UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

A.C.R., J.G.V., E.A.R., C.V.R., Y.A.M., B.R.C., J.C.B., L.M.R., and S.M.M., on behalf of themselves and all others similarly situated; CENTRAL AMERICAN REFUGEE CENTER (CARECEN-NY); and CENTRO LEGAL DE LA RAZA,

Plaintiffs,

v.

KRISTI NOEM, Secretary, U.S. Department of Homeland Security (official capacity); UNITED STATES DEPARTMENT OF HOMELAND SECURITY; JOSEPH EDLOW, Director, United States Citizenship and Immigration Services (official capacity); UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES; and TERRI ROBINSON, Director, United States Citizenship and Immigration Services National Benefits Center (official capacity),

Defendants.

MEMORANDUM OF LAW IN SUPPORT OF INDIVIDUAL PLAINTIFFS' MOTION FOR CLASS CERTIFICATION

[Proposed Order to Show Cause; Motion for Preliminary Injunction; and Motion to Proceed Under Pseudonym, to Partially Seal Documents and for a Protective Order filed concurrently]

Civ. Action No. 1:25-cv-03962

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Plaintiffs A.C.R., J.G.V., E.A.R., C.V.R., Y.A.M., B.R.C., J.C.B., L.M.R., and S.M.M., (the "Individual Plaintiffs")[1] on behalf of themselves and all other similarly situated individuals (the "Proposed Classes"), by and through their attorneys, respectfully submit this Memorandum of Law in support of their Motion for Class Certification.

INTRODUCTION

Congress established Special Immigrant Juvenile Status ("SIJS") to provide a pathway to lawful permanent residence, and ultimately U.S. citizenship, for young immigrants under the age of 21 who have suffered parental mistreatment and whose best interests would be undermined by returning to their countries of origin. Despite this clear congressional intent, a visa backlog has left SIJS beneficiaries unable to apply for permanent residence—a green card—until a visa is available, which can take years. To ensure their safety and protect their wellbeing, U.S. Citizenship and Immigration Services ("USCIS") announced a policy in March 2022 providing that it would consider granting renewable, four-year terms of deferred action, on a case-by-case basis, to all SIJS beneficiaries who were not yet eligible to apply for status as lawful permanent residents ("LPR") solely because of the unavailability of an immigrant visa (the "SIJS Deferred Action Policy").

Deferred action protected SIJS beneficiaries from deportation while they waited, often for years, for a visa to become available. During this wait, a grant of deferred action also qualified them to apply for work authorization. Under the SIJS Deferred Action Policy, SIJS youth could apply for renewal of their deferred action five months before its expiration, allowing these young people to plan for their futures and ensuring continuity in their safety from labor exploitation and protection from deportation. the SIJS Deferred Action Policy has resulted in grants of deferred

[1] The Complaint asserts claims on behalf of both individual and organizational plaintiffs. This motion is brought on behalf of the Individual Plaintiffs only.

action to at least 200,000 young people, allowing them to pursue opportunities in higher education; to more readily obtain driver's licenses and access lines of credit; and to obtain jobs and access to employer-based healthcare, all while contributing to their communities and to American society without living in fear.

On or about April 7, 2025, Defendants abruptly terminated the SIJS Deferred Action Policy without a public announcement or statement of reasons. On June 6, 2025, USCIS published an after-the-fact Policy Alert ("2025 Policy Alert") and corresponding updates to the USCIS Policy Manual announcing that it would no longer "conduct deferred action determinations for aliens with SIJ classification who cannot apply for adjustment of status solely because an immigrant visa is not immediately available"; would not accept applications for employment authorization based on SIJS deferred action, despite eligibility for same under 8 C.F.R. § 274a.12(c)(14); and would not consider requests to renew previous grants of SIJS deferred action (the "Rescission Policy" or "2025 Rescission Policy"). Plaintiffs bring this class action to challenge the federal government's unlawful Rescission Policy, which they claim violates the Administrative Procedure Act ("APA").

The Individual Plaintiffs ask this Court to certify the following proposed classes, which satisfy the governing standards under Federal Rules of Civil Procedure 23(a) and 23(b)(2):

> **Deferred Action Class**: All individuals whose SIJS petitions were or will be approved on or after April 7, 2025, and who will no longer be considered for deferred action based on SIJS because of Defendants' 2025 Rescission Policy.
>
> **Renewal Class**: All individuals who were granted deferred action based on SIJS but who are no longer eligible to renew their deferred action while they await a visa because of Defendants' 2025 Rescission Policy.
>
> **EAD Subclass**: All members of the Renewal Class who have applied for or are eligible to apply for an Employment Authorization Document under 8 C.F.R. § 274a.12(c)(14) ("(c)(14) EAD") but

> whose applications for a (c)(14) EAD have not been or will not be adjudicated pursuant to Defendants' 2025 Policy Alert.

(all classes collectively, "Proposed Classes").

First, the Proposed Classes are sufficiently numerous such that joinder is impracticable.

Second, the Proposed Classes present common questions of law and fact that will determine the outcome of the litigation and can be resolved in "one stroke." Indeed, this case centers on a single legal issue: whether the reversal of the SIJS Deferred Action Policy and issuance of the Rescission Policy violate the APA.

Third, the Individual Plaintiffs—like all members of the Proposed Classes—have been deprived of consideration for deferred action or for renewal of same due to the rescission of the SIJS Deferred Action Policy. The Individual Plaintiffs face a multitude of harms, such as risk of deportation while they await the chance to adjust status, an inability to apply for or renew work authorization, and all of the associated physical and mental health impacts related to these concrete deprivations. Individual Plaintiffs' claims for relief are thus typical of the Proposed Classes' claims.

Fourth, the Individual Plaintiffs can fairly and adequately protect the interests of the Proposed Classes and do not have material conflicts with putative class members. Counsel for the Proposed Classes are also well-qualified and prepared to represent Proposed Class members' interests.

Finally, Defendants have acted or refused to act on grounds that apply generally to all members of the Proposed Classes—namely failing to consider for deferred action young people whose SIJS petitions were approved on or after April 7, 2025; disqualifying young people from renewing their deferred action and work authorization as SIJS beneficiaries; and refusing to consider and adjudicate applications for work authorization from SIJS beneficiaries with deferred

action—pursuant to Defendants' Rescission Policy. Certification of a Rule 23(b)(2) class is therefore appropriate.

FACTUAL BACKGROUND

Individual Plaintiffs hereby incorporate by reference the factual background as set out in their Complaint and Memorandum of Law in Support of their Motion for Preliminary Injunction. *See generally* Pls.' Compl.; Prelim. Inj. Mem. Plaintiffs highlight here certain facts pertinent to class certification.

I. The 2022 SIJS Deferred Action Policy

After an individual has obtained SIJS, they can apply to adjust their status to LPR by filing a Form I-485 Adjustment of Status Application only once an immigrant visa, under category EB-4, is immediately available. 8 U.S.C. §§ 1255(a), 1153(b)(4).

For decades, the supply of EB-4 visas, which are subject to annual limits, was sufficient to allow SIJS petitioners to apply for adjustment of status and work permits simultaneously with their SIJS petitions. *See* R. Davidson et al., *False Hopes: Over 100,000 Immigrant Youth Trapped in the SIJS Backlog* at 22, The End SIJS Backlog Coalition (Dec. 2023) [hereinafter *"False Hopes" Report*], https://bit.ly/42Ha2N8. But since 2016, when the U.S. State Department first determined that the annual limit on immigrant visas in that category had been exhausted for prospective adjustment applicants from certain countries, a backlog has developed and swelled so that it now applies to all SIJS beneficiaries. *Id.* at 15; U.S. Dep't of State, *Visa Bulletin for December 2016* (Dec. 2016), https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin/2017/visa-bulletin-for-december-2016.html/. This means that SIJS beneficiaries are, and for nearly a decade many have been, unable to immediately apply for green cards and work permits, despite having been granted SIJS and being eligible to adjust status but for the annual limit on country-specific

visas. As a result, SIJS beneficiaries who could not yet obtain an available visa were at risk of deportation simply due to the backlog.[2]

As of July 7, 2023, there were approximately 93,970 individuals who had an approved Form I-360 petition for SIJS but who did not yet have a visa number currently available, leaving them in a dangerous limbo. *See* Declaration of Dalia Castillo-Granados ("Castillo-Granados Decl.") ¶ 17. This population of young people, whom Congress specifically intended to protect, remained at risk for deportation and financial instability and ensuing labor exploitation due to their lack of work authorization.

Identifying this unintended logjam, on March 7, 2022, USCIS announced its SIJS Deferred Action Policy to effectuate "the protection that Congress intended to afford SIJs through adjustment of status," by considering all SIJS beneficiaries for deferred action. *See* Declaration of John Magliery ("Magliery Decl."), Ex. A, USCIS, Policy Alert: Special Immigrant Juvenile Classification and Deferred Action (Mar. 7, 2022) ("2022 Policy Alert"). USCIS noted that "[d]eferred action and related employment authorization will help to protect SIJs who cannot apply for adjustment of status solely because they are waiting for a visa number to become available" and that the new Policy "furthers congressional intent to provide humanitarian protection for abused, neglected, or abandoned noncitizen children for whom a juvenile court has determined that it is in their best interest to remain in the United States." *Id.*

[2] Plaintiffs do not concede that SIJS beneficiaries are subject to deportation and expressly reserve the right to argue that they are not subject to deportation while awaiting visa availability. This view is grounded in the statutes that create SIJS, the analysis of which has led courts to characterize "a successful applicant as a ward of the United States, with the approval of both state and federal authorities," and to recognize "'a congressional intent to assist a limited group of abused children to remain safely in the country with a means to apply for LPR status.'" *Osorio-Martinez v. Att'y Gen. U.S.*, 893 F.3d 153, 168 (3d Cir. 2018) (internal citations omitted). This Court need not decide this question in order to decide the issues presented here.

Under the SIJS Deferred Action Policy, USCIS was required to automatically evaluate whether a SIJS beneficiary "warrant[ed] a favorable exercise of discretion" through a grant of deferred action. *Id.* at 2. The ultimate decision was made on a case-by-case basis, and deferred action was awarded in renewable four-year periods beginning in May 2022. *Id.*

SIJS beneficiaries who were awarded deferred action were also eligible to apply for an employment authorization document (or "EAD") under 8 C.F.R. § 274a.12(c)(14) by filing a Form I-765 Application for Employment Authorization. *Id.* The SIJS Deferred Action Policy recognized that EADs "will provide invaluable assistance to these vulnerable noncitizens who are children or young adults, and have limited financial support systems in the United States, especially as they age out of care, while they await an immigrant visa number." *Id.* USCIS further concluded that "approved SIJ petitioners have a reliance interest in being provided with employment authorization consistent with the congressional intent in creating the SIJ program to protect vulnerable children by providing them with a pathway to LPR status, without having to wait years before a visa is available." *Id.* at 3. On May 6, 2022, USCIS updated its Policy Manual to reflect the SIJS Deferred Action Policy.

Under the SIJS Deferred Action Policy, more than 200,000 SIJS beneficiaries have been approved for deferred action. *See* Castillo-Granados Decl. ¶¶ 17–18.

II. The Surreptitious Rescission of the SIJS Deferred Action Policy

Between May 2022 and April 2025, approximately 99 percent of all SIJS beneficiaries were awarded deferred action. *See id.* ¶ 17. In the rare instances when USCIS did not grant deferred action, the agency issued a notice stating that it had determined that it would not exercise discretion to grant the SIJS beneficiary deferred action. *See* Declaration of Rachel Jordan ("Jordan Decl.") ¶ 10.

Without any public acknowledgement or notice, on or about April 7, 2025, USCIS began issuing Notices of Action approving petitions for SIJS, but without indicating any deferred action adjudication, which under the SIJS Deferred Action Policy was to be considered automatically upon filing a Form I-360 Petition. *See, e.g.*, Castillo-Granados Decl. ¶ 21; Jordan Decl. ¶ 17; Declaration of Rachel Prandini ("Prandini Decl.") ¶ 22; Declaration of Bhairavi K. Asher ("Asher Decl.") ¶ 9; Declaration of Randy McGrorty ("McGrorty Decl.") ¶¶ 9–11; Declaration of Victoria Maqueda Feldman ("Feldman Decl.") ¶¶ 12–13; Declaration of Theresa Wilkes ("Wilkes Decl.") ¶¶ 11–12. Since that date, the adjudication rate for SIJS deferred action suddenly plummeted to nearly zero percent, reversing prior trends wholesale. *See, e.g.*, Castillo-Granados Decl. ¶ 21; Jordan Decl. ¶ 18; Asher Decl. ¶ 10; Feldman Decl. ¶¶ 11–13; McGrorty Decl. ¶¶ 8–11; Wilkes Decl. ¶¶ 7, 11–12. Under the new, unannounced policy, SIJS beneficiaries were no longer being considered for deferred action based on their SIJS.

III. The Belated Announcement of the Rescission of the SIJS Deferred Action Policy Through the 2025 Policy Alert and Updated USCIS Policy Manual.

On June 6, 2025—nearly two months following the de facto policy reversal—USCIS issued a Policy Alert "eliminat[ing] automatic consideration of deferred action (and related employment authorization) for. . . SIJs who are ineligible to apply for adjustment of status to . . . LPR status due to visa unavailability." USCIS, Policy Alert: Special Immigrant Juvenile Classification and Deferred Action (June 6, 2025) ("2025 Policy Alert"), https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20250606-SIJDeferredAction.pdf (last visited July 16, 2025). USCIS declared that although "Congress likely did not envision that SIJ petitioners would have to wait years before a visa becomes available, Congress also did not expressly permit deferred action and related employment authorization for this population." 2025 Policy Alert. The agency opined that "[n]either an alien having an approved

Petition for [SIJS] without an immediately available immigrant visa available [sic] nor a juvenile court determination relating to the best interest of the SIJ are sufficiently compelling reasons, supported by any existing statute or regulation, to continue to provide . . . deferred action." *Id.* Invoking President Trump's Executive Order 14161, "Protecting the United States from Foreign Terrorists and Other National Security and Public Safety Threats," (Jan. 20, 2025), USCIS stated without explanation that it was "in the national and public interest to revert to the policy prior to March 7, 2022." *Id.* at 1–2.

The 2025 Policy Alert "confirms that USCIS will no longer consider granting deferred action on a case-by-case basis" to SIJS beneficiaries, effective immediately. *Id.* at 2. It also states that USCIS will not accept "new Applications for Employment Authorization (Form I-765), under category (c)(14), from aliens with SIJ classification who have been granted deferred action by USCIS because they cannot apply for adjustment of status solely because an immigrant visa number is not immediately available." *Id.* Updates to USCIS's Policy Manual further state, "USCIS will not consider requests for renewal of deferred action for aliens with SIJ classification who remain ineligible to apply for adjustment of status because an immigrant visa number is not immediately available."[3] The 2025 Policy Alert and updated manual together form the 2025 Rescission Policy.

IV. The Rescission Policy Is Causing Devastating Harm to All Members of the Proposed Classes.

Defendants' sudden and arbitrary reversal in policy is already causing harm and will continue to cause significant and irreparable harm to members of the Proposed Classes, who face years-long delays while they await visa availability. As of March 31, 2025, 25,046 petitions for

[3] USCIS, Pol'y Manual, vol. 6, pt. J, ch. 4.G., https://www.uscis.gov/policy-manual/volume-6-part-j-chapter-4.

SIJS were pending with USCIS. *See* USCIS, *I-360, Petition for Amerasian, Widow(er), or Special Immigrant Pending as of March 31, 2025,* https://www.uscis.gov/sites/default/files/document/data/i360_sij_congressional_fy2025_q2.xlsx. And in the prior three fiscal years, more than 140,000 youth were granted SIJS. *See* USCIS, *Number of I-360 Petitions for Special Immigrant with a Classification of Special Immigrant Juvenile (SIJ) by Fiscal Year, Quarter, and Case Status Fiscal Years 2010-2025,* https://www.uscis.gov/sites/default/files/document/data/i360_sij_performancedata_fy2025_q2.xlsx. Roughly 99 percent of those grants were accompanied by grants of deferred action. *See* Castillo-Granados Decl. ¶¶ 17–18. Accounting for deferred action recipients who thereafter obtained LPR status, an estimated 150,000 SIJS beneficiaries remain in the visa backlog. *Id.* ¶ 20.

The government will subject SIJS beneficiaries without deferred action or the ability to renew their deferred action grants to immigration enforcement, including pursuit of deportation orders, physical deportation, and detention in pursuit of these immigration enforcement actions. SIJS beneficiaries without deferred action will also lack the ability to apply for EADs, rendering them unable to legally work in this country for years at a pivotal time in their transition to adulthood. And even those with deferred action are now deemed ineligible to be considered for work authorization under the Rescission Policy. This will prevent these young people from attaining long-term employment at a decent wage; expose them to labor abuses and exploitation, such as the risk of human trafficking; jeopardize their ability to support themselves; block their access to certain internship or vocational programs; and prevent them from obtaining certain government-authorized identification documents and attendant opportunities, including opening a bank account. *See, e.g.*, Elisa Minoff Declaration ("Minoff Decl.") ¶¶ 7–14; Kent Wong Declaration ("Wong Decl.") ¶¶ 11–15; Dylan Gee Declaration ("Gee Decl.") ¶ 13; Randi

Mandelbaum Declaration ("Mandelbaum Decl.") ¶¶ 11, 20, 24, 28. Further, lack of work authorization will limit their access to employer-based healthcare without incurring hundreds or thousands of dollars in monthly premiums for insurance, and to continued education by placing tuition costs out of reach, as SIJS beneficiaries are not eligible for Federal Student Aid until they obtain LPR status. Wong Decl. ¶¶ 8, 12–15; Minoff Decl. ¶ 10; Declaration of Douglas Bishop, M.D. ("Bishop Decl.") ¶¶ 11–12; Mandelbaum Decl. ¶ 20.

Even for SIJS beneficiaries who are not actually deported, the prospect of an extended period of uncertainty, and vulnerability to deportation and detention, creates or contributes to mental health challenges including heightened anxiety, insomnia, and depression. Bishop Decl. ¶¶ 9, 17, 23; Gee Decl. ¶¶ 7–13. Without legal authorization to work, health insurance will be cost-prohibitive for many of these young, new immigrants. Bishop Decl. ¶¶ 11–12; Gee Decl. ¶ 8.

V. The Rescission Policy Is Causing Harm to the Individual Plaintiffs.

The Individual Plaintiffs' circumstances typify these harms. Proposed Deferred Action Class Plaintiffs A.C.R., J.G.V., E.A.R., and C.V.R. were granted SIJS without an adjudication of deferred action, which has left them anxious about the risk of deportation and/or detention, as well as lacking the lifeline that a work permit provides. Declaration of A.C.R. ("A.C.R. Decl.") ¶¶ 21, 23; Declaration of J.G.V. ("J.G.V. Decl.") ¶¶ 18–23; Declaration of E.A.R. ("E.A.R. Decl.") ¶¶ 17-18; Declaration of C.V.R. ("C.V.R. Decl.") ¶¶ 20-21. At the precipice of adulthood, these young people were relying on the possibility of work authorization as a key to building their futures. For example, A.C.R. lives in Brooklyn and recently completed tenth grade. A.C.R. Decl. ¶ 10. She dreams of going to college and becoming an astronaut, but without deferred action she is unprotected from deportation and worries that she cannot progress toward her goals. *Id.* ¶ 21. She was also planning to seek a part-time job while she finishes high school but cannot legally do so without work authorization. *Id.* ¶ 22. J.G.V., a rising high school senior, was similarly relying

on deferred action to be able to work while attending school, and to pay for post-secondary education toward a career as a mechanic. J.G.V. Decl. ¶ 22. Without deferred action, J.G.V. has no means to work lawfully and therefore cannot afford further education. Plaintiffs E.A.R. and C.V.R. face similar roadblocks to independence. E.A.R. Decl. ¶ 17; C.V.R. Decl. ¶ 20.

The Rescission Policy is also harming young people who have been granted deferred action, but who now will not be able to renew when their grants expire. Plaintiffs Y.A.M., B.R.C., and J.C.B. are in this bind. Y.A.M. works as an assistant school bus driver and hopes to attend law school someday. Declaration of Y.A.M. ("Y.A.M. Decl.") ¶ 11. She is the mother of a three-year-old son who relies on her. *Id.* Her SIJS deferred action expires in May 2026, but she will not be able to renew her deferred action or EAD under the 2025 Policy Alert. *Id.* ¶ 19. Plaintiff Y.A.M. also has medical conditions that require interventions, but without her employer-based health insurance, she will not be able to afford to continue her treatments. *Id.* ¶ 22. B.R.C. similarly fears not being able to renew her deferred action or EAD under the new policy. She currently works in the food service industry to afford her rent and to pay her college tuition. Declaration of B.R.C. ("B.R.C. Decl.") ¶¶ 9, 18. Without a work permit, she will not be able to support herself and pursue her dreams. *Id.* J.C.B. similarly fears losing his job, and with it his ability to pay rent and have his employer contribute toward his higher education tuition. Declaration of J.C.B. ("J.C.B. Decl.") ¶¶ 19–25. All three are already experiencing anxiety and fear due to the uncertainty that attends their inability to renew their deferred action and EADs. Y.A.M. Decl. ¶¶ 20–23; B.R.C. ¶¶ 18–20; J.C.B. Decl. ¶¶ 22–24.

Finally, the Rescission Policy is affecting those who have deferred action but have not obtained an EAD, like Plaintiffs L.M.R. and S.M.M. L.M.R. was granted deferred action in early 2025 as a SIJS beneficiary and applied for a work permit two months later. Declaration of L.M.R.

("L.M.R. Decl.") ¶¶ 22–23. She was counting on a work permit to be able to work legally to support herself after she graduates from high school, as well as to obtain a social security number, open a bank account, and have health insurance when she leaves foster care, but she has not yet received an adjudication on her EAD application. *Id.* ¶ 24. S.M.M. is in the same situation. Declaration of S.M.M. ("S.M.M. Decl.") ¶¶ 14–15. He has had to put his plans to start college this fall on hold without the ability to work to contribute toward his tuition or to have access to health insurance or a driver's license to get to and from a job. *Id.* ¶¶ 16, 18–19. They both experience constant fear because of this instability and the prospect of deportation to a country where they do not feel safe. L.M.R. Decl. ¶¶ 24–27; S.M.M. Decl. ¶¶ 18–20.

LEGAL ARGUMENT

I. PLAINTIFFS HAVE STANDING TO CHALLENGE THE RESCISSION POLICY.

Plaintiffs seek relief because they have been injured by Defendants' rescission of the SIJS Deferred Action Policy and resulting 2025 Policy Alert. To have standing to sue, a "plaintiff must have (1) suffered an injury in fact, (2) that is fairly traceable to the challenged conduct of the defendant, and (3) that is likely to be redressed by a favorable judicial decision." *Spokeo, Inc. v. Robins*, 578 U.S. 330, 338 (2016). A plaintiff is injured within the meaning of Article III if "he or she suffered 'an invasion of a legally protected interest' that is 'concrete and particularized' and 'actual or imminent, not conjectural or hypothetical.'" *Id.* at 339 (quoting *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560 (1992)). A "particularized" injury is one that "affect[s] the plaintiff in a personal and individual way." *Fort Worth Emps.' Ret. Fund v. J.P. Morgan Chase & Co.*, 862 F. Supp. 2d 322, 331 (S.D.N.Y. 2012) (quoting *Lujan*, 504 U.S. at 560 n.1). "[T]he risk of real harm" can satisfy the concreteness requirement. *Spokeo*, 578 U.S. at 341.

Individual Plaintiffs have standing to challenge Defendants' Rescission Policy because they face risks of real harm. They have all either been approved for SIJS and were not considered

for deferred action, A.C.R. Decl. ¶ 17; J.G.V. Decl. ¶¶ 18–19; E.A.R. Decl. ¶ 13; C.V.R. Decl. ¶ 17, or will not be considered for renewal as required under the SIJS Deferred Action Policy, Y.A.M. Decl. ¶ 19; B.R.C. Decl. ¶ 17; J.C.B. Decl. ¶ 21, or will not be considered for renewal and also will not receive an EAD adjudication, L.M.R. Decl. ¶ 23; S.M.M. Decl. ¶ 17. Due to Defendants' unlawful rescission of the SIJS Deferred Action Policy, Individual Plaintiffs risk deportation and detention incident to the government's pursuit of deportation. They are unable to apply for or renew their work authorization, which, in addition to depriving them of a valuable form of government-issued identification, limits their ability to financially support and protect themselves from labor exploitation; limits their access to internship or vocational programs; and renders it immensely difficult to fund higher education, among other harms. A.C.R. Decl. ¶ 22; J.G.V. Decl. ¶ 22; E.A.R. Decl. ¶¶ 17-18; C.V.R. Decl. ¶¶ 20-21; Y.A.M. Decl. ¶¶ 19–22; B.R.C. Decl. ¶¶ 9, 18; J.C.B. Decl. ¶¶ 21–25; L.M.R. Decl. ¶ 23; S.M.M. Decl. ¶¶ 15, 17. In addition to the pecuniary harms posed by Defendants' unlawful rescission, Individual Plaintiffs also must grapple with the emotional harms of Defendants' conduct. Individual Plaintiffs' vulnerability to deportation and detention creates or contributes to mental health challenges including anxiety, insomnia, and depression. A.C.R. Decl. ¶¶ 21, 23; J.G.V. Decl. ¶ 23; E.A.R. Decl. ¶ 18; C.V.R. Decl. ¶ 21; Y.A.M. Decl. ¶¶ 20–24; B.R.C. Decl. ¶¶ 18–20; J.C.B. Decl. ¶¶ 22–26; L.M.R. Decl. ¶¶ 24–27; S.M.M. Decl. ¶¶ 18–20.

Individual Plaintiffs' harms are solely caused by Defendants' Rescission Policy, which categorically precludes them, like all putative class members, from either: (1) consideration of deferred action, (2) renewal of deferred action, or (3) the ability to obtain work authorization despite having deferred action. Individual Plaintiffs' injuries can be remedied by a declaration invalidating the Rescission Policy or an injunction requiring the 2022 policy to stay in effect and

permitting Plaintiffs to be considered for deferred action or its renewal, or to proceed with having their applications for EADs adjudicated. Therefore, the Individual Plaintiffs' injuries are "fairly traceable to the challenged conduct," and will be remedied by a favorable judicial determination. *Spokeo*, 578 U.S. at 338.

II. THIS COURT SHOULD CERTIFY THE PROPOSED CLASSES.

A. The Proposed Classes Meet the Requirements of Rule 23(a).

Plaintiffs seek certification on behalf of the following classes:

> **Deferred Action Class**: All individuals whose SIJS petitions were or will be approved on or after April 7, 2025, and who will no longer be considered for deferred action based on SIJS because of Defendants' 2025 Rescission Policy.
>
> **Renewal Class**: All individuals who were granted deferred action based on SIJS but who are no longer eligible to renew their deferred action while they await a visa because of Defendants' 2025 Rescission Policy.
>
> **EAD Subclass**: All members of the Renewal Class who have applied for or are eligible to apply for an Employment Authorization Document under 8 C.F.R. § 274a.12(c)(14) ("(c)(14) EAD") but whose applications for a (c)(14) EAD have not been or will not be adjudicated pursuant to Defendants' 2025 Policy Alert.

Defendants' unlawful Rescission Policy directly harms the Individual Plaintiffs and putative class members, and all of the requirements for class certification are satisfied.

1. The Proposed Classes Are So Numerous That Joinder Would Be Impracticable.

Plaintiffs' Proposed Classes satisfy the requirement that a class be "so numerous that joinder of all members is impracticable." Fed. R. Civ. P. 23(a)(1). In the Second Circuit, "[n]umerosity is presumed for classes larger than forty members." *Pa. Pub. Sch. Emps.' Ret. Sys. v. Morgan Stanley & Co.*, 772 F.3d 111, 120 (2d Cir. 2014). Plaintiffs are not required to establish a precise number of class members. *See Robidoux v. Celani*, 987 F.2d 931, 935–36 (2d Cir. 1993)

(holding that plaintiffs need not provide identities or exact number of class members to obtain class certification and instead may "show some evidence of or reasonably estimate the number of class members") (cleaned up). In addition to the numerical analysis, the Second Circuit considers other contextual factors: "(i) judicial economy, (ii) geographic dispersion, (iii) the financial resources of class members, (iv) their ability to sue separately, and (v) requests for injunctive relief that would involve future class members." *Pa. Pub. Sch. Emps.' Ret. Sys.*, 772 F.3d at 120 (citing *Robidoux,* 987 F.2d at 936).

Although Plaintiffs do not know the precise number of members in each class, both the publicly available historical data regarding SIJS petitions and grants of deferred action, and empirical data from immigration practitioners make clear that the members in each Proposed Class far exceed forty individuals and are too numerous for joinder to be practicable.

The Deferred Action Class consists of individuals who were or will be granted SIJS on or after April 7, 2025, without consideration of deferred action; this class comprises at least hundreds of individuals. Plaintiffs have compiled estimates based on empirical data collected from non-profit organizations across the country that provide legal services to immigrant youth. *See, e.g.*, Castillo-Granados Decl. ¶ 21 (aware of over 170 SIJ approvals without deferred action determinations after April 7); Asher Decl. ¶ 9 (aware of over 45); Jordan Decl. ¶ 18 (aware of at least 27); Feldman Decl. ¶ 13 (aware of at least 12); Wilkes Decl. ¶ 12 (aware of at least 37). Defendants' approval of SIJS applications without consideration of deferred action continues, adding members to the Deferred Action Class every day.

The Renewal Class comprises SIJS beneficiaries who have deferred action but who are now unable to renew same; this class comprises at least 150,000 individuals. Castillo-Granados Decl. ¶ 20. After implementation of the SIJS Deferred Action Policy, tens of thousands of

petitioners were granted SIJS with deferred action annually. *See* Castillo-Granados Decl. ¶¶ 16–18. For example, between May 6, 2022, and July 7, 2023, approximately 93,970 young adults were granted SIJS, and of those, 92,592 were approved for deferred action—an approval rate of over 99%. *Id*. ¶ 17. That figure alone more than satisfies numerosity for the Renewal Class.

The EAD Subclass comprises young people who have deferred action and are therefore by law eligible to apply for a category (c)(14) EAD, but whose applications for a work permit have not been or will not be adjudicated pursuant to the 2025 Policy Alert. This subclass consists of at least 400 young people. *Id.* ¶ 27; *see also* Asher Decl. ¶ 12 (aware of over 100 SIJS clients with deferred action who have not yet received a work permit, including over 60 whose EAD applications are pending); Feldman Decl. ¶ 16 (aware of approximately 16 in the former category and 13 in the latter); Wilkes Decl. ¶¶ 15–16 (aware of 32 in the former category and 26 in the latter); Declaration of Jessica Greenberg ("Greenberg Decl.") ¶ 27 (aware of approximately 15 in the latter category); Declaration of Abby Sullivan Engen ("Engen Decl.") ¶ 20 (aware of at least 2 EAD applications pending). Thus, Plaintiffs easily satisfy the numerosity requirement. *See Pa. Pub. Sch. Emps.' Ret. Sys.*, 772 F.3d at 120 (presuming numerosity is satisfied "for classes larger than forty members").

The Proposed Classes also satisfy numerosity because joinder of potential class members is impracticable based on the contextual factors. The Proposed Classes consist of SIJS beneficiaries—all children or young adults—located across the country who have been found by a state court to be economically and emotionally dependent on a parent or caretaker. Requiring them to use joinder to adjudicate their claims is impracticable and uneconomical because they reside in various jurisdictions and have limited financial resources. *See R.F.M. v. Nielsen*, 365 F. Supp. 3d 350, 368 (S.D.N.Y. 2019) (finding joinder impracticable, among other reasons, "because

members of the proposed class lack financial resources, and often the legal representation to bring lawsuits individually."); *Jackson v. Foley*, 156 F.R.D. 538, 542 (E.D.N.Y. 1994) (finding joinder impracticable, due to the likelihood "that the majority of the class members are from extremely low income households, thereby greatly decreasing their ability to bring individual suits."). If they proceed as a class, they will instead have pro bono representation in this litigation.

Even if some putative class members were able to bring their own cases, certification promotes judicial economy by avoiding multiple suits raising the same issues and seeking the same injunctive relief. *See Gen. Tel. Co. of Sw. v. Falcon*, 457 U.S. 147, 155 (1982) (noting how "the class-action device saves the resources of both the courts and the parties") (cleaned up). Finally, the Proposed Classes are sufficiently numerous because they include "future class members"—e.g., future SIJS beneficiaries who can no longer apply for deferred action—who make joinder impracticable. *Pa. Pub. Sch. Emps.' Rel. Sys.*, 772 F.3d at 120; *see also V.W. v. Conway*, 236 F. Supp. 3d 554, 574 (N.D.N.Y. 2017) (noting that the plaintiffs' class "include[d] all future juvenile pre-trial detainees"); *see Robidoux*, 987 F.2d at 936 (explaining that a court should consider whether the class seeks "prospective injunctive relief which would involve future class members" when analyzing numerosity).

For all these reasons, numerosity is easily satisfied.

2. Common Questions of Fact and Law Will Drive the Resolution of This Matter.

The commonality prong of Rule 23 requires "questions of law or fact common to the class." Fed. R. Civ. P. 23(a)(2); *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 345 (2011). Commonality is satisfied where the question is "capable of classwide resolution—which means that determination of its truth or falsity will resolve an issue that is central to the validity of each one of the claims in one stroke." *Id.* at 350. "[W]hat matters. . . is not the raising of common 'questions' . . .but, rather, the capacity of a classwide proceeding to generate common answers apt to drive the

resolution of the litigation." *Scott v. Chipotle Mexican Grill, Inc.*, 954 F.3d 502, 521 n.9 (2d Cir. 2020) (quoting *Wal-Mart*, 564 U.S. at 350). At its core, "Rule 23(a)(2) simply requires that there be issues whose resolution will affect all or a significant number of the putative class members." *Johnson v. Nextel Commc'ns Inc.*, 780 F.3d 128, 137 (2d Cir. 2015); *see, e.g.*, *Batalla Vidal v. Wolf*, 501 F. Supp. 3d 117, 135 (E.D.N.Y. 2020) (finding commonality where a putative subclass of Deferred Action for Childhood Arrivals ("DACA") recipients shared the common question of whether they were "entitled to have their applications [for deferred action] adjudicated in accordance with [a prior DHS] Memorandum and whether DHS's failure to do so" violated their due process rights). Ultimately, "'[w]here the same conduct or practice by the same defendant gives rise to the same kind of claims from all class members, there is a common question.'" *Johnson*, 780 F.3d at 137–38 (cleaned up); *see also Marisol A. v. Giuliani*, 126 F.3d 372, 377 (2d Cir. 1997) (affirming district court class certification where "plaintiffs allege[d] that their injuries derive[d] from a unitary course of conduct by a single system").

Commonality is assumed when the plaintiff class "seeks to enjoin a practice or policy, rather than [obtain] individualized relief." *Batalla*, 501 F. Supp. at 135 (quoting *Westchester Indep. Living Ctr., Inc. v. State Univ. of N.Y., Purchase Coll.*, 331 F.R.D. 279, 292 (S.D.N.Y. 2019)). In *Batalla*, the Eastern District of New York found common questions among a proposed class of "all persons who are or will be *prima facie* eligible for deferred action under the terms of the DACA program" as set out in a 2012 DHS policy memorandum, as well as a subclass of those with deferred action applications pending, before an attempted 2020 rescission of the 2012 policy. *Id.* at 133. The common issues for the class included whether the rescission was "arbitrary and capricious in violation of the APA," and for the subclass, "whether the members are entitled to have their applications adjudicated in accordance with the [2012] Memorandum and whether

DHS's failure to do so . . . violated the due process rights of the class members." *Id.* at 135. The court found these questions "well-suited to class adjudication, as distinct policies that harmed Plaintiffs and for which they seek relief." *Id.*

The Proposed Classes present similar questions here, resolution of which will not require individualized determinations based on any putative class member's circumstances, including but not limited to:

All Proposed Classes:

1. Whether the Rescission Policy is a final agency action within the meaning of the APA?
2. Whether the Rescission Policy is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law," 5 U.S.C. § 706(2)(A)?
3. Whether Defendants failed to articulate a reasonable explanation for the Rescission Policy?
4. Whether Defendants failed to comply with the APA's rulemaking procedures when they issued the Rescission Policy?

Deferred Action Class:

1. Whether Defendants' unannounced policy or practice of not enforcing the SIJS Deferred Action Policy between April 7, 2025, and the 2025 Policy Alert, was unlawful under the *Accardi*[4] doctrine?
2. Whether putative class members are no longer eligible to apply for deferred action based on their SIJS?

[4] *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954).

3. Whether putative class members are harmed by their inability to apply for deferred action?
4. Whether Defendants' categorical decision to no longer have USCIS "conduct deferred action determinations for [SIJS beneficiaries] who cannot apply for adjustment of status solely because an immigrant visa is not immediately available" is a legislative rule subject to notice-and-comment rulemaking under 5 U.S.C. § 553(b)?

Renewal Class:

1. Whether putative class members are no longer eligible to renew their deferred action and/or EADs?
2. Whether putative class members are harmed by their inability to renew their deferred action and/or EADs?
3. Whether Defendants' Rescission Policy denying SIJS beneficiaries with current approved deferred action the ability to renew their deferred action is arbitrary and capricious, an abuse of discretion, and contrary to law in violation of the APA?

EAD Subclass:

1. Whether Defendants' Rescission Policy, which renders the EAD Subclass ineligible for a (c)(14) EAD, contravenes 8 C.F.R. § 274a.12(c)(14), and is therefore contrary to law and in violation of the APA?
2. Whether EAD applications submitted by members of the EAD Subclass that were pending at the time of the 2025 Policy Alert will be adjudicated?

The resolution of these questions will "generate common *answers* apt to drive the resolution of the litigation." *Wal-Mart*, 564 U.S. at 350 (emphasis in original). As in *Batalla*,

Plaintiffs challenge a uniform policy that categorically affects all class members. Although the facts underlying each putative class member's SIJS petition are distinct, these factual differences are immaterial here as the proposed classes include only those individuals whom Defendants have already determined to be qualified for SIJS. This litigation challenges the legality of a policy that affects all SIJS beneficiaries without regard to the facts of each class member's case. Thus, the issues for the entire proposed classes can be resolved "in one stroke." *Id.*; *see, e.g.*, *Escalera v. N.Y. City Hous. Auth.*, 425 F.2d 853, 867 (2d Cir. 1970) (finding that "[a]lthough the facts leading to the [housing authority] action in the case of each named plaintiff were different, the procedures used in each type of action were identical. This provides common questions of law and fact for the members of the respective classes."). Thus, because all proposed members are aggrieved by Defendants' actions and were and will be denied the opportunity to have their deferred action or EAD adjudicated or renewed, the commonality requirement is satisfied.

3. The Named Plaintiffs' Claims Are Typical of the Proposed Classes.

Plaintiffs also satisfy typicality as "the claims or defenses of the representative parties are typical of the claims or defenses of the class" members. Fed. R. Civ. P. 23(a)(3). Typicality "is satisfied when each class member's claim arises from the same course of events, and each class member makes similar legal arguments to prove the defendant's liability." *Brown v. Kelly*, 609 F.3d 467, 475 (2d Cir. 2010) (internal quotation marks omitted). The commonality and typicality inquiries "tend to merge into one another, so that similar considerations animate analysis of both." *Id.* (internal quotation marks omitted). Additionally, where a class seeks injunctive and declaratory relief, as the Proposed Classes do here, "[t]ypicality may be assumed." *Westchester Indep. Living Ctr., Inc.*, 331 F.R.D. at 293 (internal quotation marks omitted).

"[T]he typicality requirement is not highly demanding," as named representatives' claims need not be identical to each class member's claims. *Guadagna v. Zucker*, 332 F.R.D. 86, 95

(E.D.N.Y. 2019) (internal quotation marks omitted). All that is required is that the claims "share the same essential characteristics." *Batalla*, 501 F. Supp. 3d at 113 (internal quotation marks omitted). The Rule 23 requirement that "the claims or defenses of the representative parties [be] typical of the claims or defenses of the class," Fed. R. Civ. P. 23(a)(3), is satisfied where, as here, "it is alleged that the same unlawful conduct was directed at or affected both the named plaintiff and the class sought to be represented," *Robidoux*, 987 F. 2d at 936–37.

Typicality exists because each Individual Plaintiff brings claims asserting that the Rescission Policy was "arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law," 5 U.S.C. § 706(2)(A), and that Defendants failed to follow APA rulemaking procedure, 5 U.S.C. § 553. Individual Plaintiffs' claims, like the putative class members', all arise from the same unlawful conduct. Each Individual Plaintiff and putative class member either: (1) received a SIJS approval on or after April 7, 2025 without automatically being considered for deferred action based on SIJS, A.C.R. Decl. ¶ 17; J.G.V. Decl. ¶ 19; E.A.R. Decl. ¶ 13; C.V.R. Decl. ¶¶ 16–17, (2) has deferred action but is disqualified from renewing their deferred action and EAD on the basis of their SIJS, Y.A.M. Decl. ¶ 19; B.R.C. Decl. ¶ 17; J.C.B. Decl. ¶ 21, or (3) has deferred action but is disqualified from obtaining an EAD, L.M.R. Decl. ¶ 25; S.M.M. Decl. ¶ 17. Thus, Defendants have acted or refused to act on grounds that apply generally to members of the Proposed Classes. *See Marisol A.*, 126 F.3d at 376 (explaining that "when each class member's claim arises from the same course of events, and each class member makes similar legal arguments to prove the defendant's liability," typicality is satisfied). Ultimately, the Individual Plaintiffs' claims share the "essential characteristics" of the putative class as a whole and thus satisfy the typicality requirements of Rule 23(a)(3). *Nelipa v. TD Bank, N.A.*, No. 21-CV-1092, 2024 WL 3017141, at *17 (E.D.N.Y. June 17, 2024) (finding typicality because plaintiffs presented

"evidence that they were subject to the same standard policies and procedures that purportedly violate the same federal law").

4. The Named Plaintiffs Will Fairly and Adequately Represent the Proposed Classes.

The adequacy requirement under Rule 23(a)(4) "is twofold: the proposed class representative must have an interest in vigorously pursuing the claims of the class and must have no interests antagonistic to the interests of other class members." *Denney v. Deutsche Bank AG*, 443 F.3d 253, 268 (2d Cir. 2006). "Courts that have denied class certification based on the inadequate qualifications of plaintiffs have done so only in flagrant cases, where the putative class representatives display an alarming unfamiliarity with the suit." *In re Frontier Ins. Grp. Inc., Sec. Litig.*, 172 F.R.D. 31, 47 (E.D.N.Y. 1997) (internal quotation marks omitted).

Here, Individual Plaintiffs can adequately represent the classes because they have the same interests, having been subject to the same injuries as the proposed class members. For the Deferred Action Class, A.C.R., J.G.V., E.A.R., and C.V.R., like putative class members, obtained SIJS but were not considered for deferred action due to the recission of the SIJS Deferred Action Policy. A.C.R. Decl. ¶ 17; J.G.V. Decl. ¶ 19; E.A.R. Decl. ¶ 13; C.V.R. Decl. ¶ 17. As a result, they understand their role and are highly motivated to pursue this lawsuit because they face a risk of deportation and associated detention absent deferred action. A.C.R. Decl. ¶¶ 27–33; J.G.V. Decl. ¶¶ 27–33; E.A.R. Decl. ¶¶ 23–27; C.V.R. Decl. ¶¶ 25–29. They have also been denied the ability to apply for EADs, rendering them unable to legally work in this country for years on end.

For the Renewal Class, Y.A.M., B.R.C., J.C.B., like the putative class members, have deferred action that is set to expire four years after the date it was granted, and because of the Rescission Policy they will not be able to renew, as they had relied on doing. Y.A.M. Decl. ¶ 19; B.R.C. Decl. ¶ 17; J.C.B. Decl. ¶ 21. This means that they will lose their EAD and the other

attendant benefits of having deferred action. L.M.R. and S.M.M. represent the subclass of Renewal Class members who have deferred action and are eligible for a (c)(14) EAD but have not yet received one. L.M.R. Decl. ¶ 25; S.M.M. Decl. ¶ 17. They similarly will not reap the benefits of being authorized to work, despite having deferred action, which by federal regulation makes them eligible to apply for an EAD. 8 C.F.R. § 274a.12(c)(14). These Plaintiffs are also highly motivated to represent the Proposed Classes in this lawsuit because of the risks of harm they face absent the ability to renew their deferred action and obtain and/or renew their work authorization. Y.A.M. Decl. ¶¶ 28–34; B.R.C. Decl. ¶¶ 24–30; J.C.B. Decl. ¶¶ 30–36; L.M.R. Decl. ¶¶ 31–37; S.M.M. Decl. ¶¶ 24–30.

These harms prevent Individual Plaintiffs and those similarly situated from being able to attain and/or maintain long-term employment at a decent wage; being protected from labor abuses and exploitation; being able to support themselves; and accessing certain internship or vocational programs. *See, e.g.*, Minoff Decl. ¶¶ 7–14; Wong Decl. ¶¶ 8, 11–15; Gee Decl. ¶ 13. All of this causes and exacerbates the mental health impacts of the fear and instability caused by the Rescission Policy. Bishop Decl. ¶¶ 9, 17, 23; Wong Decl. ¶¶ 16–17; Gee Decl. ¶¶ 7–11. These harms are shared by the Proposed Classes at large; therefore, there is no risk of conflict between the Individual Plaintiffs and putative class members. Their interests are aligned because they all assert identical claims to invalidate the Rescission Policy.

5. The Proposed Classes Are Ascertainable.

Implicit in the class certification analysis is the requirement of ascertainability. *See In re Petrobras Sec.*, 862 F.3d 250, 269 (2d Cir. 2017). This "asks district courts to consider whether a proposed class is defined using objective criteria that establish a membership with definite boundaries." *Id*. A proposed class "must be readily identifiable, such that the court can determine who is in the class and, thus, bound by the ruling." *In re Scotts EZ Seed Litig.*, 304 F.R.D. 397,

407 (S.D.N.Y. 2015) (internal quotation marks omitted). Not all class members need be identified by the time of certification, but the boundaries of the class must be "readily identifiable." *In re Petrobras*, 862 F.3d at 266. The Second Circuit does not require that the proposed class be "administratively feasible," *id.* at 265, only that the determinations outlining the boundaries of the class "are objectively *possible*," *id.* at 270 (emphasis in original). As a result, the standard for ascertainability is not demanding and "is designed only to prevent the certification of a class whose membership is truly indeterminable." *Id*. at 267 (internal quotation marks omitted).

Here, the Proposed Classes easily satisfy ascertainability because all members are readily identifiable based on information in Defendants' possession. *See Cortigiano v. Oceanview Manor Home for Adults*, 227 F.R.D. 194, 207 (E.D.N.Y. Apr. 4, 2005) (finding ascertainability where "based on a plain reading of the class which plaintiffs seek to certify, a determination as to" who falls "within the class will be straightforward and can be determined with documents that are under the custody and control of defendants."); *Cymbalista v. JPMorgan Chase Bank, N.A.*, No. 20 CV 456 (RPK) (LB), 2021 WL 7906584, at *12 (E.D.N.Y. May 25, 2021) (finding ascertainability where "the class may be identified by a review of the defendant's records[,]. . . membership in the class will be based upon [defendant's] records, . . . and . . . the class has already been identified by plaintiffs." (internal citation omitted)).

When an individual is granted SIJS, USCIS issues a Form I-797 Notice of Action to inform them whether their I-360 petition for SIJS has been approved; under the 2022 Policy, the I-797 nearly always included USCIS's decision on deferred action. Members of the Deferred Action Class can be identified by SIJS approvals received on or after April 7, 2025, without an adjudication of deferred action. Renewal Class members are similarly identifiable by whether they were previously granted SIJS and deferred action, do not have an immigrant visa available, and

are not eligible for renewal of deferred action due to Defendants' policy. Members of the EAD Subclass can be identified by whether they were granted SIJS and deferred action and have not received a (c)(14) EAD. The information necessary to identify the members of all Proposed Classes is readily available and in Defendants' possession, and therefore the Proposed Classes are ascertainable.

B. Plaintiffs Meet the Requirements of Rule 23(B)(2).

Rule 23(b)(2) is satisfied by a showing that Defendants have "acted or refused to act on grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole." Fed. R. Civ. P. 23(b)(2). As the Second Circuit has recognized, "cases seeking broad declaratory or injunctive relief for a large and amorphous class . . . fall squarely within the category of [Rule] 23(b)(2) actions." *Marisol A.*, 126 F.3d at 378 (internal quotation marks omitted). "The key to the (b)(2) class is 'the indivisible nature of the injunctive or declaratory remedy warranted—the notion that the conduct is such that it can be enjoined or declared unlawful only as to all of the class members or as to none of them.'" *Wal-Mart*, 564 U.S. at 360 (internal quotation marks omitted).

Further, courts routinely grant class certification where, as here, a class seeks injunctive or declaratory relief to challenge an agency's changes to immigration policies. *See, e.g.*, *R.F.M.*, 365 F. Supp. 3d at 359–60 (granting class certification to plaintiffs seeking to enjoin USCIS's reliance on a new SIJS policy); *L.V.M. v. Lloyd*, 318 F. Supp. 3d 601, 608–09 (S.D.N.Y. 2018) (granting class certification to plaintiffs seeking injunctive and declaratory relief regarding an agency policy delaying the release of unaccompanied migrant children); *see also Floyd v. City of N.Y.*, 283 F.R.D. 153, 159–60, 177 (S.D.N.Y. 2012) (granting class certification to plaintiffs seeking declaratory and injunctive relief for individuals subjected to stop-and-frisk practice).

Here, Plaintiffs challenge the unlawful termination of the SIJS Deferred Action Policy and resulting 2025 Rescission Policy, which impacts the Proposed Classes making them archetypal Rule 23(b)(2) classes. The harms suffered can be remedied by a declaration that the rescission was unlawful, and by an injunction precluding Defendants from implementing the new policy. *See R.F.M.*, 365 F. Supp. 3d at 370 (certifying class action under Rule 23(b)(2) because "plaintiffs uniformly seek to enjoin an agency policy"). In sum, because Individual Plaintiffs seek to set aside a government policy of widespread application, are exposed to the resultant same harms, and seek the same declaratory and injunctive relief, certification is appropriate.

III. PROPOSED CLASS COUNSEL ARE ADEQUATE UNDER RULE 23(G).

Proposed class counsel consist of attorneys from the National Immigration Project, Kids in Need of Defense ("KIND"), Public Counsel, Davis Wright Tremaine LLP ("DWT"), and Lowenstein Sandler LLP, all of whom satisfy the adequacy requirement under Rule 23(g). *See generally* Declaration of National Immigration Project ("National Immigration Project Decl."); Declaration of KIND ("KIND Decl."); Declaration of Public Counsel ("Public Counsel Decl."); Declaration of DWT ("DWT Decl."), Declaration of Lowenstein Sandler ("Lowenstein Sandler Decl."). Adequacy of counsel looks to whether "plaintiff's attorneys are qualified, experienced and able to conduct the litigation." *Baffa v. Donaldson, Lufkin & Jenrette Sec. Corp*., 222 F.3d 52, 60 (2d Cir. 2000); *see also* Fed. R. Civ. P. 23(g)(1)(A).

Here, that requirement is more than satisfied. Counsel have extensive litigation experience, including in class action litigation, complex litigation, and/or representing classes of plaintiffs—including immigrants—challenging governmental policies. *See* National Immigration Project Decl. ¶¶ 3–10; KIND Decl. ¶¶ 3–7; Public Counsel Decl. ¶¶ 7–11; DWT Decl. ¶¶ 3–9; Lowenstein Sandler Decl. ¶¶ 3–9. Counsel also have specialized experience regarding SIJS. *See* National Immigration Project Decl. ¶¶ 3–6, 8–9; KIND Decl. ¶¶ 3–7; Public Counsel Decl. ¶¶ 4, 8;

Lowenstein Sandler Decl. ¶¶ 4–6. Collectively, they have obtained SIJS for hundreds of petitioners. Further, Plaintiffs' attorneys have done significant work researching the claims in this action; interviewing plaintiffs; and drafting and filing the complaint and motions. Plaintiffs' attorneys have already devoted significant resources to developing and maintaining this litigation and will continue to do so as the case proceeds.

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that this Court grant this Motion for class certification, certify the Proposed Classes, appoint Plaintiffs A.C.R., J.G.V., E.A.R, and C.V.R. representatives of the Deferred Action Class; appoint Plaintiffs Y.A.M., B.R.C., and J.C.B. representatives of the Renewal Class; appoint L.M.R. and S.M.M. representatives of the EAD subclass, and appoint the undersigned counsel as class counsel.

Dated: July 17, 2025

Respectfully submitted,

/s/ John Magliery

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WORD COUNT CERTIFICATION

The undersigned hereby certifies that the word count of this Memorandum of Law complies with the word limits of Local Civil Rule 7.1(c). According to the word-processing system used to prepare this Memorandum, the total word count for all printed text exclusive of the material omitted under Local Civil Rule 7.1(c) is 8,749 words.

Dated: July 17, 2025

New York, N.Y.

/s/ John Magliery
John Magliery