Letters to
Rogers + Lt approp
by 1st thing tomorrow

League of United Latin American Citizens

October 6, 1998

President Bill Clinton
The White House
Washington, DC 20502

Dear President Clinton:

I write to draw your attention to the plight of thousands of long-term U.S. residents who were denied a meaningful opportunity to apply for legalization under the Immigration Reform and Control Act of 1986 (IRCA). I urge the Administration to direct the Immigration and Naturalization Service to process the applications of these individuals for legalization under the terms of the 1986 Reform Act.

As you may know, in the IRCA Congress provided a one-time opportunity for certain aliens residing illegally in the United States to adjust their status to that of an alien lawfully admitted for permanent residence. The statute set out a number of requirements applicants must meet to qualify for this relief. These included that the applicant establish (i) continuous unlawful residence in the United States since January 1, 1982; (ii) continuous physical presence in the United States since November 6, 1986 (the date IRCA was passed); and (iii) admissibility to the United States as an immigrant.

The IRCA required the Attorney General to schedule a 12-month period during which the Immigration and Naturalization Service (INS) was to receive legalization applications. The Attorney General designated the twelve-month application period to begin on May 5, 1987, continuing through May 4, 1988.

In implementing the legalization program, however, the INS adopted certain rules and regulations which, the agency later conceded, grafted spurious eligibility requirements onto those Congress had prescribed.

These policies were used to deny persons legalization despite their being statutory eligible to adjust their status. Although many such individuals were later granted legalization following administrative appeals or because the INS agreed to re-adjudicate their legalization applications, the existence of the INS's unlawfully restrictive policies during most or all of the one-year application period resulted in many persons being denied a meaningful right to apply for legalization.

Shortly after the commencement of the one-year legalization application period, a number of organizations and individuals sued the INS, alleging that the agency had unlawfully restricted eligibility for legalization, in effect deeming ineligible persons whom Congress had said should be legalized. For most of the ensuing 10 years, thousands of these individuals were protected from deportation pursuant to various court orders. These court orders also typically required the INS to issue temporary employment authorization to the blocked legalization applicants.

#w/ work auth?

1133 Twentieth Street, NW, Suite 750 • Washington, DC 20036 • (202) 408-0060 • FAX (202) 408-0064 • http://www.LULAC.org

By definition, all of these individuals have now made their homes in the United States for over 16 years. Many have children who are United States citizens, own their own homes and businesses, and would now be United States citizens themselves but for the INS's mishandling of the legalization program.

As a result a little-noticed provision of the Illegal Immigration Reform and Control Act of 1996 (IIR&IRA), however, the courts have largely been foreclosed from issuing final relief righting the wrong inflicted on these unfortunate persons. Section 377 of the IIR&IRA strips the federal courts of jurisdiction over the legal claims of most of these class members.

Section 377 will likely result in thousands of immigrants, possibly over 200,000, who are eligible for legalization under the IRCA being reverted to undocumented, underground status. Time is rapidly running out to avoid an immigration policy disaster that I believe will harm the national interests of the United States, undermine INS enforcement efforts, and cause untold hardship to thousands of immigrants and their United States citizen children and relatives. It is clear that reducing thousands of such individuals—all of whom have lived and worked in the United States for some 16 years—to the status of undocumented, removable aliens is not a reasonable option. The United States has recently opened its doors to thousands of Cuban and Nicaraguan nationals, as well as to thousands more skilled immigrant workers. I believe the blocked legalization applicants are no less deserving of fair and equitable treatment.

Finally I encourage the Administration to work with concerned members of Congress, the Department of Justice, and advocates for the blocked legalization applicants toward finding a permanent solution to this unfortunate problem.

I urge the Administration to provide minimal immediate protection for blocked legalization applicants. Unfortunately, a growing number of such persons have been summarily removed from the United States or incarcerated when they tried to return to the United States from trips abroad even though they had obtained advance INS permission to reenter or had routinely departed and reentered the United States for nearly a decade over land borders using identification cards issued by the INS pursuant to the court orders.

In Texas, long term residents with homes and young children in the United States have been incarcerated without warning upon returning from a day of shopping in Mexico. In New Jersey, several dozen blocked legalization applicants were incarcerated when they attempted to reenter the United States using documents the INS issued them in advance of their leaving on brief trips abroad to attend to urgent matters, such as gravely ill family members.

I urge the Administration to maintain the status quo to those blocked legalization applicants who have not left the United States, until a solution to this pressing problem is found. I do not believe that these persons should be returned to the underground and forced into unemployment and poverty while a resolution of this issue is discussed.

With respect to those who reentered the United States, I urge the Administration to permit such individuals to attend to their personal affairs and assert whatever defenses to removal they may have under the immigration laws. As the Administration is aware, the frustration level of the late amnesty applicants has been building for the past 16 years, and is now coupled by the fear of deportation and of permanently losing everything they have worked for and established during this interim period. No longer willing to live in fear, the applicants look for ways to be heard by an Administration that has forever remained silent on this issue, and has yet to produce any resolution or possible resolution for the thousands of applicants wrongfully turned away from their right to citizenship.

In faithful confidence, I implore the Administration to show tangible signs of significant progress and a steadfast commitment toward resolving the issue of late amnesty. Although this remains a passionate issue for the thousands of applicants affected, it is the intention of this organization to work with the Administration to ensure a favorable resolution to this unfortunate situation. I will be in contact with your office on the 13th of October to discuss any such progress.

In short, the INS should be directed (i) to refrain from deporting blocked legalization applicants and (ii) to renew their temporary work permits pending resolution of their status.

Thank you very much for your kind attention to this matter.

Sincerely,

Rick Dovalina

Rick Dovalina
National President

League of United Latin American Citizens

October 7, 1998

President Bill Clinton
The White House
Washington, DC 20502

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Shortly after the commencement of the one-year legalization application period, a number of organizations and individuals sued the INS, alleging that the agency had unlawfully restricted eligibility for legalization, in effect deeming ineligible persons whom Congress had said should be legalized. For most of the ensuing 10 years, thousands of these individuals were protected from deportation pursuant to various court orders. These court orders also typically required the INS to issue temporary employment authorization to the blocked legalization applicants.

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National President

LEAGUE OF UNITED LATIN AMERICAN CITIZENS

National Office

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PRESS RELEASE

CONTACT: Selena Walsh
(202) 408-0060

November 6, 1998

AMNESTY APPLICANTS EMBARK ON NATIONAL FASTING CAMPAIGN

WASHINGTON--On Tuesday, November 10, over a hundred members of the "Late Amnesty" class will begin a nationwide fast in attempt to gain the attention of the White House and the Department of Justice over an issue that has remained unresolved for almost a decade.

The Members of the late amnesty class have organized several days of fasting in cities across the US. The first day of fasting will be a 24 hour fast held in Los Angeles, California in front of LA City Hall at 200 North Main Street. Applicants and their supporters will begin fasting on November 9 at midnight and end on November 10 at midnight. The next fast will be a 48 hour fast scheduled for November 14th and 15th, the fasts will continue to increase in duration as it makes its way across the nation ultimately arriving in Washington. The fast which begins the national call to action in LA will then expand to the following cities: San Jose, CA; Seattle, WA; Houston, TX; New Jersey, and Washington, DC.

The term "Late Amnesty" refers to a group of individuals who were eligible to apply for the amnesty program under the Immigrant Reform and Control Act (IRCA), signed by President Reagan in 1986, but were wrongfully turned away by Immigration and Naturalization Service (INS) officials. IRCA directed the Attorney General to establish a window in which the INS would accept applications, the INS established eligibility criteria according to the statue. Just prior to the application deadline the INS realized they had inaccurately interpreted the statue and had therefore denied hundreds of eligible applicants from ever applying for the amnesty program.

Several suits were filed by the applicants, including LULAC vs. INS seeking to force the INS to process the applications of the people wrongfully turned away. The courts ruled in favor of the applicants, recognizing the misinterpretation of the statute and protected all applicants by allowing them to legally reside and work in the US until this matter was resolved. The INS kept appealing to higher courts on the basis that the courts did not have the authority to force the INS to provide a remedy. The case made it all the way to the Supreme Court which ruled that the lower courts did have the authority in question, and sent the case back down to the lower courts; this appeal tactic took ten years.

At this time, the Illegal Immigrant Reform and Immigrant Responsibility Act (IIRIRA) was passed by Congress and signed into law in 1996. In it was a little known provision called Section 377, which retroactively stripped the courts from jurisdiction over the class members. As a result three of the four major suits have been thrown out of court.

After 16 years of investing in this country, patiently waiting for a resolution, and in the interim raising their families, paying taxes, and buying homes; the majority of class members have been stripped of their work permits and reverted to undocumented status. Class Members are calling on the White House to direct the INS to simply process the applications.

If the White House continues to remain stagnant on this issue the consequences for the local economies will be staggering. We can expect to see thousands of applicants suddenly stop paying their taxes, defaulting on mortgages, not paying electric bills, and swelling the welfare roles with their dependent US citizen children.

Despite the obvious hardship, revenue loss, and increases in dependence on public assistance that reverting this population to undocumented status will cause, the White House has done nothing to prevent the INS from aggressively moving forward to force this population underground. With no other option left, the applicants are calling for a fast to portray the dire situation that they and their families are in, and to alert the American people of the inhumane actions taken by their government.

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LEAGUE OF UNITED LATIN AMERICAN CITIZENS

National Office

1133 Twentieth Street, NW, Suite 750
Washington, DC 20036
(202) 408-0060 • FAX (202) 408-0064

PRESS RELEASE

CONTACT: Selena Walsh
(202) 408-0060

October 9, 1998

LULAC RALLIES BEHIND LATE AMNESTY APPLICANTS

WASHINGTON--On Thursday, October 8, over a hundred members of the "Late Amnesty" group joined Members of Congress and national Hispanic organizations at a press conference and rally urging action for the victims of Late Amnesty.

The term "Late Amnesty" refers to a group of individuals who were eligible to apply for the amnesty program under IRCA, signed by President Reagan in 1986, but were wrongfully turned away by INS officials. Several suits were filed by the members of the late amnesty group, the courts did find an inconsistency in the interpretation of the statute by the Immigration and Naturalization Service (INS) and protected the "Late Amnesty" members by allowing them to legally reside and work in the country until the issue was legally resolved.

However, the passage of the Illegal Immigrant Reform and Immigrant Responsibility Act (IIRIRA), specifically Section 377, tied the courts' hands and to ever resolving this matter and were forced to throw these suits out of court. After 16 years of patiently waiting for a resolution, and in the interim raising their families, paying taxes, buying homes, thousands now face working permits that are close to expiration and no resolution in sight. While talks continue to take place between advocacy organizations, Congress, the Department of Justice and the White House the absence of a resolution to this long standing problem leaves the applicants forced to live in fear of deportation and revert to an underground employment status.

LULAC Executive Director Brent Wilkes led the conference at the Capitol and stated LULAC's request, "We ask the President to exercise the authority he already has to process the applications of long term immigrants who sent a powerful message to the Administration urging a resolution to the 16 year saga. were illegally prevented from applying for amnesty by the INS more than a decade ago."

Other speakers include Congressman Becerra (D-CA), Congresswoman Roybal-Allard (D-CA), and Congressman Gutierrez (D-IL) who sent a powerful message to the Administration urging a resolution to the 16 year saga. Congressman Gutierrez gave a passionate speech on the injustice encountered by the thousands of amnesty applicants and reprimanded the INS for allowing this injustice to continue.

Later that day, members of the late amnesty group rallied in front of the White House pleading for the President's assistance in this matter. The group requests that the President direct the INS to begin processing the applications unjustly denied by his predecessors.

###

ASSOCIATION FOR RESIDENCY AND CITIZENSHIP OF AMERICA (ARCA)

6926 Navigation
Houston TX 77011

256 S. Occidental
Los Angeles CA

A CALL FOR NON-VIOLENT RESISTANCE AND ACTION

Long term resident immigrants launch a national campaign to push for a prompt and just solution to delayed amnesty cases

For Immediate Release

Tuesday, November 03, 1998

Contact: Jose Alejandro Salazar (713)926-2799 Anil Urmil (213)388-8693x101 Maria Jimenez Catalina Herrera

[Houston]—In a teleconference call, ARCA chapters from Houston, Los Angeles, San Jose, New Jersey, Seattle, and Fair Treatment for Immigrants of Las Vegas agreed to engage in a non-violent campaign of resistance and action by calling on immigrants who have been denied their right of temporary protection and permanent residency to hold a series of fasts in the months of November and December. The objectives of this campaign are to obtain temporary protection for all (reinstatement of work permits, stays of deportation, right to travel) and to pressure the Clinton Administration to promptly set up a just process for reviewing their cases for permanent residency, which until now have been pending since the legalization program under the Immigration Reform and Control Act of 1986. The first fast--with the presence of immigrants nationwide--will take place on November 10, 1998(beginning midnight Nov. 9 and ending midnight Nov. 10th) in front of the Los Angeles City Hall at 200 North Main(between 1st & Temple). There will be fasting each week in each local city thereafter in November. In December, a call for another 24 hour fast is made for the 10th International Human Rights Day. Finally, this campaign ends with 100 persons committed to fast for a week in front of the White House in Washington, DC beginning December 12.

ARCA invites all people of good will and human, civil and rights organizations to join them in this campaign--by fasting, visiting the fasting sites and/or calling on the Clinton Administration to promptly and justly find a solution to the plight of these 350,000 immigrants in the nation.

ASSOCIATION FOR RESIDENCY AND CITIZENSHIP OF AMERICA
ASOCIACION PRO-RESIDENCIA Y CIUDADNIA DE AMERICA

ARCA

[Chapters in Houston, Los Angeles, New Jersey, San Jose, Seattle, Virginia and Fair Treatment for Immigrants of Las Vegas]

call for **NON-VIOLENT RESISTANCE & ACTION**

llama a **RESISTENCIA Y ACCION NO-VIOLENTA**

<u>FOR A PROMPT & JUST SOLUTION FOR DELAYED AMNESTY CASES</u>

*<u>*POR UNA SOLUCION PRONTA Y JUSTA A CASOS DE AMNISTIA TARDIA</u>*

Starting **NOV. 10** with a

24-HOUR FAST

Empezando **10 de NOV.** con

24 HORAS DE AYUNO

CITY HALL

200 North Main St.

(between 1st & Temple)

Los Angeles, California

For more information, call ARCA(213)388-8693Ext. 101 or
ARCA (713)926-2799.

Subject: **Fwd: LATE AMNESTY**
Date: Mon, 9 Nov 1998 07:06:12 EST
From: ANILURMIL@aol.com

Subject: **LATE AMNESTY**
Date: Mon, 9 Nov 1998 03:48:24 EST
From: ANILURMIL@aol.com
To: shahlaw@yahoo.com

Date: Sunday, Nov. 9, 1998

To: Immigration Law Professional

From: Association for Residency and Citizenship of America (ARCA)

RE: NATIONAL CAMPAIGN OF FASTING TO PRESSURIZE THE CLINTON ADMINISTRATION TO PROVIDE A PROMPT AND JUST SOLUTION TO LATE AMNESTY CASES. FIRST 24-HOUR NATIONAL FAST, NOV. 10, 1998, LOS ANGELES.

Dear Immigration Law Professional:

As you might know, ARCA (Association for Residency and Citizenship of America) was formed by members of the class action suits CSS v. Reno and Newman (LULAC) v. INS when they met in Washington, D.C. in May of this year. Class members met with officials of the White House, the Department of Justice, Congressional Representatives, seeking temporary protection for all (reinstatement of work permits, stays of deportation, and right to travel) and permanent residency now (processing of all pending legalization applications).

In subsequent months, ARCA chapters in Los Angeles, Houston, Clearlake, El Paso, Miami, Seattle, San Jose, Stockton, San Francisco, Atlanta, New Jersey, Denver, Chicago, Washington, D.C., Phoenix and sister organizations like Fair Treatment of Immigrants (FTI) of Las Vegas, LAMA of Los Angeles, OLAMA of Miami, and Center for Human Rights and Constitutional Law (CHRCL) of Los Angeles have spoken and written to the Clinton Administration requesting a just solution. In September, the League of United Latin American Citizens (LULAC) organized a press conference with Congressional Representatives and a rally in front of the White House to encourage the Clinton Administration to take action.

Lately, talks with the White House have been stalled. In a teleconference call two weeks ago, ARCA chapters and FTI agreed to initiate a national campaign of days of fasting in order to pressure the Clinton Administration to resolve this matter justly and quickly. The first 24-hour fast will take place in Los Angeles on Nov. 10th (begins at midnight on Monday, Nov. 9th and ends at midnight on Tuesday, Nov. 10th) in front of the Federal Building in downtown Los Angeles, located at 300 N. Los Angeles Street, Los Angeles, CA 90012, on the corner of Temple and Los Angeles streets.

Class members from cities around the nation are flying into Los Angeles to be at this first event, a 'candle-light' fast. In November, each ARCA chapter in their city will hold fasts of two days, the following week for three days, and the next week for four days. In December, a call will be issued to all immigrants and people of goodwill to hold a 24-hour fast in their city on Dec. 10th, which is the International Human Rights Day. If there is still no response from the White House, then 100 class members will go to Washington, D.C. to hold a week-long fast in front of the White House.

As part of this first-ever fast, a major press conference is also arranged on Tuesday, Nov. 10, 1998, at 2:00 p.m. in front of the Federal Building in downtown Los Angeles, located at 300 N. Los Angeles Street, L.A., CA 90012, corner of Temple and Los Angeles streets. The speakers include Lead Attorneys for late amnesty: Peter Schey & Carlos Holguin of CHRCL; Maria Jimenez of American Friends Service Committee (AFSC); Selena Walsh of LULAC, Washington, D.C., among other distinguished speakers.

To make it a successful first national event (fast), we need your participation in several ways: i) by spreading the word around amongst your late amnesty clients; ii) by joining the fast in L.A. and/or other cities; iii) by attending the press conference on Tuesday; iv) by donating water bottles, Gatorade, blankets and candles to the fasting site; v) by inviting colleagues and other individuals and organizations to also participate and support the cause.

Thanking you in anticipation.
Sincerely,

Anil Urmil
President, ARCA L.A.
c/o Center for Human Rights and Constitutional Law
256 S. Occidental Blvd.
Los Angeles, CA 90057
Tel: (213) 388-8693 ext. 101, Fax: (213) 386-9484
E-mail: AnilUrmil@aol.com
Website: http://home.sprynet.com/sprynet/cholquin/

Will Gill; Marisa Demeo; LULAC; Maritza, Clara, M E, Marie F.

LULAC, etc.

① want DED or TPS or something for those w/work authorization

80,000 w/work permits

expiring w/in next month or two

as a temporary solution until we can figure out what to do.

* E-11 form

parolees

John Morton; Gina Verdugo

mtg on Wed.

work permits front desking

② Deal w/those who were front-desked (guidance; public info).

whoever is ripe (?)

③ MALDEF would be willing to try to push registry legislative.

Give cover to INS to renew work permits

Maria wants a mtg. on Wed

① re: guidance, public info re: front-desking

② extend work permits while this process is ongoing

DOJ / INS / US

Will Gill; Marisa Demeo; LULAC; Maritza, Clara, ME, Marie F.

LULAC, etc.

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DOJ / INS / US

8377 10/22/98 w/Rob W. and Maria

1 Magaña

Becerra has been hounding us to do something to prevent an appeal on this

They told 9th Cir. that petitioning for cert.

BUT statute seems to specifically enumerate what claims can be heard by the CAP. No mention of constitutional claims

+ what is the practice re: statutes w/a sweeping

DOJ: Rob will ask DOJ re: impact of this on 377

Maria → one-page on holding + impact on 377 folks

(1) ME to talk to EK and Chuck

make sure

2 Rob W. spoke w/ DOJ
Asked them to come back to us w/a proposal Nov.
Deadline: Work permits expiring in Dec.
Wed next week

(2) Fact sheet

(1) what is Justice prepared to put on the table
(2) short synopsis of how we got here

3 Doris / Maria E. idea.
Difference of view on merits of cases; what can be done administratively.

AG to appoint a "gray beard" to take an indep. look @ this and make recomms. to the AG

only 80,000 have work auth

ME to talk to DOJ privately.

Fact sheet on the cases (?) (Marge)

Zambrano — 9th Cir
Perales — 2nd Cir

CSS
LULAC — nationwide class

~~Arreda~~
I.A.P. — Seattle
no interim relief

interim relief
extension
Classes were certified — some benefits exceeded what applicants got

(class membership applications) — filed on the same form as legalization

DOJ appealed all 3 to 9th Cir. (CSS & LULAC cons
9th Cir agreed w/ DCT

DOJ SCT → cts acted too quickly
hadn't determined whether claims were ripe
DCts needed to conduct a ripeness analysis whether they applied.
in (FN) leaves open door to others
although unlikely,
there may be these others

open

CSS/Newman

class was open until 1995-96 (longest)

On remand

DCts took hold of fn larp.

Found that all πs had a ripe claim; entitled to the benefits — entitled to adju.

All 3 dcts.

Judge in Zambrano dismissed 1.5 causes of actn (like those who went to a QDE)

Zambrano closed early 1989

DOJ appealed all to CAP

that dct misinterp Sct remand asking appeals ct.

Sacramento CSS — 9th Cir remand w/instructn dismiss

DCt had a hearing; dismissed invited to file another lawsuit another injunctive order was issued Stayed by 9th Cir.

LA — Newman — different 9th Cir decision maybe not dismissed

Sacramento Zambrano ?

Donald Keenan

The Immigration Reform and Control Act of 1986 (IRCA) established a scheme under which certain aliens unlawfully present in the United States could apply for permanent residence. An applicant must have resided continuously in the United States in an unlawful status since at least January 1, 1982; must have been physically present in the United States continuously since November 6, 1986 (IRCA's enactment date); and must have been otherwise admissible as an immigrant. In order to be eligible for this benefit, the applicant must have applied during the 12-month period beginning on May 5, 1987.

On May 1, 1987, INS promulgated several regulations related to eligibility that were later found by the courts to be inconsistent with the statute. Two of the regulations dealt with an alien's travel outside the U.S. during the application period. Another indicated that receipt of any form of public benefit (even for citizen children) would cause the alien to be ineligible for legalization. Because of these regulations, many individuals who were likely eligible for legalization were turned away from INS offices and otherwise discouraged from applying. The CSS and LULAC class action lawsuits challenged the INS travel regulations in federal court. The Zambrano class action challenged the benefit regulation.

The district court in all three cases held that the travel and benefit regulations violated the statute, ordered the INS to extend the application period to November 30, 1988 for class members who were deterred from applying for legalization because of knowledge of INS's unlawful regulation(s), and issued an injunction requiring the INS to withhold deportation and provide work authorization to these class members pending resolution of their claims. The DOJ appealed all three orders to the 9th Circuit Court of Appeals, arguing that the federal courts had no authority to extend the deadline for any discreet group of aliens. The 9th Circuit affirmed the district courts' orders to extend the deadline in all three cases.[1]

DOJ appealed these rulings to the Supreme Court. The Supreme Court rejected the DOJ's position that the lower federal courts did not have jurisdiction to change the application deadline for a discreet group, but held that the district courts had erred by not determining whether the claims of class members were "ripe." The Court explained that a plaintiff's claim challenging the INS's legalization procedure was only "ripe" once that plaintiff took the necessary affirmative steps in the application process prior to INS's application of the erroneous regulation to him. Thus, if an alien was "front-desked" -- i.e., presented a completed application to the INS and had his application rejected prior to its being filed (based on a determination by someone at the "front desk" that one of the regulations made the alien ineligible) -- his claim was ripe for adjudication. In addition, in a footnote, the Court indicated that a plaintiff could also have a ripe claim if the front-desking policy was a "substantial cause" of the alien's failure to apply for legalization. The Court remanded these cases to the district courts and ordered the courts to conduct ripeness analyses regarding the various discreet groups.

On remand, the district courts all held that an applicant who was told by the INS that they were ineligible because of the application of one of the erroneous regulations had a ripe claim and was

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[1] CSS and Newman were consolidated by the 9th Circuit for purposes of their appeal.

thus entitled to an adjudication and a continuation of the benefits that class members had been enjoying (stays of deportation and work authorization). The DOJ appealed these rulings to the 9th Circuit in early 1996, arguing that the district courts had misinterpreted the Supreme Court's remand.

During the pendency of this appeal, Congress enacted Section 377 of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), which retroactively stripped the federal courts of jurisdiction over any claim under the legalization program, unless the applicant filed a completed application (including an application fee) with the INS within the original statutory window.[2] After IIRIRA was enacted, the DOJ moved to have the CSS , Newman , and Zambrano suits dismissed. On January 16, 1998, the 9th Circuit ordered the district court to dismiss all of the plaintiffs' claims in CSS for lack of jurisdiction. The district court had a hearing, dismissed the case, and invited the plaintiffs to file a new cause of action. On May 8, 1998, because of the 9th Circuit's interpretation of Section 377 in the CSS case, the district court dismissed the claims in the Zambrano case.

The CSS and Newman classes total approximately 300,000 people. These classes were open to new members as late as 1996. The Zambrano class was closed at the end of the 5-month extension period ordered by the district courts (November 30, 1988). This class includes approximately 9,000 people.

Since the dismissal of these suits, DOJ has determined that class members are no longer entitled to work authorization, stays of removal, or any immigration benefit on the basis of class membership. According to INS, approximately 80,000 class member received work authorization and stays of removal during the pendency of these cases. All of these people (many of whom have lived and worked in the U.S. for more than 10 years) will lose their authorization to work in the coming months. In addition, because class members were not subject to deportation during the pendency of the litigation, most did not apply for suspension of deportation under the old rules (you must have a final order of deportation prior to being eligible to apply for suspension). Now, the rules have changed. The standard for "cancellation of removal" (the new terminology) is much stricter and presents a significant bar.

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[2] Section 377 of IIRIRA reads in relevant part: "(C) JURISDICTION OF THE COURTS -- Notwithstanding any other provision of law, no court shall have jurisdiction of any cause of action or claim by or on behalf of any person asserting an interest under this section unless such person in fact filed an application under this section within the period specified by subsection (a)(1), or attempted to file a complete application and application fee with an authorized legalization officer of the Service but had the application and fee refused by that office.

§377

BACKGROUND

President Reagan signed the Immigration Reform and Control Act of 1986 (IRCA) which created an "amnesty" program through which undocumented immigrants could apply to legalize their status during a 12-month application period beginning on May 5, 1987.

Applicants were to demonstrate that they had resided continuously in the United States since at least January 1, 1982; and that they had been physically present in the United States since the date of enactment, November 6, 1986 and the date of their application. The statute provided that temporary absences during either period were allowable.

On May 1, 1987, four days before the application period began, the Immigration and Naturalization Service (INS), in violation of the plain terms of IRCA, promulgated a final rule that deemed anyone who had briefly traveled outside of the U.S. ineligible to even apply for legalization. Thousands of eligible applicants who visited INS offices or a Qualified Designated Entity (QDE) to apply or to obtain forms and instructions were wrongfully turned away as ineligible.

Through various class action suits, these applicants immediately challenged the INS regulation in federal court. Two of these suits were CSS v. Reno, and Newman v. INS. The federal court agreed with the applicants and INS agreed to change the regulation to allow for brief travel. The court then ordered an extension of the application deadline for these applicants to November 30, 1988. INS appealed this order, arguing that the federal courts had no authority to extend the deadline. The Ninth Circuit of Appeals consolidated some of the class actions and later affirmed the district courts' orders to extend the deadline. The INS then appealed to the Supreme Court, which did not decide the case until 1993.

The Supreme Court unanimously rejected the INS' position that the lower federal courts did not have jurisdiction, but decided that only those legalization applicants who had presented completed applications to the INS, and were rejected, had "ripe" claims entitling them to a remedy. But the Court also recognized that thousands of class members never completed applications because they were told by the INS or its agents that they were "ineligible to apply." The Court remanded the case back to the lower courts which in turn decided that any applicant who was told by the INS that they were ineligible had "substantial cause." The INS, again, appealed this ruling to the federal Court of Appeals in early 1996.

IIRIRA AND THE INS

While this appeal was pending, Congress took up consideration of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA). Inserted by Sen. Alan Simpson, section 377 IIRIRA retroactively stripped the courts of jurisdiction over any claim under the legalization program, unless the applicant had filed a completed application with the INS. Although it was not an official initiative of the Administration, Sen. Simpson informed Rep. Howard Berman that the idea for the provision came "over the transom" from INS.

After IIRIRA was enacted, the INS quickly moved to have the CSS and Newman suits dismissed. On January 16, 1998, the Ninth Circuit Court of Appeals ordered the district court to dismiss all of the plaintiff's claims in CSS for lack of jurisdiction. The applicants were reverted to "illegal" status virtually overnight and will not be able to renew their work authorization permits.

THE IMPACT AND NEED FOR RELIEF

There are roughly 400,000 members of the various class action suits who will become illegal and subject to deportation overnight because of the INS actions in 1987. Most reside in California, but many also reside in Florida and New York. They have all been in the United States since at least January 1, 1982, putting down roots and contributing to the economy as taxpayers. Virtually none of them will be able to secure relief from deportation by any other means. As was the case with the Central American refugees, these are immigrants who were victims of arbitrary INS policies which the courts have already found to be unjust. They deserve to at least have their day in court. Both Congress and the INS can be held to blame for this travesty.

Whatever administrative remedy exists should be pursued immediately. In the meantime, INS should not seek the deportation of class members. If it is needed, the Administration should throw its weight behind legislation to allow the class members to have their day in court.

Mexican American Legal Defense and Educational Fund

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MALDEF

Q: what prevents INS from processing their claims?
9th Cir. interp of §377?

May 14, 1998

The Honorable William J. Clinton
President of the United States of America
The White House
1600 Pennsylvania Avenue, N. W.
Washington, D. C. 20500

Re: Zambrano v. INS--Request for immediate action to prevent deportation and denial of work permits to class members

Dear President Clinton:

I write to request your urgent and immediate action to prevent the deportation and denial of work authorization to over 9,000 men and women who have resided in this country with the permission of the United States government for over 20 years. These men and women were qualified for amnesty under the Immigration Reform and Control Act ("IRCA") but were denied the opportunity to apply by the Immigration and Naturalization Service ("INS"). Now these long-term residents of the United States face separation from their families, loss of jobs, housing and livelihood for themselves and their children because of a recent 9th Circuit ruling interpreting Section 377 of the Illegal Immigrant Reform and Immigrant Responsibility Act ("IIRIRA").

As you know, with the passage of IRCA in 1986, Congress intended that all immigrants residing in the United States in an undocumented status prior to January 1, 1982 be allowed to apply for amnesty and subsequently adjust their status to that of a legal permanent resident. During the critical period immediately prior to the beginning of the one year amnesty program and through the majority of the 12-month eligibility period which concluded on May 4, 1988, the INS broadly disseminated erroneous information on amnesty eligibility related to public charge issues. Essentially, immigrants who were otherwise qualified for amnesty were told by the INS and the community-based agencies trained by the INS that if an applicant had received any form of public assistance in the past, even for a citizen family member, they were not eligible to apply for amnesty. As a result of this erroneous information, thousands of individuals were denied applications, turned away from INS offices and community centers, and widely discouraged through INS media interviews from applying for amnesty. The vast majority of persons affected were immigrant women heads of households who had received some public assistance for their citizen children.

MALDEF, in conjunction with other civil rights organizations, filed a lawsuit in April 1988 to stop the erroneous dissemination of information and denial of the opportunity to apply. The district court in Zambrano v. Thornburgh, Civ. No. S-88-455-EJG 1988 U.S. Dist. LEXIS 17592 found in favor of the plaintiffs and issued an injunction requiring the INS to withhold deportation and provide work authorization to class members pending resolution of the claims. Furthermore, the court equitably extended the filing period for amnesty for a limited period of five additional months to allow persons to apply who had been denied the opportunity to apply as a result of INS practices. Instead of acknowledging its error and processing applications to determine eligibility for amnesty, the INS has repeatedly delayed and denied class members their day in court.

Last year Congress enacted Sec. 377 of IRRIRA, which reads in relevant part:

> (C) JURISDICTION OF THE COURTS--Notwithstanding any other provision of law, no court shall have jurisdiction of any cause of action or claim by or on behalf of any person asserting an interest under this section unless such person in fact filed an application under this section within the period specified by subsection (a)(1), or *attempted to file a complete application and application fee with an authorized legalization officer of the Service but had the application and fee refused by that office*
> (emphasis added).

This amendment, which was made effective as if included in the original enactment of IRCA, divests the federal courts of the power to hear the claims of the vast majority of class members, who will be forever foreclosed from seeking redress in our courts as a result of INS misinformation. Sadly, in January 1998, the 9th Circuit Court Appeals adopted an extremely narrow interpretation of Section 377 in CSS v Reno, 134 F.3d. 926 (9th Cir. 1998) a related amnesty case. Under the Court's interpretation, Section 377 allows the Court to hear the claims of those who "attempted to file" for amnesty only if those who "attempted to file" actually managed to obtain an application, fill it out and present it to an INS official with filing fee in hand, but were rebuffed by INS officials from submitting their materials. As discussed above, the vast majority of our class members were prevented from even receiving an application. Congress' retroactive application of the law to these cases and the Court's narrow interpretation of the law violates common sense and fundamental fairness. To blame these class members for failing to apply for amnesty when they were following INS' directions is a manifest injustice that must not and cannot be countenanced in our society.

Fortunately, Section 377 only applies to the jurisdiction of the federal courts. As such, no court ruling affects your ability to provide administrative relief for the thousands of long-term residents denied the opportunity to apply for amnesty by the INS.

I urge you to act promptly and decisively to prevent this injustice. On May 8, 1998, the 9th Circuit Court issued an order summarily dismissing the claims of our Zambrano plaintiffs and revoking the decade-long injunctive orders which have protected class members from deportation and allowed them to work to feed and support their families. We have attached profiles of several of our class members who will be so affected.

We request that the INS voluntarily refrain from deporting class members and revoking their work permits and instead work with plaintiffs counsel to develop a process to adjudicate plaintiffs individuals claims. Such a process would not be an automatic granting of amnesty to class members but rather a processing of their claims as should have occurred more than a decade ago.

MALDEF stands ready and willing to meet with you or your designee to discuss a workable solution to this grave injustice.

Sincerely,

Antonia Hernandez

Antonia Hernandez
President and General Counsel

Enclosure: Client Profiles

cc: Vice President Al Gore
Attorney General Janet Reno
Commissioner Doris Meissner
Chairman of the Hispanic Caucus Xavier Becerra
Director of Public Liaison Maria Echaveste
Domestic Policy Council Julie Fernandez

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MALDEF

PROFILES OF INDIVIDUALS WHO THE INS DENIED AN OPPORTUNITY TO APPLY FOR THE LEGALIZATION PROGRAM

Hector A.

Hector A. has called the U.S. his home for 23 years. His wife has lived here 20 years. They are the parents of four children, ranging in age from 3 to 12 years old. The children are successful students, and their parents always reinforce the importance of a good education to them. Hector is a manager at a chemical plating company. He and his wife finally fulfilled the American dream when they bought their own home. They live in Pacoima, California. During the implementation of the legalization program, Hector and his wife, taking with them all of the documentation and fees required to qualify for the program, went to the Immigration and Naturalization Service (INS) to ask for an application for the program. The INS asked Hector and his wife if they had received public assistance. The INS erroneously told Hector and his wife that anyone who had received any form of public assistance was disqualified from participating in the legalization program. Because Hector's wife had received assistance through the Women, Infants and Children (WIC) assistance program during a pregnancy, the INS told her she would not qualify for the legalization program. Hector and his wife left the INS office discouraged and never applied. Without the opportunity to apply for the legalization program now, Hector will lose his right to work, the job that he has held for many years, and his home.

Carolina J.

Carolina J. has lived in the San Diego area for almost 20 years. She lives with two of her children, ages 12 and 27. Carolina's 27-year-old U.S. citizen daughter suffers from Downs Syndrome and depends upon her mother for her care. Prior to the implementation of the legalization program, Carolina left an abusive and brutal marriage. Although she worked hard to support herself and her children, her children received public assistance. Carolina first tried to apply for the legalization program at a community agency, but when the agency staff learned that Carolina's disabled daughter was receiving Supplemental Security Income (SSI), they referred her to the INS. When Carolina went to the INS, the INS asked her whether her family had received public assistance and upon learning that her family had received assistance the INS erroneously refused to give her an application for the legalization program. Carolina currently works at a retirement home, caring for elderly residents. Without the opportunity to apply now for the legalization program, she will lose her right to work and will have no way to support her family.

Irene B.

Irene B. works as a meat cutter in Garden City, Kansas. She came to the U.S. when she was only eight years old. She went to school in the U.S. and has lived here for almost all of her life. All of Irene's family lives in the U.S. She has five children. She and her husband both work hard making a decent living to support their family. They even own their own home. Many years ago, Irene and her husband were estranged. Irene was forced to accept public assistance to support her children during that difficult time. During the legalization program, Irene heard that people who had received public assistance were not eligible for the program. Although many people were dissuaded from applying with that misinformation, Irene went to the INS to try to apply anyway. After waiting five or six hours in a long line, Irene finally had the chance to present her documents that would support her application to an INS agent. She asked the INS agent whether she could apply. Once the agent found out that Irene's children were receiving welfare assistance, the agent erroneously told Irene that she could not apply. Irene left, discouraged, and never applied. Without the opportunity to apply now for the legalization program, Irene will lose her right to work in the U.S. and Irene's family will have little means of support.

Victoria E.

Victoria E. lives in El Monte California and is the mother of two teenage sons. Both of her children are U.S. citizens, and Victoria has lived in the U.S. for the past 17 years. Victoria currently works at a school district as a teacher's assistant, a position she earned after many years of active volunteer work. She has received numerous awards for her volunteer work, both in the schools and at a local health clinic. She is well respected in her neighborhood as a model parent and a resource for other parents. During her spare time she teaches religious classes. Many years back, Victoria had a terrible marriage and was abandoned by her brutal spouse when her children were very young. Because he provided no child support, she received public assistance for her children. During the implementation of the legalization program, Victoria went to an INS office and asked for an application for legalization so that she could file one. The INS erroneously told Victoria that she would not be eligible because her children received government assistance. The INS also told Victoria that she would be deported if she applied. Victoria was discouraged from applying. If Victoria does not have an opportunity to apply now for the legalization program, she will lose her right to work and her children will have no means of support in the U.S. Victoria's children have not seen their father since the day he abandoned them.

Profiles compiled by Vibiana Andrade, National Immigration Law Center, and Marisa J. Demeo, MALDEF.

Congress of the United States
House of Representatives
Washington, DC 20515

September 29, 1998

The Honorable Janet Reno
Attorney General
Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Madam Attorney General:

We write to you, on behalf of the Congressional Hispanic Caucus (CHC), to inquire about the status of two immigration issues which we have raised in previous meetings with President Clinton, Vice President Gore, INS Commissioner Meissner and you. The two issues include individuals caught in the middle of Section 377, also known as the "Late Amnesty" cases, and the publication of the regulations for the Nicaraguan Adjustment and Central American Act (NACARA).

Section 377

As you are aware, many immigrants who fall under Section 377 attempted to legalize their status through amnesty. In 1986, President Reagan signed the Immigration Reform and Control Act which created an amnesty program through which qualified undocumented immigrants had one year to apply to legalize their status, beginning on May 5, 1987. Four days before the application period began, the INS promulgated eligibility rules which were later found by the courts to be out of compliance with the statute. For example, one rule wrongfully prevented anyone who had briefly left the country from applying for amnesty. Several class action suits have sought to rectify these rules. When the court attempted to remedy the situation, the INS continued to appeal its jurisdiction and authority to do so, until 1996, when Section 377 was enacted. Because of the INS's steadfast opposition to the courts' decisions, no resolution has been found, leaving thousands of immigrants living in a state of limbo. We must have some final determination in this matter.

Many of the individuals who fall under the "Late Amnesty" cases reside in California, as well as Florida and New York. They have all been in the United States since at least January 1, 1982, putting down roots and contributing to the economy as taxpayers. In addition, a majority of these individuals have been in the country for nearly 20 years and have children born in the United States. We are concerned with the possible repercussions on the children of these individuals who will clearly suffer if their parents are placed in danger of deportation. The United States' long-standing national immigration policy is to reinforce the family unit, not to separate parents from children.

Virtually none of these individuals will be able to secure relief from deportation unless we act now. We wish to receive an update on the administrative remedies the Administration is considering to bring closure to an issue that has dragged on so long and affects so many individuals.

Nicaraguan Adjustment and Central American Relief Act (NACARA)

Last November, President Clinton signed the NACARA into law, which automatically granted residency to Nicaraguans and Cubans. Salvadorans and Guatemalans also benefited since it allowed them to make a case for remaining in the United States under suspension of deportation rules in place prior to the enactment of the 1996 Immigration law.

But while NACARA made things easier for Salvadorans and Guatemalans, it still excluded them from the most coveted privilege -- permanent residency. Under this law Salvadorans and Guatemalans must prove that being deported would bring "extreme hardship" on them and their families. The problem with this definition is that in the implementation individuals with similar circumstances will have different outcomes. As such, we are concerned about the fair implementation of the NACARA and the need to have regulations specific to the NACARA law.

Regulations are necessary to protect the specific interests of this group. For example, we are aware of a case in New Jersey in which a well established Salvadoran couple -- who got married, had a child, worked hard, paid their taxes, bought a house, and started a pension -- did not receive a favorable ruling. If these individuals are being denied suspension of deportation, we question the manner in which these cases are being reviewed. Without regulations to provide consistency regarding this group of immigrants, the outcome of these case-by-case determinations could vary widely.

It concerns us that immigration judges are denying NACARA suspension relief without the regulations having been published. We have to assume that the regulations would have been useful to these individuals' lawyer in preparing their case. We would appreciate an update on the status of the publishing of the regulations and assurance that these regulations will have consistency for this group of immigrants.

The CHC would appreciate an update on the actions that the Administration will undertake to resolve these two matters of great importance to the Latino community.

Sincerely,

XAVIER BECERRA
Chairman, Congressional Hispanic Caucus

LUIS GUTIERREZ
Chair, CHC Immigration Taskforce

Congress of the United States
House of Representatives
Washington, DC 20515

Fax Cover Sheet

Congressional Hispanic Caucus

Office of Congressman Xavier Becerra
1119 Longworth HOB
Washington, DC 20515-0530
(202) 225-2410 FAX (202) 225-2202

DATE: 10/1/98

TO: Julie Fernandez

Number: ~~[illegible]~~ 456-5581

FROM:
___ Congressman Xavier Becerrra, Chairman
___ Esther Aguilera, Executive Director
___ Mary Gonzales, Counsel
_X_ William Gil, Legislative Assistant

PAGE(S) 3 (including fax cover sheet)

NOTE:

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MALDEF

October 1, 1998

Senator Orrin Hatch
Senate Russell Building, Rm. 131
Washington, DC 20510

Dear Senator Hatch:

I write to request your support to prevent the deportation and denial of work authorization to men and women, many of whom are Latino, who have resided in this country with the permission of the United States government for over 20 years. These men and women were qualified for amnesty under the Immigration Reform and Control Act ("IRCA") but were denied the opportunity to apply by the Immigration and Naturalization Service ("INS"). Now these long-term residents of the United States face separation from their families, loss of jobs, housing and livelihood for themselves and their children. (Enclosed are profiles of several individuals affected.)

I ask your support for a legislative solution by amending the registry date under the Immigration and Nationality Act ("INA"), Section 249, 8 U.S.C. § 1259, to include those persons who entered and resided in the United States continuously since 1982. This is a practical and just solution for the thousands of immigrants who should have been allowed an opportunity to join our society as legal permanent residents but now stand in the shadows.

As way of background, in passing IRCA in 1986, Congress intended that all immigrants residing in the United States in an undocumented status prior to January 1, 1982 be allowed to apply for amnesty and subsequently adjust their status to that of a legal permanent resident. During the critical period immediately prior to the beginning of the one year amnesty program and through the majority of the 12-month eligibility period which concluded on May 4, 1988, the INS broadly disseminated erroneous information on eligibility issues. As a result of the erroneous information, thousands of individuals were denied applications, turned away from INS offices and community centers, and widely discouraged through INS media interviews from applying for amnesty.

In 1996, Congress enacted Sec. 377 of the Illegal Immigrant Reform and Immigrant Responsibility Act ("IIRIRA").[1] This amendment, which was made effective as if included in the original enactment of IRCA, divests the federal courts of the power to hear the claims of the vast majority of class members, who challenged INS' practices and who will be forever foreclosed from seeking redress in our courts as a result of INS misinformation. Sadly, the courts have offered thus far an extremely narrow interpretation of Section 377, thus further foreclosing relief.[2]

Congress can and should restore the original intent of IRCA. This can be done by adjusting the registry date as mentioned above. Such a solution cannot be accomplished without your leadership, so I ask you to provide relief for the families who have sunk deep roots in our communities with the permission of the government. Offering them the chance they never really had is a just resolution. Moreover, this proposal would end costly ten-year-old litigation that has dragged many affected through a legal system without providing them justice.

We look to you for your leadership on this issue of great importance to the Latino community.

Sincerely,

Antonia Hernandez

ANTONIA HERNÁNDEZ
President and General Counsel

cc: Attorney General Janet Reno
Deputy Assistant Attorney General Georgina C. Verdugo
Commissioner Doris Meissner
Chairman of the Congressional Hispanic Caucus Xavier Becerra
Deputy Chief of Staff Maria Echaveste
Deputy Assistant to the President for Legislative Affairs Janet Murguia
Domestic Policy Council Julie Fernandez

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[1] Sec. 377 of IIRIRA reads in relevant part:

(C) JURISDICTION OF THE COURTS--Notwithstanding any other provision of law, no court shall have jurisdiction of any cause of action or claim by or on behalf of any person asserting an interest under this section unless such person in fact filed an application under this section within the period specified by subsection (a)(1), or attempted to file a complete application and application fee with an authorized legalization officer of the Service but had the application and fee refused by that office.

[2] See CSS v Reno, 134 F.3d. 926 (9th Cir. 1998); Zambrano v. Reno, 9th Cir. May 7, 1998, Order, No. 97-16526, D.C. No. CV-88-00455-EJF.

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MALDEF

PROFILES OF INDIVIDUALS WHO THE INS DENIED AN OPPORTUNITY TO APPLY FOR THE LEGALIZATION PROGRAM

Hector A.

Hector A. has called the U.S. his home for 23 years. His wife has lived here 20 years. They are the parents of four children, ranging in age from 3 to 12 years old. The children are successful students, and their parents always reinforce the importance of a good education to them. Hector is a manager at a chemical plating company. He and his wife finally fulfilled the American dream when they bought their own home. They live in Pacoima, California. During the implementation of the legalization program, Hector and his wife, taking with them all of the documentation and fees required to qualify for the program, went to the Immigration and Naturalization Service (INS) to ask for an application for the program. The INS asked Hector and his wife if they had received public assistance. The INS erroneously told Hector and his wife that anyone who had received any form of public assistance was disqualified from participating in the legalization program. Because Hector's wife had received assistance through the Women, Infants and Children (WIC) assistance program during a pregnancy, the INS told her she would not qualify for the legalization program. Hector and his wife left the INS office discouraged and never applied. Without the opportunity to apply for the legalization program now, Hector will lose his right to work, the job that he has held for many years, and his home.

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Carolina J. has lived in the San Diego area for almost 20 years. She lives with two of her children, ages 12 and 27. Carolina's 27-year-old U.S. citizen daughter suffers from Downs Syndrome and depends upon her mother for her care. Prior to the implementation of the legalization program, Carolina left an abusive and brutal marriage. Although she worked hard to support herself and her children, her children received public assistance. Carolina first tried to apply for the legalization program at a community agency, but when the agency staff learned that Carolina's disabled daughter was receiving Supplemental Security Income (SSI), they referred her to the INS. When Carolina went to the INS, the INS asked her whether her family had received public assistance and upon learning that her family had received assistance the INS erroneously refused to give her an application for the legalization program. Carolina currently works at a retirement home, caring for elderly residents. Without the opportunity to apply now for the legalization program, she will lose her right to work and will have no way to support her family.

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Satellite Offices - Sacramento - El Paso - Fresno

Irene B.

Irene B. works as a meat cutter in Garden City, Kansas. She came to the U.S. when she was only eight years old. She went to school in the U.S. and has lived here for almost all of her life. All of Irene's family lives in the U.S. She has five children. She and her husband both work hard making a decent living to support their family. They even own their own home. Many years ago, Irene and her husband were estranged. Irene was forced to accept public assistance to support her children during that difficult time. During the legalization program, Irene heard that people who had received public assistance were not eligible for the program. Although many people were dissuaded from applying with that misinformation, Irene went to the INS to try to apply anyway. After waiting five or six hours in a long line, Irene finally had the chance to present her documents that would support her application to an INS agent. She asked the INS agent whether she could apply. Once the agent found out that Irene's children were receiving welfare assistance, the agent erroneously told Irene that she could not apply. Irene left, discouraged, and never applied. Without the opportunity to apply now for the legalization program, Irene will lose her right to work in the U.S. and Irene's family will have little means of support.

Victoria E.

Victoria E. lives in El Monte California and is the mother of two teenage sons. Both of her children are U.S. citizens, and Victoria has lived in the U.S. for the past 17 years. Victoria currently works at a school district as a teacher's assistant, a position she earned after many years of active volunteer work. She has received numerous awards for her volunteer work, both in the schools and at a local health clinic. She is well respected in her neighborhood as a model parent and a resource for other parents. During her spare time she teaches religious classes. Many years back, Victoria had a terrible marriage and was abandoned by her brutal spouse when her children were very young. Because he provided no child support, she received public assistance for her children. During the implementation of the legalization program, Victoria went to an INS office and asked for an application for legalization so that she could file one. The INS erroneously told Victoria that she would not be eligible because her children received government assistance. The INS also told Victoria that she would be deported if she applied. Victoria was discouraged from applying. If Victoria does not have an opportunity to apply now for the legalization program, she will lose her right to work and her children will have no means of support in the U.S. Victoria's children have not seen their father since the day he abandoned them.

Profiles compiled by Vibiana Andrade and Marisa J. Demeo, MALDEF.

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JULIE FERNANDEZ
DOMESTIC POLICY COUNCIL
WHITE HOUSE
1600 PENNSYLVANIA AVENUE
WASHINGTON DC 20500

Julie A. Fernandes
09/29/98 11:39:46 AM

Record Type: Record

To: Elena Kagan/OPD/EOP

cc: Laura Emmett/WHO/EOP

Subject: Section 377 meeting

At this afternoon's meeting, we decided to pursue a legislative fix to the registry date. Alan E. (INS Leg.) and Peter J. are supposed to get together to determine (1) whether there is a Rep. member who is willing to carry some water on this; and (2) what vehicle we could try to attach this to this session. The odds of getting this done this session seem slim, since there has not been much background work on the issue. However, we agreed it was worth trying. Also, Maria E. is going to call Becerra at let him know that there are no administrative options to solve the 377 problem, but that we are going to try to pursue the registry fix. She is also going to let him know that our strategy has to be <u>not</u> to link the registry fix to the late amnesty cases and <u>not</u> to talk about 400,000 people being affected. The highest number of folks that could be affected by the registry change is 80,000 (the number who were granted work authorization over the years), but the number is likely much less than that (those who could demonstrate that they have been in the U.S. since January 1, 1982). I am going to double back with DOJ/INS and Peter and will keep you posted.

julie

9/29/98

Section 248 of the INA (the Registry provision)

48/65/86 (when registry was changed in the past).

Hispanic Caucus is floating #s — 400,000

80,000 w/work authorization

#s that could demonstrate in U.S. since Jan 1, 1982

Look @ list of conferees and look for someone who will carry the water.

Link necessary focus on removing criminal aliens (enforcement resources on criminals)

need to adjust the registry (clean it up)

(15 yrs.)

Make Reps. see this as an Hispanic issue — a win from them.

TX; FL; CA Republican.

Section 377

The Immigration Reform and Control Act of 1986 (IRCA) provided for the legalization of certain aliens who had been unlawfully present in the United States since January 1982. In order to receive benefits under IRCA, aliens were required to submit an application during a one-year period from May 1987 to May 1988. During the implementation of this program **(when?)** the INS issued two regulations: (1) a regulation that indicated that those who traveled outside the country for a certain period of time between 1982 and 1986 were not eligible for amnesty; and (2) a regulation that indicated that those who had received any form of public assistance (even for their citizen children) were not eligible for amnesty. Because of these two regulations, many individuals who were eligible for amnesty were denied applications, turned away from INS offices, and otherwise discouraged from applying for amnesty.

A few days prior to the end of the one year period, INS issued guidance that clarified that these two regulations gave erroneous indications of eligibility . Subsequently, three lawsuits were filed challenging these two regulations as unfairly deterring eligible applicants from filing -- (1) the CSS suit; (2) the LULAC suit (both dealing with the issue of travel outside the U.S.); and (3) the Zambrano suit (public charge). travel

travel

CSS and LULAC public charge

The CSS and LULAC cases total over 300,000 class members.

Zambrano

In April 1988, MALDEF filed a lawsuit to stop the erroneous dissemination of information and denial of opportunity to apply. The district court in Zambrano found in favor of the plaintiffs and issued an injunction requiring the INS to withhold deportation and provide work authorization to class members pending resolution of their claims. In addition, the court equitably extended the filing period for amnesty for 5 months to allow persons to apply who had been denied the opportunity b/c of the INS's bad regulation. The Zambrano class is about 9,000 class members.

In 1996, Congress enacted Section 377 of IIRAIRA which divests the federal courts of the power to hear the claims of the majority of these class members. Only those who can demonstrate that they went to INS with a completed application and an application fee before the May 1988 deadline and were turned away (those who were "front-desked") would be able to have their case heard before a federal judge. Otherwise, the federal court has no jurisdiction to hear your case. However, if the person can demonstrate that they presented a completed application plus the application fee to the INS or QDE within the May 1987-88 window, the INS will adjudicate their claim. In January 1998, the 9th Circuit affirmed the above interpretation in the context of the CSS case.

Because of the 9th Circuit's interpretation of Section 377 in the CSS case, the district court dismissed the Zambrano case and lifted the protections for those class members as well (including work permits and stays of removal). According to Paul Virtue, General Counsel at INS, of the 300,000 LULAC and CSS class members, approximately 80,000 received work could say that anyone who can demonstrate that they have been in the U.S. since 1982 Jan 1st, can proceed under suspension of deportation rules (pre-1996).

authoriztion and stays of removal. According to MALDEF, all members of the Zambrano class (approximately 9,000) received work permits. All members of the class face possible deportation proceedings.

There are three groups of aliens who are affected by Section 377 if the 1996 Act:

1. Those who can demonstrate that they went to INS (or the QDE) with a completed application and a fee, but were turned away. These are the so-called "front-desked" aliens that were referred to by the Supreme Court as having the ability to challenge their denials in federal court. This group is also recognized by Section 377. The question for this group is whether INS has a process in place for adjudicating these folks (including the standard of proof for demonstrating that they are members of this group).

2. Those who presented INS with an incomplete application and were dissuaded from presenting a complete application. Section 377 takes jurisdiction away from the district court for these aliens. Lawyers argue that their exclusion violated equal protection. Is there any possible administrative relief for these folks? How would we identify this group? Those is this group would be eligible for suspension of deportation (cancellation of removal), b/c they have presumably been in the country for more than 10 years. However, the bar is pretty high for cancellation.

if protected from deportation, couldn't apply for suspension.

The other complication is that those who were members of a class that was given the benefit of not being placed in deportation proceedings during the pendency of their cases (like those in the Zambrano class, who became class members in 1988) were thus not able to apply for *suspension* of deportation under the old rules (you must have a final order of deportation prior to being eligible to apply for suspension). Now, the rules have changed. The standard for "cancellation of removal" is much higher, and presents a significant bar. There may be an equitable argument for allowing them to proceed under the old rules (suspension of deportation). applying w/in a certain window

3. Those who did not apply and did not attempt to apply during the relevant period.

Many in this group may also have an equitable argument for being permitted to proceed under the old rules for suspension of deportation. The difference is that they may not be able to demonstrate that they have been in the country since January 1, 1982. Their inability to demonstrate this would undermine the legitimacy of their inclusion in the class generally.

These issues leave us with two key questions:

1. Is it possible to get some kind of immediate relief for those class members who are being placed into expedited removal proceedings upon returning to this country after a short time abroad? Should we ask INS to refrain from placing class members in expedited removal proceedings and detaining them?

2. Is there a long-term solution for these groups? Should the old rules of suspension apply to these groups?

Section 377

1986 amnesty (legalization)
If you applied within a certain window, and you met eligibility, you could become legal.

Toward the end of the filing period, INS published bad regulations. Made it appear that some who were eligible, were not. These are those referred to as "front-desked."

There was a class action, Catholic Social Services v. Reno, that was a lawsuit against the governement on their interpretation of the regulations.

B/c the government had a cut-off date for filing for amnesty (May 1988), many who had missed the filing deadline joined the class. The class, then, became huge. All those in the class were able to get work authorization.

Government fought this. Went to the Supreme Court twice. Won. Sct said that there did exist a small group (those that were "front-desked") who are eligible for relief. The others are not. Many district courts refused to implement this ruling.

Congress then got involved. With the support of the Administration, passed Section 377. Unless you can show that you were front-desked, you are not a member of the class, federal courts do not have jurisdiction to hear your claim (thus, for example, district court cannot extend work authorization).

However, if a person can show (to an INS officer) that they presented a completed application + an application fee during the window (May 1987 to May 1988), INS will adjudicate their claim.

Sec. 377 was just upheld as constitutional by the 9th Circuit. The Administration took a position in support of the statute's constitutionality before the 9th Circuit.

The Administration also supported Section 377 in a views letter on the bill.

Short of legislation, there is not much that can be done for this group.

For more information, can contact Juliette Doig at INS (the lawyer who handled this): 703/756-6257.

Conversation with Paul Virtue

Is sending me a copy of: (1) our Supreme Court brief on whether the district court has jurisdiction to hear cases of those that did not apply during the window. This opinion includes a footnote on the possible federal court jurisdiction of those who, though they did not apply during the window, were "front desked"; and (2) our brief in the 9th circuit case on the constitutionality of Sec. 377.

It was the footnote in the CSS case that sparked another 3-4 years of litigation (on the question of whether a particular person was "front-desked."

Virtue says that out of a total of 300,000 classmembers (including both the CSS and LULAC cases), 80,000 received work authorization and a stay of removal (to get this, only needed a skeletal application, and did not need to at all demonstrate that you were in the country prior to January 1, 1982 -- a prerequisite for amnesty under the 1986 law). It is this group of 80,000 who are now without work authorization and are subject to deportation. Of the remaining 220,000, some were deported (removed), some adjusted their status, and some may have died.

Options for the 80,000?
(1) Could apply for cancellation of removal under the 1996 Act. Though they should be able to show presence in the country for more than 10 years (to be eligible for "legalization" had to be in the country since before January 1, 1982) may not be able to meet the "unusual circumstances" / "extreme hardship" standard.
(2) Could apply for adjustment of status (with a relative in the U.S. who is a citizen or LPR).

(2)

5/14/98

Julie, FYI

This is a copy of OPL Weekly Report to POTUS.

His remarks are next to the immigration description.

I just wanted you to know what his remarks were. If you have ques call me 66659

Thanks!

they understood the ramifications of passage and indicated that they will work against it and spread the word.

Arab Americans expressed their serious concerns over the Wolf\Specter legislation after a White House briefing and have committed to expressing that viewpoint to legislators on the Capitol hill.

We are also working with NSC to hold a conference calls with Arab and Muslim, Turkish, and Indian Americans regarding the pending legislation. It is expected that Wolf/Specter will be voted on in the House next week.

CONSTITUENT OUTREACH AND OTHER ISSUES

GAY AND LESBIAN OUTREACH

- **Bizarre twist in Navy's gay computer privacy case: McVeigh is promoted.** On Friday the Navy will promote McVeigh to one of the highest enlisted ranks, on account of his exemplary record. At the same time the Navy is arguing in federal court that they should be allowed to discharge him on account of his anonymous AOL computer profile.

RELIGIOUS COMMUNITY OUTREACH

- **Africa Trade Bill.** A NSC/State briefing for religious groups involved in Africa will be held on May 19. In the meantime, groups are working with Senate staff on some of their differences on the legislation.

- **Faith forums on Race.** The faith forums are now scheduled for May 21 in New Orleans and June 1 in Louisville. The offices of Mayors Morial and Abramson have been very helpful. Rev. Tony Campolo will speak in Louisville.

HISPANIC OUTREACH

- **Meeting with Immigrants Affected by Section 377 of the 1996 Immigration Law.** OPL met with the League of United Latin American Citizens (LULAC), National Council of La Raza (NCLR) and immigrants from the class of cases under the Late Amnesty Program of 1982. The immigrants told their personal stories of being in this country for the past decade and being active participants in American society. They were given working papers pending their cases with INS and have thus been working and paying taxes in this country for the last ten years. Now, their cases have been suspended and they are without working papers and are struggling to maintain their families, some of which are American citizens. They are asking for the Administration's support for reinstatement of working privileges and in getting their cases processed by INS.

AFL-CIO where is it (?)

H1B ~~for Claire~~

~~Ok~~ Anthony Lewis

Section 377

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The Administration also supported Section 377 in a views letter on the bill.

Short of legislation, there is not much that can be done for this group.

For more information, can contact Juliette Doig at INS (the lawyer who handled this): 703/756-6257.

Who in Congress was pushing for this (?)

Mtg. I-9 next week

§ 377 copy of our brief

On whose watch was Sct position

Meeting w/ 3 or 4 people
1 from INS
How could we fix this.
— Leg (?) —
who sponsor

Peter Shay
(808) 828 1992

§ 377

~~LULAC~~

those w/work permits who travel and upon return are excluded

Travel w/ "legalization cards"

Caught outside the country when 9th Cir
Sometimes expedited removal (5 yrs.)

If do not withdraw application for admission, are being told they will be excluded for 5 yrs.

Some in regular removal (b/c lost work permits, so additional charge of likely to become a public charge)

This group

Did not apply for legalization w/in the window.

125,000

Lulac

A couple of bad regs.

CSS 225,000 ① travel reg (95% of population we are concerned with)

Zambrano ② public charge info being sent out
10 ~~[illegible]~~ people

Immigrant Asst. Project of AFL-CIO (10,000 ?)

③ students who violated their student status.
Can't verify that govt. knew of, which is a prerequisite to showing eligibility

INS has admitted that regs ~~are~~ were bad
Want these 300,000 to be adjudicated

DCts. have made determinations re: these classes of people.

Does INS think that it has authority to [redacted] extend.

INS: Cts don't have power to extend statutory deadline.

No process for adjudication those w/completed applications (Group I)
Group I
(deemed to have applied by SCT) — § 377 saves them.

Group II Incomplete applic - during period

§ 377 takes jur. away from DCT. Though SCT said these could be o.k.
Their exclusion violates equal protection
Can "hang this up" in the cts. for a while.

Group III Those who didn't apply.

[redacted]

INS has said they would discuss this now that litigation is over.

Hispanic Caucus met w/ Meissner / Reno / Virtue

DOJ could provide relief
Admin. relief

Way to develop factors that would identify those who

* 80,000 got work permits
Not good to use this as a mark

1) Immediate relief for those who have to travel and, upon return, are placed in expedited removal or detained

2) Long-term
What to do w/ these groups ?

AILF
AMERICAN IMMIGRATION LAW FOUNDATION

8377

Copy to Julie Fernandez / where are we on this?

The White House
Office of Public Liaison
Maria Echaveste, Director
1600 Pennsylvania Avenue, NW
Washington, DC 20503

April 9, 1998

Dear Ms. Echaveste:

First, let me thank you for convening yesterday's meeting regarding the CSS class members. It was an important opportunity for advocates and attorneys representing class members to explain the consequences of the recent court decision dismissing the case and the harsh effects of the new immigration laws on hundreds of thousands of long time residents in the United States.

The purpose of this letter is to provide a few immediate suggestions for the administration's consideration in resolving this matter. Generally, we urge the administration to advise the INS to adjudicate all cases and allow class members to apply for legalization.

We also suggest that the following be done to avoid immediate and irreparable harm to class members:

- **Time during which a person is a CSS class member should be considered as a stay authorized by the Attorney General:** Immigration and Nationality Act (INA) Sec. 212(a)(9)(B) as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) adds additional grounds of inadmissibility for those persons considered to be unlawfully present in the United States. Under this section, if a person has been *unlawfully present* in the United States for a period of *more than 180 days but less than a year* or *more than a year* and departs from the United States, he or she cannot return for three years or ten years respectively. Regulations implementing this section of the law are still under review by the Department of Justice and have not yet been published. Time spent "in proceedings" should be considered a stay authorized by the Attorney General and, therefore, lawful presence. Such time should include time spent as a class member in the various challenges to INS practices and policies towards those persons eligible for legalization after the passage of the Immigration Reform and Control Act of 1986.

- **CSS class members returning to the United States after January 16, 1998 should not be placed in expedited removal proceedings:** Many CSS class members were abroad when the court issued its decision vacating the orders and remanding the case for dismissal to the district courts. Many of those returning CSS members have been placed in expedited removal and have been either removed or placed in detention. Others have been coerced into withdrawing their application for admission. We would urge the administration to enjoin the INS from placing CSS members in expedited removal and detaining them. Such persons, given the many years they have lived in the United States, may be able to regularize their immigrant status through family or labor based visa petitions. Others may be eligible for relief from under the Nicaraguan and Central American Relief Act of 1997 (NACARA). However, the INS has taken the position that persons placed in expedited removal are prohibited from seeking any such relief.

We believe that the administration could easily implement the above suggestions during its decision making process on final adjudication of the CSS cases. If you would like to further discuss the matter, please call. Otherwise we look forward to your continued support and to future meetings on these issues.

Sincerely,

Anna Marie Gallagher

Anna Marie Gallagher, Director
Legal Action Center

THE WHITE HOUSE

WASHINGTON

3/24

Maria recieved
400 hundred of
these letters today
she wants to know
when we are going
to deal with
this issue

M Tarmey
6-6594

March 15, 1998

Rosalinda Almazan
3418 Brock
Houston TX 77023

Maria Echaveste
Director of Public Liaison
White House
122 OEOB
Washington, DC, 20502

Dear Ms. Echaveste:

It is my sincere hope that, after reading this letter, you will understand how a decision of just a few makes many frustrated and desperate.

I am not sure if you are familiarized with our situation. I am one of the hundred of thousand CSS applicants who has been waiting for 10 years on the judge decision. I entered the US illegal more that seventeen years ago. After so many years of hard work the American dream became true. I am now enjoying of a stable economic situation. In our home we are believers of family unity, we are all persons of good moral character. However not everything is happiness in life. Several weeks ago we were informed that because Congress passed Section 377 of the Immigration Reform Act of 1996, our cases were dismiss by a Judge of the Ninth Circuit and that we were back to illegal status.

Ms. Echaveste have you ever felt that you are a Citizen of nowhere? Don't you think that is so sad that after keeping a hope for more that ten years one day you wake up and notice that you are nothing...? We are not criminals, we are Immigrants who started business, created jobs, and contributed to America. Is not fair that one more time we are left out.

We were unlawfully stopped from filing our Amnesty application because we have briefly traveled outside the US during the application period. We were given an opportunity to fight for our rights in court and now after ten years, Congress passed a law that took away the power of the courts to finish our cases.

Unless you take some action, thousands of **LONG-TERM RESIDENTS** like me, who actually qualify for legalization, will be reverted to illegal status.

In the words of former President Reagan, " America stands unique in the world, the only country not founded on race, but on a way – an ideal. Not in spite of, but because of our polyglot background, we have had all the strength in the world. This is the American way." We agree because we believe in justice and America is the country of justice. For that, we urge you to please help us and reconsider the decision of the INS to revert us to illegal status, give us some kind of immediate protection and grant the long waited LEGALIZATION.

Thank you for your precious time and consideration to this matter.

Very truly yours,

THE WHITE HOUSE
WASHINGTON

3/24

Maria received
400 hundred of
these letters today.
She wants to know
when we are going
to deal with this
issue, 6-6594
M. Tormey

March 15, 1998

Mercedes Podillo
8210 Curry 77093
Houston Texas

Julie —
Elena asked me to send this on to you to take a look at
- Laura

Maria Echaveste
Director of Public Liaison
White House
122 OEOB
Washington, DC, 20502

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Thank you for your precious time and consideration to this matter.

Very truly yours,

Mercedes Postillo

Maria Echaveste 03/25/98 07:30:03 PM

Record Type: Record

To: Karen E. Skelton/WHO/EOP, Julie A. Fernandes/OPD/EOP
cc: Elena Kagan/OPD/EOP, Janet Murguia/WHO/EOP
bcc:
Subject: Re: Section 377, Immigration Bill

Folks---we've recived over 100 letters and more are coming in every day on this issue--we need to get informed on this asap--it involves a longstanding dispute with INS that led to litigation and the INS put in this no judicial review provision so that even though the folks won a right to have their cases reviewed now because of that provision, they're out of luck--Julie, I'll be happy to call Paul Virtue to ask for info so we can get some paper before you call a meeting on this--or maybe you want to call a meeting and have Paul/INS come over and brief this--then we need to hear from the outside advocates on their views--let's try to get this addressed in three/four weeks, shouldn't take that long to figure out what the options are.
Karen E. Skelton

Karen E. Skelton 03/25/98 05:12:47 PM

Record Type: Record

To: Julie A. Fernandes/OPD/EOP

cc: Maria Echaveste/WHO/EOP
Subject: Section 377, Immigration Bill

This is a long over due e-mail following up with a conversation I had with Cong. Xavier Becerra. He encouraged me to encourage the White House to push for an amendment of the statute to change the terms or effective date of the Act, or do something Administrately, on the amnesty waiver issue. Where are we on this? Is there anything I can do to help?

Immigration — § 377
Q & A

Q: What is the INS doing to provide relief to the thousands who, because of Section 377 of the INA, are in danger of being deported?

A: The INS is aware of the issues surrounding those who were members of the CSS, LULAC and Zambrano classes who are now ineligible for immigration benefits (such as work authorization and stays of removal). Current immigration law may provide some avenue for relief for CSS class members. Those who have been in the country for more than 10 years may be eligible for cancellation of removal under IIRIRA. Because of the continued pendency of litigation in both the LULAC and Zambrano cases, we cannot comment on possible outcomes there.

Randall Kennedy — BM
John Di Iulio — WM
Fred Lau — AM
Reuben Greenberg — BM
Kim Taylor-Thompson — BW
Deborah Martinez — HW
Marie Jimenez — HW
Larry Echohawk — NA

Q. What is the Administration doing to provide relief to members of the CSS class and other cases such as LULAC and Zambrano due to Section 377 of IIRIRA?

A. The Administration is aware of the issues surrounding the "late" amnesty cases, but because of continuing litigation, we cannot comment on the LULAC and Zambrano law cases.

Alternative response:

A. Effective February 5, 1998, when the Ninth Circuit's mandate was issued vacating all interim relief orders, CSS class members were no longer entitled to work authorization, stays of removal, or any immigration benefit on the basis of CSS class membership. Continuing litigation, precludes us from commenting on the LULAC and Zambrano cases. However, Current immigration law may provide some avenues of relief for former CSS class members. For example, the immigration laws provide for relief for certain aliens who have been in the United States for a period of 10 years, have good moral character, and can establish that their removal would cause "exceptional and extremely unusual" hardship to their United States citizen or lawful permanent resident relatives.

~~STATEMENT~~ BACKGROUND: 5/5/98

FOR RESPONSE TO QUERY
End of Litigation for "Late" Amnesty Applicants

Q. What did IRCA provide?

A. The Immigration Reform and Control Act of 1986 (IRCA) provided for the legalization of certain aliens who had been unlawfully present in the United States since January 1982.

Q. How did aliens apply for benefits under IRCA?

A. In order to receive benefits under IRCA, aliens were required to submit an application during a one-year period which started in May 1987 and ended in May 1988.

Q. What are the legalization cases, CSS, NEWMAN (formerly known as LULAC), and ZAMBRANO?

After the enactment of IRCA, the Service's implementation of the legalization program was challenged in the courts. The government argued that the lawsuits could not be maintained by aliens who had not actually applied or attempted to apply (by submitting a complete application and fee to an INS officer) before May 4, 1988. The litigation ultimately reached the Supreme Court in 1993, where the government's position prevailed. Despite the Supreme Court's decision, the government's efforts to end the litigation were unsuccessful in the lower courts. It was not until January 16, 1998 that the United States Court of Appeals for the Ninth Circuit, based on the enactment of section 377 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), instructed the district court to dismiss the CSS case and vacated all interim relief orders in the case. The NEWMAN/LULAC and Zambrano cases are still pending.

Q. What are interim relief orders?

A. During the ongoing litigation, thousands of aliens who failed to apply for legalization during the one-year statutory application period were granted immigration benefits (such as work authorization and stays of removal) on the basis of membership in the class action lawsuits. The Ninth Circuit's recent order in CSS vacates the district court's orders granting these benefits.

Prepared by the Office of Public Affairs (202) 514-2648

Q. How many class members are there in the legalization lawsuits?

A. There were, very roughly, about 40,000 CSS class members, 27,000 NEWMAN/LULAC, and 8,000 ZAMBRANO.

Q. What is section 377 of IIRIRA?

A. Section 377 of the IIRIRA was a legislative effort to put an end to the litigation which sought to extend IRCA's legalization program (which Congress had intended to end more than eight years earlier). The provision effectively codifies the Supreme Court's 1993 ruling in the CSS case, and was supported by the Administration.

Section 377 provides that courts may only hear cases brought by persons seeking relief under the IRCA if they in fact filed a timely application for legalization before May 4, 1988, or "attempted to file a complete application and application fee with an authorized legalization officer of the Service but had the application and the fee refused by that officer." See 8 U.S.C. s1255a(f)(4)(C).

Q. What was the impact of the dismissal of CSS?

A. Effective February 5, 1998, when the Ninth Circuit's mandate was issued vacating all interim relief orders, CSS class members were no longer entitled to work authorization, stays of removal, or any immigration benefit on the basis of CSS class membership. We understand that the enactment of section 377 and the dismissal of the CSS lawsuit may cause hardship to some aliens who have been illegally present in the United States for many years. The immigration laws may provide some avenues of relief for former CSS class members. For example, the immigration laws provide for relief for aliens who have been in the United States for a period of 10 years, have good moral character, and can establish that their removal would cause "exceptional and extremely unusual" hardship to their United States citizen or lawful permanent resident relatives. Individuals in this situation should consult their attorneys regarding their immigration status and possible avenues of relief.

HERE'S AN INTERESTING FAX...

...From the Office of Public Affairs
U.S. IMMIGRATION & NATURALIZATION SERVICE

425 I Street, NW, Washington, DC 20536
(202) 514-2648 (202) 514-1776

Date: 5/5/98

Fax to: JULIE FERNANDEZ

Fax Number:

From: Eric C. Andrus 202/514-8080/2648 FAX: 202/514-9833

Pages (Including Cover): 4

Comments: DRAFT Q+A; BACKGROUND INFO, FYI.