https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBTImmigrants-Gates-Mar-2013.pdf>.

25 ⁴⁰ <https://www.americanprogress.org/issues/lgbt/reports/2018/01/24/445308/serving-lgbtq-immigrants-building-welcoming-communities/>.

26 ⁴¹ https://www.lambdalegal.org/sites/default/files/publications/downloads/whcic-insert_lgbt-immigrants-and-immigrants-living-with-hiv.pdf. There were not enough transgender or gender
27 non-conforming respondents to the survey born outside the United States to analyze these groups
28 separately.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Dated: September 10, 2019

CROWELL & MORING LLP

s/ Emily T. Kuwahara

Emily T. Kuwahara (SBN 252411)

Christopher Cadena

Austin Sutta

CROWELL & MORING LLP

Attorneys for Amici Curiae

APPENDIX A: AMICI STATEMENTS OF INTEREST

1
2 **9to5, National Association of Working Women** believes that immigrants have long
3 played an essential role in building America, uniting our country with the promise of opportunity
4 and equality. We all share the America dream of working hard and in exchange being treated
5 fairly and with dignity. As an organization we work to end all forms of discrimination, in the
6 workplace and beyond. We are deeply concerned the ‘public charge’ regulation change will harm
7 immigrant women, including the elderly, pregnant, lesbian, gay, bisexual, transgender, and queer,
8 (“LGBTQ”) individuals, survivors of intimate partner violence, and/or women with disabilities.

9 **Anti-Defamation League (“ADL”)**, founded in 1913, is an anti-hate organization that
10 seeks to stop the defamation of the Jewish people, and secure justice and fair treatment to all. Its
11 25 regional offices further this mission with programmatic support to promote civil rights and
12 combat all forms of bigotry. ADL is rooted in a community that has experienced the plight of
13 living as refugees throughout its history. ADL has advocated for fair and humane immigration
14 policy since its founding and has been a leader in exposing anti-immigrant and anti-refugee fervor
15 that has poisoned our nation’s debate. Consistent with its principles and values, ADL joins this
16 brief.

17 **Apna Ghar, Inc. (Our Home)**, is a nonprofit, nonpartisan organization that seeks to
18 promote just and equitable communities by working for the human rights of survivors of gender-
19 based violence. Apna Ghar advances its mission through holistic services, outreach and advocacy.

20 **Asian Americans Advancing Justice - Asian Law Caucus (ALC)** was founded in 1972
21 with a mission to promote, advance, and represent the legal and civil rights of Asian and Pacific
22 Islanders, with a particular focus on low-income members of those communities. Advancing
23 Justice - ALC is part of a national affiliation of Asian American civil rights groups, with offices
24 in Los Angeles, Chicago, Atlanta and Washington DC. ALC has a long history of protecting and
25 advocating on behalf of low-income immigrants through direct legal services, impact litigation,
26 community education, and policy work.

27 **Asian Americans Advancing Justice-Atlanta** is the first and only nonprofit legal
28 advocacy organization dedicated to the civil and human rights of Asian Americans, Native

1 Hawaiians, and Pacific Islanders (AANHPI) in Georgia and the Southeast. Advancing Justice-
2 Atlanta works in four major program areas: civic engagement and organizing, direct legal
3 services, impact litigation, and policy advocacy. Advancing Justice-Atlanta's vision is a social
4 movement in which communities of color are fully empowered, active in civic life, and working
5 together to promote equity, fair treatment, and self-determination for all. Advancing Justice-
6 Atlanta is one of five independent organizations that make up the national Asian Americans
7 Advancing Justice.

8 **The Asian & Latino Solidarity Alliance of Central Virginia (ALSACV)** is dedicated to
9 advancing common objectives impacting the Asian and Latino communities in Central Virginia.
10 We work to ensure that Asian and Latinos in Central Virginia have equitable representation,
11 visibility, and access to economic and social programs that enrich their lives.

12 **The Asian Law Alliance (ALA)**, founded in 1977, is a non-profit public interest legal
13 organization with the mission of providing equal access to the justice system to the Asian and
14 Pacific Islander communities in Santa Clara County, California. ALA has provided immigration
15 legal services and legal representation to low income residents who will be impacted by the
16 change to the public charge rules.

17 **The Asian Pacific American Legal Resource Center (APALRC)** is a nonprofit
18 organization that provides linguistically accessible and culturally appropriate civil legal services
19 to the low-income, limited English proficient Asian American Pacific Islander community
20 residing in metropolitan-DC. The APALRC's mission is to protect the civil and legal rights of this
21 community to access government benefits and the legal system.

22 **Asian Pacific Community in Action (APCA)** is a nonprofit organization working to
23 provide services, advocacy and education to build healthier and more empowered Asian
24 American & Pacific Islander communities.

25 **Asian Pacific Development Center** is a provider of, and advocate for, the whole-person
26 and whole community health of Asian American, Native Hawaiian, Pacific Islander, immigrant,
27 and refugee communities. We predominantly serve members of these communities across through
28 our main office in Aurora and satellite offices through the Metro-Denver area to ensure access to

1 services.

2 **The Association of Asian Pacific Community Health Organizations (AAPCHO)** is a
3 national not-for-profit association of 33 community-based health care organizations, 28 of which
4 are Federally Qualified Health Centers, dedicated to improving the health status and access of
5 Asian Americans, Native Hawaiians, and Pacific Islanders (AANHPIs) in the United States, the
6 U.S. territories, and the Freely Associated States. Our members provide linguistically accessible,
7 culturally appropriate, and financially affordable health care services to communities with high
8 concentrations of medically underserved AANHPIs. AAPCHO members serve over 700,000
9 patients annually: 72 percent of these patients are members of racial and ethnic minority groups;
10 46 percent are best served in a language other than English; 90 percent have incomes at or below
11 200 percent of the federal poverty level; and 56 percent receive health coverage through Medicaid
12 or the Children’s Health Insurance Program. This rule has already had detrimental impacts on the
13 patients our members serve and will continue to do so if it is fully implemented.

14 **The California Asian Pacific Islander Legislative Caucus** is part of the California State
15 Legislature and represents and advocates for the interests of the diverse API communities
16 throughout California. It seeks to increase Asian Pacific Islander participation and representation
17 in all levels of government. Amongst its goals, the Caucus seeks to preserve safety net health,
18 mental health, and social service programs that serve the API community.

19 **The Center on Reproductive Rights and Justice at UC Berkeley School of Law**
20 **(CRRJ)** propels law and policy solutions by connecting people and ideas across the academic-
21 advocate divide. We seek to realize reproductive rights and advance reproductive justice by
22 influencing legal and social science discourse, furthering research and scholarship, and bolstering
23 law and policy advocacy efforts.

24 **The Chicago Alliance Against Sexual Exploitation (CAASE)** is an Illinois-based not-
25 for-profit that opposes sexual harm by directly addressing the culture, institutions and individuals
26 that perpetrate, profit from, or support such harms. CAASE engages in direct legal services,
27 prevention education, community engagement, and policy reform. CAASE’s legal department
28 provides direct legal services to survivors of sexual exploitation, including sexual assault and

1 prostitution. On behalf of its individual clients and in support of its overall mission, CAASE is
2 interested in seeing that federal and state laws and precedent impacting survivors of sexual assault
3 and prostitution are appropriately interpreted and applied so as to further—and not undermine—
4 efforts to hold perpetrators of sexual assault and trafficking appropriately accountable for their
5 actions and expand safe options for survivors.

6 **Chinese-American Planning Council** is the nation’s largest nonprofit social services
7 agency for Asian American, immigrant and low-income New Yorkers. Our mission is to build
8 social and economic empowerment for the communities we serve. We aim to connect our social
9 services to social change by advocating for transformative public policies that empower our
10 communities.

11 **Chinese for Affirmative Action** is a community-based civil rights organization in San
12 Francisco. The mission of CAA to defend the civil and political rights of Chinese Americans and
13 to advance multiracial democracy in the United States. CAA programs include direct services,
14 leadership development, civic engagement, policy advocacy, and strategic communications.

15 **The Coalition on Human Needs (CHN)** is an alliance of 100 national organizations
16 representing human service providers, people of faith, policy experts, civil rights and labor group
17 members, and other advocates, who come together to defend and improve federal programs that
18 assist low-income and vulnerable people. Because communities of color and immigrants are
19 disproportionately poor, CHN and its member groups have been especially concerned with their
20 needs. In addition, CHN has focused over the years on the special needs of low-income women
21 and children, including the struggles of women to escape from domestic violence. CHN's work
22 has focused on the anti-poverty effectiveness of programs such as Medicaid, SNAP, and
23 subsidized housing, and our members are extremely concerned that more households will fall into
24 poverty because the racially-motivated public charge proposals will discourage them from
25 utilizing benefits for which they are eligible.

26 **The Colorado Organization for Latina Opportunity and Reproductive Rights** is a
27 community-rooted organization that works to enable Latinx individuals and their families to lead
28 safe, healthy and self-determined lives. We value justice and equity for all people, creating and

1 awareness of intersectionality and the ways it is used to either support or marginalize Latinx
2 communities.

3 **The Connecticut Women's Education and Legal Fund (CWEALF)** is a nonprofit
4 organization that advocates for and empowers women and girls in Connecticut, especially those
5 who are underserved or marginalized. CWEALF works to create an equitable society where
6 women and girls thrive and advances its mission through three main programs: legal education,
7 public policy, and women's advancement and leadership. CWEALF is a leading voice for
8 women's rights and economic security in Connecticut, especially through its Legal Education
9 program which works to guarantee equal access to legal, educational and social service systems.

10 **EMBARC** is Iowa's first refugee-led nonprofit service provider, founded by and for
11 refugees to empower refugees in expanding their success through advocacy, education, and
12 community development. EMBARC believes that true and lasting change originates from within
13 a community empowered to help themselves.

14 **End Rape on Campus (EROC)** is a national 501(c)(3) nonprofit organization that works
15 to end campus sexual violence through direct support for survivors and their communities;
16 prevention through education; and policy reform at the campus, local, state, and federal levels.
17 This addresses many barriers that survivors face when coming forward in hopes of accessing
18 justice and healing. We seek to change culture in order to create a world free from sexual
19 violence, and work to end gender-based discrimination and all forms of violence in educational
20 settings, for students, faculty, and all members of a school community.

21 **Equal Rights Advocates (ERA)** is a national non-profit civil rights organization
22 dedicated to protecting and expanding economic and educational access and opportunities for
23 women and girls. Since 1974, ERA has helped to secure workplace protections and advance
24 gender justice for low-wage and immigrant workers through litigation, direct legal services,
25 community outreach, public education, and policy advocacy efforts. ERA has participated as
26 amicus curiae in scores of cases involving the interpretation and application of laws affecting
27 workers and the economic security of working families. The proposed public charge rule will
28 have a devastating impact on millions of workers and families, including those who ERA

1 represents and with whom we collaborate. These changes will particularly harm low-paid
2 immigrant women workers, many of whom are survivors of sexual and/or domestic violence, and
3 will make them even more vulnerable to workplace abuse, exploitation, and discrimination.

4 **The Fred T. Korematsu Center for Law and Equality (“Korematsu Center”)** is a
5 non-profit organization based at the Seattle University School of Law. The Korematsu Center
6 works to advance justice through research, advocacy, and education. Inspired by the legacy of
7 Fred Korematsu, who defied military orders during World War II that ultimately led to the
8 unlawful incarceration of 110,000 Japanese Americans, the Korematsu Center works to advance
9 social justice for all. The Korematsu Center has a special interest in addressing government action
10 targeted at classes of persons based on race, nationality, or religion. The Korematsu Center does
11 not, in this brief or otherwise, represent the official views of Seattle University.

12 **Girls Inc.** is a nonprofit organization that inspires girls to be strong, smart, and bold,
13 through direct service and advocacy. Over 80 local Girls Inc. affiliates provide primarily after-
14 school and summer programming to approximately 140,000 girls ages 5-18 in the U.S. and
15 Canada. Our comprehensive approach to whole girl development equips girls to navigate gender,
16 economic, and social barriers and grow up healthy, educated, and independent. Informed by girls
17 and their families, we also advocate for policies and practices to advance the rights and
18 opportunities of girls and young women, including those from immigrant families. Ensuring that
19 all girls have access to the supports they need to learn and thrive is a top priority for Girls Inc.

20 Through strategic litigation, public policy advocacy, and education, **GLBTQ Legal**
21 **Advocates & Defenders (GLAD)** works in New England and nationally to create a just society
22 free of discrimination based on gender identity and expression, HIV status, and sexual
23 orientation. Since 1978, GLAD has litigated widely in both state and federal courts in all areas of
24 the law in order to protect and advance the rights of lesbians, gay men, bisexuals, transgender
25 individuals and people living with HIV and AIDS. GLAD has an enduring interest in ensuring
26 that all individuals receive equal justice under law.

27 **If/When/How: Lawyering for Reproductive Justice** is a legal organization that, for
28 more than a decade, has built a powerful network of thousands of lawyers, law students, and

1 former reproductive justice fellows who work for a future when all people can self-
2 determine their reproductive lives free from discrimination, coercion, or violence. With our
3 network, we work to transform the law and policy landscape through advocacy, support, and
4 organizing so all people have the power to determine if, when, and how to define, create, and
5 sustain families with dignity and to actualize sexual and reproductive wellbeing on their own
6 terms. Every person in the U.S. should be able to access the support they need to thrive and to
7 protect their health, without fear of immigration consequences. Restricting the ability of people to
8 immigrate to the U.S. based on the use of such supports is simply a new version of historic
9 immigration restrictions based on race and gender discrimination.

10 **In Our Own Voice: National Black Women’s Reproductive Justice Agenda** is a
11 national-state partnership with eight Black women’s Reproductive Justice organizations: The
12 Afiya Center, Black Women for Wellness, Black Women’s Health Imperative, New Voices for
13 Reproductive Justice, SisterLove, Inc., SisterReach, SPARK Reproductive Justice NOW, and
14 Women with a Vision. In Our Own Voice is a national Reproductive Justice organization focused
15 on lifting up the voices of Black women leaders on national, regional, and state policies that
16 impact the lives of Black women and girls.

17 Reproductive Justice is a framework rooted in the human right to control our bodies, our
18 sexuality, our gender, and our reproduction. Reproductive Justice will be achieved when all
19 people, of all immigration statuses, have the economic, social, and political power and resources
20 to define and make decisions about our bodies, health, sexuality, families, and communities in all
21 areas of our lives with dignity and self-determination.

22 **In the Public Interest** is a nonprofit, nonpartisan comprehensive research and policy
23 center committed to promoting the values, vision, and agenda for the common good and
24 democratic control of public goods and services.

25 **The Japanese American Citizens League (JACL)** is a national organization whose
26 ongoing mission is to secure and maintain the civil rights of Japanese Americans and all others
27 who are victimized by injustice and bigotry. The leaders and members of the JACL also work to
28 promote cultural, educational and social values and preserve the heritage and legacy of the

1 Japanese American community. Aware of our responsibilities as the oldest and largest Asian
2 Pacific American civil rights organization, JACL strives to promote a world that honors diversity
3 by respecting values of fairness, equality and social justice.

4 **KWH Law Center for Social Justice and Change** is a nonprofit legal advocacy
5 organization dedicated to the advancement and protection of legal rights for women, and women
6 with children to be free from sex discrimination. KWH has participated as an amicus curiae in a
7 range of cases before the United States Supreme Court and continues to advocate for equal
8 treatment of women and women with children to challenge all forms of discrimination. KWH
9 advocates to ensure that all individuals enjoy the full protections against sex discrimination
10 promised by federal law.

11 **LatinoJustice PRLDEF**, is a national non-profit civil rights legal defense fund that has
12 advocated for and defended the constitutional rights of all Latinos to ensure their equal protection
13 under the law since 1972. LatinoJustice has engaged in and supported law reform litigation
14 across the country challenging discriminatory policies and practices in areas such as immigrants'
15 rights, criminal justice, education, employment, fair housing, language rights, redistricting,
16 telecommunications, and voting rights.

17 **The MinKwon Center for Community Action** is a nonprofit organization whose
18 mission is to empower the Korean American community, and work with the wider Asian
19 American and immigrant communities, to achieve economic and social justice for all. We
20 primarily serve low-income limited English proficient immigrants in the Asian American
21 community, and our Social Services program includes enrolling people in benefits and providing
22 immigration legal services.

23 **National Advocates for Pregnant Women (NAPW)** is a nonprofit legal advocacy
24 organization working to ensure the human and civil rights, health and welfare of all people, with
25 particular attention to pregnant and parenting women. NAPW protects the rights, health, and
26 dignity of pregnant and parenting people by working closely with those women and their
27 communities, along with medical, legal, public health, and mental health experts from across the
28 country. NAPW is particularly concerned about the generational impacts the revised public

1 charge rules would have on pregnant women, their babies, and the rest of their families.

2 **The National Korean American Service & Education Consortium (NAKASEC)** is a
3 grassroots organization founded in 1994 by local community centers to project a progressive
4 voice and promote the full participation of Korean and Asian Americans within the larger society.
5 Our mission is to organize Korean and Asian Americans to achieve social, economic, and racial
6 justice. NAKASEC has affiliates in Los Angeles and Orange County (Korean Resource Center)
7 and Chicago (Hana Center) and maintains offices in Los Angeles, Chicago and Annandale,
8 Virginia.

9 **The National Asian Pacific American Women’s Forum (NAPAWF)** is the leading,
10 national, multi-issue community organizing and policy advocacy organization for Asian
11 American and Pacific Islander (AAPI) women and girls in the U.S. NAPAWF’s mission is to
12 build collective power of all AAPI women and girls to gain full agency over our lives, our
13 families, and our communities. NAPAWF advocates and organizes with a reproductive justice
14 framework that acknowledges the diversity within our community and ensures that different
15 aspects of our identity – such as ethnicity, immigration status, education, sexual orientation,
16 gender identity, and access to health – are considered in tandem when addressing our social,
17 economic, and health needs. Our work includes advocating for immigrant rights and making
18 visible the experiences of AAPI women and girls within the fight for immigrant rights.

19 **The National Coalition for Asian Pacific Americans Community Development**
20 **(National CAPACD)** is a progressive coalition of nearly 100 community-based organizations
21 spanning 21 states and the Pacific Islands. Our members advocate for and organize in low-income
22 Asian American and Pacific Islander (AAPI) communities to improve housing security and
23 preserve our neighborhoods. We disseminate national resources locally, share best practices and
24 advocate for community needs at the national level. Our work improves the lives of the over two
25 million AAPIs living in poverty nationwide. We strengthen and mobilize our members to build
26 power nationally and further our vision of economic and social justice for all.

27 **National Crittenton** founded in 1883 as a national advocacy organization is dedicated to
28 advancing and protecting the rights of girls, young women and women who face chronic

1 adversity, violence and injustice. This includes girls, young women and women and their families
2 who come to this country seeking safety, opportunity and justice. This rule will have a injurious
3 impact on immigrant communities and in particular on girls and women. Immigrant women,
4 including survivors, LGBTQ women, seniors and women with disabilities, would be harmed by
5 the proposed changes. As such, the issues addressed in this amicus brief are critical to ensuring
6 are consistence with our mission and with the achievement and maintenance of justice.

7 **The National Immigrant Justice Center (“NIJC”)** is a program of the Heartland
8 Alliance for Human Needs and Human Rights, a non-profit corporation headquartered in
9 Chicago, Illinois. In part due to partnering with more than 1,000 pro bono attorneys from major
10 law firms, NIJC is able to provide direct legal services to approximately 10,000 individuals
11 annually. NIJC’s legal services are available to low-income immigrants and their families, who
12 earn less than 200% of the federal poverty level. NIJC frequently represents families and couples
13 seeking visas through U.S. consulates. Many NIJC clients will be subject to potential
14 inadmissibility under the public charge ground, as redefined by the agency.

15 **The National Immigrant Women’s Advocacy Project (“NIWAP Inc.”)** is a non-profit,
16 public-policy advocacy organization that develops, reforms, and promotes the creation,
17 implementation and use of laws and policies that improve legal rights, services, and assistance to
18 immigrant women and children who are victims of domestic violence, sexual assault, child abuse,
19 stalking, human trafficking, and other crimes. NIWAP is a national resource center offering
20 technical assistance and training at the federal, state, and local levels to assist a wide range of
21 professionals who work with immigrant crime victims and/or whose work affects these victims
22 including judges, police, prosecutors, attorneys, victim advocates and federal and state agencies
23 on the legal rights of domestic violence, sexual assault and child abuse victims to access
24 immigration relief, the public benefits safety-net and family court protections. This work has
25 included publishing legal and social-science research articles on family violence experienced by
26 immigrant women and children.

27 Additionally, NIWAP’s Director Leslye E. Orloff was closely involved with the
28 enactment of the 1994 Violence Against Women Acts (“VAWA”) —landmark legislation aimed

1 at improving community-based responses to domestic violence, dating violence, sexual assault,
2 and stalking. Among other things, NIWAP's Director played a part in VAWA's 1994 self-
3 petition; its 2000 T- and U-visas; creating access to public benefits for immigrant victims in 1996
4 and 2013 and VAWA's 1996, 2000, 2005, and 2013 immigration and confidentiality protections.
5 NIWAP's Director has also published legal and social science research articles about the
6 domestic violence experienced by immigrant women and children. NIWAP has a strong interest
7 in ensuring that changes in public charge rules will not lock battered immigrants into abusive
8 homes and will not cut off or deter battered immigrants and abused children from accessing the
9 life-saving help they need to escape violent homes and rebuild safe lives for themselves and their
10 children.

11 **The National Partnership for Women & Families (National Partnership)**, formerly
12 the Women's Legal Defense Fund, is a national advocacy organization that develops and
13 promotes policies that help achieve fairness in the workplace, reproductive health and rights,
14 access to quality health care, and policies that help women achieve equality and economic
15 security for themselves and their families. Since its founding in 1971, the National Partnership
16 has worked to advance equal opportunities and fairness through several means, including by
17 challenging discriminatory practices and policies in the courts.

18 **Oasis Legal Services** is a 501(c)(3) nonprofit that provides quality legal immigration
19 services to under-represented low-income groups with a focus on LGBTQIA+ communities.
20 Based in Berkeley, California, Oasis provides representation to immigrants living within the
21 jurisdiction of the San Francisco Asylum Office, which extends from Alaska in the north to
22 Bakersfield, California in the south. Oasis' services include: screening for immigration relief,
23 affirmative asylum, residency, citizenship, and family petitions. Oasis also provides ongoing case
24 management to low-income LGBTQIA+ clients who need assistance with social services,
25 employment, housing, education, and discrimination.

26 **OCA – Asian Pacific American Advocates** is a national non-profit, membership-driven
27 organization based in Washington, D.C. with over 50 chapters and affiliates around the country.
28 Touching hundreds of thousands of lives each year, OCA is dedicated to advancing the social,

1 political, and economic well-being of Asian Americans and Pacific Islanders (AAPIs). Since
2 1973, OCA has fought in Congress and society for the civil rights and dignity of immigrants and
3 their families.

4 **The Oklahoma Coalition for Reproductive Justice**, founded as a 501©4 in 2010, is a
5 statewide grassroots coalition of organizations and individuals focusing on the advancement of
6 reproductive health, rights and justice in Oklahoma. OCRJ peruses its mission through legislative
7 advocacy, community outreach and education, and litigation. We believe that reproductive justice
8 includes the right to have or not to have a child and respect for families in all their forms. It
9 supports access to sexual education, contraception, abortion care and pregnancy care as well as to
10 the resources needed to raise children in safe and healthy circumstances, with good schools and
11 healthcare and other elements necessary for bright futures regardless of immigration status. It
12 encompasses respect for all individuals, their partners and families, and for sexuality and for
13 gender differences.

14 **OneAmerica** is a statewide civic engagement, organizing and advocacy organization
15 grounded in immigrant communities in Washington State. Our members, primarily lower income
16 immigrants and refugees, are directly impacted by the "public charge" final rule, seeking
17 information, fearful of enrolling in benefits for which they are eligible, and feeling targeted by the
18 actions of the federal administration. OneAmerica also manages a legal services program in
19 partnership with the State of Washington and the American Immigration Lawyers Association
20 that focuses primarily on citizenship, but fields questions from individuals interested in becoming
21 citizens or otherwise applying for immigration benefits. The current confusion and fear created
22 by the final rule has increased demands on staff time, as we attempt to address questions, fears
23 and concerns from immigrant and refugee communities across Washington state.

24 **Planned Parenthood Federation of America (PPFA)** is the oldest and largest provider
25 of reproductive health care in the United States, delivering medical services through more than
26 600 health centers operated by its affiliates. Its mission is to provide comprehensive reproductive
27 health care services and education, to provide educational programs relating to reproductive and
28 sexual health, and to advocate for public policies to ensure access to health services. PPFA

1 affiliates provide care to approximately 2.4 million individuals each year. In particular, PPFA is
2 at the forefront of providing high-quality reproductive health care to individuals and communities
3 facing serious barriers to obtaining such care—especially individuals with low income,
4 individuals in rural and other medically underserved areas, immigrant populations, communities
5 of color, and LGBTQ individuals.

6 **Population Connection** is a national non-profit, grassroots organization that works to
7 ensure that all people have access to the reproductive health care, family planning and
8 contraceptives they need without coercion or fear.

9 **The Reproductive Health Access Project** is a national nonprofit organization dedicated
10 to training and supporting clinicians to make reproductive health care accessible to everyone,
11 everywhere in the United States. Our work focuses on integrating full-spectrum reproductive
12 health care in primary care settings and we are guided by the belief that everyone should be able
13 to access basic health care from their primary care clinician.

14 **Services, Immigrant Rights, and Education Network (SIREN)** is the leading grassroots
15 organization serving the immigrant and refugee communities in Northern California and the
16 Central Valley. For 32 years, SIREN has provided immigration legal services, engaged in
17 community organizing and civic engagement, and conducted policy advocacy on issues affecting
18 these communities. The organization works directly with low-income immigrants, the majority of
19 whom rely upon public benefits for their basic needs such as food, shelter, and their health. The
20 changes resulting from the new public charge rule will prevent many of our clients and
21 community members from being able to avail themselves of these programs.

22 **Sexuality Information and Education Council of the United States (SIECUS)** has
23 served as the national voice for sex education, sexual health, and sexual rights for over 50 years.
24 SIECUS asserts that sexuality is a fundamental part of being human, one worthy of dignity and
25 respect. We advocate for the rights of all people to accurate information, comprehensive sexuality
26 education, and the full spectrum of sexual and reproductive health services. SIECUS works to
27 create a world that ensures social justice inclusive of sexual and reproductive rights. We view sex
28 ed as a vehicle for social progress and change. For SIECUS, and for the youth we serve, sex

1 education is inextricable from the other rights of young people – including immigration rights, the
2 right to access necessary government services, and more. Our expertise is not just in sex
3 education, but in how sexual and reproductive health and rights intersect with racial justice and
4 equitable access to healthcare.

5 **Sikh American Legal Defense and Education Fund (SALDEF)** is a national Sikh
6 American media, policy, and education organization. Our mission is to empower Sikh Americans
7 by building dialogue, deepening understanding, promoting civic and political participation, and
8 upholding social justice and religious freedom for all Americans.

9 **South Asian Americans Leading Together (SAALT)** is a national, nonpartisan, non-
10 profit organization that fights for racial justice and advocates for the civil rights of all South
11 Asians in the United States. Our ultimate vision is dignity and full inclusion for all. SAALT’s
12 strategies include conducting public policy analysis and advocacy; building partnerships with
13 South Asian organizations and allies; mobilizing communities to take action; and developing
14 leadership for social change.

15 **Southeast Asia Resource Action Center (SEARAC)** is a national civil rights
16 organization that empowers Cambodian, Laotian, and Vietnamese American communities to
17 create a socially just and equitable society. As representatives of the largest refugee community
18 ever resettled in the United States, SEARAC stands together with other refugee communities,
19 communities of color, and social justice movements in pursuit of social equity. For SEAs, this
20 final public charge regulation will most likely harm low-income immigrants who arrived to the
21 United States through the family visa program. In 2016, 87% of immigrants from Cambodia, 96%
22 from Laos, and 97% from Vietnam who received a green card were able to do so due to a family-
23 based visa petition. This inhumane proposal by the Trump Administration is an attack to
24 America’s historical legacy and commitment to welcoming immigrants of all backgrounds.

25 **Transgender Law Center (“TLC”)** is the largest national trans-led organization
26 advocating self-determination for all people. Grounded in legal expertise and committed to racial
27 justice, TLC employs a variety of community-driven strategies to keep transgender and gender
28 nonconforming (“TGNC”) people alive, thriving, and fighting for liberation. TLC believes that

1 TGNC people hold the resilience, brilliance, and power to transform society at its root, and that
2 the people most impacted by the systems TLC fights must lead this work. TLC builds power
3 within TGNC communities, particularly communities of color and those most marginalized, and
4 lays the groundwork for a society in which all people can live safely, freely, and authentically
5 regardless of gender identity or expression. TLC works to achieve this goal through leadership
6 development and by connecting TGNC people to legal resources. It also pursues impact litigation
7 and policy advocacy to defend and advance the rights of TGNC people, transform the legal
8 system, minimize immediate threats and harms, and educate the public about issues impacting our
9 communities.

10 **The Union for Reform Judaism**, whose 900 congregations across North America
11 include 1.5 million Reform Jews; the **Central Conference of American Rabbis**, whose
12 membership includes more than 2,000 Reform rabbis; **Women of Reform Judaism**, which
13 represents more than 65,000 women in nearly 500 women's groups in North America and around
14 the world; and **Men of Reform Judaism** come to this issue out of our longstanding commitment
15 to the just and compassionate treatment of the most vulnerable, including immigrants. In at least
16 36 ways, the Torah demands of us concern for the stranger in our midst. Our own people's
17 historical experience as Jews who dwelled in others' land sensitizes us to the many struggles
18 faced by immigrants today. We are inspired by our sacred texts to help create a society in which
19 members of vulnerable populations among us are treated fairly.

20 **The Washington Lawyers' Committee for Civil Rights and Urban Affairs** fights
21 discrimination and endeavors to create legal, economic, and social equity on a broad range of
22 issues. An area of priority for the Committee is to protect the rights of immigrant communities.
23 The Committee is engaged in class action litigation that addresses, among other issues, the
24 conditions of confinement for unaccompanied immigrant children, the preservation of the
25 Deferred Action for Childhood Arrival program, and Temporary Protected Status for Salvadorian
26 refugees.

27 Founded in 1917, the **Women's Bar Association of the District of Columbia (WBA)** is
28 one of the oldest and largest voluntary bar associations in metropolitan Washington, DC. Today,

1 as in 1917, we continue to pursue our mission of maintaining the honor and integrity of the
2 profession; promoting the administration of justice; advancing and protecting the interests of
3 women lawyers; promoting their mutual improvement; and encouraging a spirit of friendship
4 among our members. We believe that the administration of justice includes ensuring the right to
5 be free from discrimination based on gender or sex and the full enforcement of laws prohibiting
6 discrimination.

7 **The Women’s Bar Association of the State of New York (“WBASNY”)** is the second
8 largest statewide bar association in New York State and one of the largest women’s bar
9 associations in the United States. Its earliest chapter was founded in 1918, a year before women’s
10 right to vote was ratified in the United States. WBASNY’s more 4,200 members in its twenty
11 chapters across New York State [see text below] include esteemed jurists, academics, and
12 attorneys who practice in every area of the law, including appellate, litigation, education,
13 commercial, labor and employment, ERISA, matrimonial, access to justice, ethics, health,
14 reproductive rights, constitutional, criminal, international law, immigration, and civil rights.
15 WBASNY is dedicated to the fair and equal administration of justice.

16 As regards its expertise and substantive knowledge for this case, WBASNY is a registered
17 non-governmental organization (“NGO”) holding special consultative status with the United
18 Nation’s Economic and Social Council and collaborates with the United Nations Commission on
19 the Status of Women. WBASNY has also spearheaded numerous programs pertaining to
20 immigration and international human rights, including providing platforms for its members to
21 provided pro bono services and advocacy for immigrants; spearheading educational programs
22 with other bar associations, NGOs, government representatives, and UN Specialized Agencies
23 pertaining to the empowerment of immigrants; and submitting position papers and proposals for
24 legislation and policies concerning those seeking asylum and other forms of immigrant relief in
25 the United States.

26 WBASNY has participated as an amicus curiae in state and federal cases at every level,
27 including those involving civil rights such as those at stake in this case. It stands as a vanguard
28 for the equal rights of women, minorities, immigrants, LGBT individuals, and all persons.

1 WBASNY is incorporated in New York. Its affiliated organizations consist of twenty
2 regional chapters, some of which are separately incorporated, plus nine IRC 501(c)(3) charitable
3 corporations that are foundations and/or legal clinics. Neither WBASNY nor any of its affiliates
4 issue stock to the public. WBASNY's current affiliates are: Chapters – Adirondack Women's
5 Bar Association; The Bronx Women's Bar Association, Inc.; Brooklyn Women's Bar
6 Association, Inc.; Capital District Women's Bar Association; Central New York Women's Bar
7 Association; Del-Chen-O Women's Bar Association, Finger Lakes Women's Bar Association;
8 Greater Rochester Association for Women Attorneys; Mid-Hudson Women's Bar Association;
9 Mid- York Women's Bar Association; Nassau County Women's Bar Association; New York
10 Women's Bar Association; Queens County Women's Bar Association; Rockland County
11 Women's Bar Association; Staten Island Women's Bar Association; The Suffolk County
12 Women's Bar Association; Thousand Islands Women's Bar Association; Westchester Women's
13 Bar Association; Western New York Women's Bar Association; and Women's Bar Association
14 of Orange and Sullivan Counties. Charitable Foundations & Legal Clinic – Women's Bar
15 Association of the State of New York Foundation, Inc.; Brooklyn Women's Bar Foundation, Inc.;

16 Capital District Women's Bar Association Legal Project Inc.; Nassau County Women's Bar
17 Association Foundation, Inc.; New York Women's Bar Association Foundation, Inc.; Queens
18 County Women's Bar Foundation; Westchester Women's Bar Association Foundation, Inc.; and
19 The Women's Bar Association of Orange and Sullivan Counties Foundation, Inc. (Note: No
20 members of WBASNY or its affiliates who are judges or court personnel participated in
21 WBASNY's vote to participate as amicus in this matter.)

22 **The Women's Law Center of Maryland, Inc.** is a nonprofit, public interest, membership
23 organization of attorneys and community members with a mission of improving and protecting
24 the legal rights of women. Established in 1971, the Women's Law Center achieves its mission
25 through direct legal representation, research, policy analysis, legislative initiatives, education and
26 implementation of innovative legal-services programs to pave the way for systematic change.
27 Our direct legal services aim to increase access to justice to survivors of intimate partner
28 relationships through representation in protective order hearings, family law cases, and

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

immigration matters, recognizing that survivors, especially those who are foreign-born, have unique needs and challenges within the legal system.

The Women’s Law Project (WLP) is a non-profit public interest law firm with offices in Philadelphia and Pittsburgh, Pennsylvania. Founded in 1974, the WLP is dedicated to creating a more just and equitable society by advancing the rights and status of all women through high impact litigation, advocacy, and education. Throughout its history, the WLP has played a leading role in the struggle to eliminate discrimination against women in public assistance benefits, including in healthcare systems and housing programs. WLP believes that all women, regardless of immigration status or financial means, should be able to access support services they need to protect and sustain their own health without fearing their family’s wellbeing.

Women Lawyers On Guard Inc. (WLG) is a national non-partisan, non-profit organization harnessing the power of lawyers and the law in coordination with other non-profit organizations to preserve, protect, and defend the democratic values of equality, justice, and opportunity for all. WLG has participated as amicus curiae in a range of cases before the United States Supreme Court and other federal courts to secure the equal treatment of women under the law and to challenge sex discrimination.