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14 United States District Court
15 Central District of California

16 Felicity Mary Newman; et al.) Civ. No. 87-4757-WDK (CWx)
17)
18 Plaintiffs,) Settlement of Class
19 vs.) ACTION
20)
21 BUREAU OF CITIZENSHIP AND)
Immigration Services,^{1/} et al.,)
22)
23 Defendants.)
24)
25)
26)

27 ^{1/} Pursuant to Rule 25 of the Federal Rules of Civil Procedure the Bureau of
Citizenship and Immigration Services (“BCIS”) is substituted for the former Immigration
28 and Naturalization Service, and Eduardo Aguirre, Jr. Acting Director, in his official
capacity, is substituted for former Commissioner Doris Meissner.

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Additional Attorneys for Plaintiffs

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

3 1. Class Definition

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

6 A. All persons who are otherwise prima facie eligible for legalization under
7 Section 245A of the Immigration and Nationality Act (“INA”) who attempted to
8 file a completed application and application fee with a representative of the
9 Immigration and Naturalization Service “INS” including a Qualified Designated
10 Entity (“QDE”), during the period from May 5, 1987, to May 4, 1988, but had the
11 application and fee refused by that representative because they had traveled
12 outside of the United States and returned with a visitor’s visa, student visa, or any
13 other type of visa or travel document.

14 B. All persons who filed for class membership under *Newman et al. v. INS et al.*,
15 87-4757-WDK(CWx)(C.D. Cal.), and who are otherwise prima facie eligible for
16 legalization under Section 245A of the INA, who were informed by an INS officer
17 or QDE employee during the period from May 5, 1987, to May 4, 1988, that they
18 were ineligible for legalization because they had traveled outside of the United
19 States and returned with a visitor’s visa, student visa, or any other type of visa or
20 travel document, or were refused by the INS or its QDEs legalization forms on
21 account of that travel and the facially valid visa rule, and for whom such
22 information, or inability to obtain the required application forms, was a
23 substantial cause of their failure to timely file or complete a written application.

24 For purposes of the subclass definition, the phrase “filed for class membership” shall be
25 determined in accordance with 8 C.F.R. § 245a.10.

26 2. Notice to Defendants’ Employees

27 Commencing within fourteen (14) days of the date on which this Settlement
28 Agreement is approved by the district court, or a separate settlement agreement is
approved by the district court in *Catholic Social Services, Inc. v. Reno*, CIV No. S-86-1343
LKK (E.D. Cal.), (“CSS”) whichever is later, defendants shall use good faith and
reasonable efforts to distribute this Settlement Agreement or a summary attached as
Exhibit 1 to all of their officers, agents and employees responsible for processing class
membership claims or who may in the course of their duties supervise officers who
detain or remove putative class members. Defendants shall use good faith and

1 reasonable efforts to serve Class Counsel with copies of all supplemental instructions or
2 guidelines issued to their officers, agents or employees regarding implementation of this
3 Settlement Agreement.

4 3. Notice to Subclass Members

5 In the event that this agreement is approved by the district court, defendants
6 shall, within sixty (60) days from the date of the court's approval, or the approval of a
7 separate settlement agreement by the district court in CSS, whichever is later, issue a
8 press release and a Class Notice in English and Spanish (attached as Exhibit 2)
9 announcing this Settlement Agreement. The press release, Class Notice, and Newman
10 Class Membership Applications (attached as Exhibit 3) shall be distributed to the media
11 and community-based organizations according to the Bureau of Citizenship and
12 Immigration Service's (BCIS) normal procedure for doing so, and defendants shall
13 provide a copy of the distribution list to class counsel. The press release, Class Notice
14 and Newman Class Membership Applications shall be posted on defendants' web site
15 until the end of the application period referenced in paragraph 4 below. The press
16 release, Class Notice and Newman Class Membership Applications shall also be made
17 available at defendants' district offices until the end of the application period referenced
18 in paragraph 4 below. Within 60 days of this Settlement Agreement and during the
19 remainder of the application period specified in paragraph 4, defendants shall make
20 available to all persons, upon request, a copy of Form I-687, Newman Class Member
21 Applications and instructions, Form I-765.

22 4. Application Period.

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

4 5. Filing of Applications.

5 Individuals asserting a claim for relief under this Settlement Agreement shall file
6 a Newman Class Membership Application, and a Form I-687, Application for Status as a
7 Temporary Resident, with fee, and supporting documentation.

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

16 As to persons who previously filed for class membership as that term is defined in
17 paragraph 1 above, Defendants shall refund the fee for filing the Form I-687 if such
18 person's application for class membership is denied pursuant to paragraphs 6, 7 and 8
19 below.

20 As to those individuals who did not previously file for class membership, as that
21 term is defined in paragraph 1 above, there shall be no refund of the fee for filing the
22 Form I-687 if such person's application for class membership is denied pursuant to
23 paragraphs 6, 7 and 8 below.

24 6. Adjudication of Applications for Class Membership

25 Newman Class Membership Applications should be granted if, based on
26 responses to questions asked on the applications, it appears more probable than not that
27 the applicant meets the subclass definition. A determination that an applicant is a
28

1 subclass member is not binding in any manner on defendants for the purposes of an
2 adjudication on the merits of the application for temporary residence which shall be
3 conducted *de novo*. Newman Class Membership Applications shall not be denied solely
4 because applicants do not possess documentary evidence establishing class membership.
5 Defendants shall treat information and materials submitted in connection with a
6 Newman Class Member Application as confidential in accordance with 8 U.S.C. §
7 1255a(c)(5).

8 7. Intended Denials of Class Membership

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

14 8. Denial of Applications for Class Membership.

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

21 9. Review by Special Master.

22 A. Selection of the Special Masters. These will be the same Special Masters
23 selected in CSS, and any appeals will be assigned in the same random manner as in that
24 case.

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

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

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

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

15 C. Review of Other Decisions. An applicant who believes that defendants
16 have violated his or her individual rights pursuant to paragraphs 3, 4, 5, 7, 10, 12, or 13 of
17 this Settlement Agreement may file a claim with the Special Master. However, prior to
18 filing any such claim, the applicant must advise defendants by certified mail, or other
19 documented delivery service to an address specified by defendants, that he or she
20 believes that Defendants have violated his or her rights under paragraphs 3, 4, 5, 7, 10, 12,
21 or 13. Defendants shall have forty-five (45) days from the date they are notified of the
22 applicant's intent to file a claim under this paragraph in which to investigate and, if
23 appropriate, rectify any deficiency. If fifty (50) days after notifying defendants of his or
24 her intent to file a claim, the applicant does not receive notice that defendants have
25 sustained the applicant's challenge, then the applicant may file his or her appeal to the
26 Special Master. Any such appeal must be post-marked within eighty (80) days of the date
27 the applicant advised Defendants of the alleged violation.

1 12. Time for Determining Class Membership and Legalization Applications.

2 A. Defendants shall use good faith and reasonable efforts either to approve
3 applications for class membership or issue notices of intended denials within ninety (90)
4 days. If a notice of intended denial is issued, defendants shall endeavor to issue a final
5 decision on the application for class membership within ninety (90) days after receipt of
6 an applicant's supplemental evidence or explanation, if any.

7 B. Defendants shall use good faith and reasonable efforts to adjudicate
8 subclass members' I-687 Forms within one hundred and eighty (180) days of approval of
9 their application for class membership.

10 C. If the aggregate volume of Form I-687 applications received under this
11 Settlement Agreement and the Settlement Agreement reached in CSS exceeds two
12 hundred forty thousand it is anticipated that the approximate processing times
13 referenced in subparagraphs A and B above will double.

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

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

23 14. Reporting on Implementation of This Agreement.

24 Commencing four months after the beginning of the filing period, defendants
25 shall prepare quarterly reports setting forth the number of Newman Class Membership
26 Applications, Forms I-687, and Forms I-765, that were received, approved, denied and
27 pending. Copies of such report shall be provided to Class Counsel. In the event
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1 defendants believe good cause exists to extend the time periods set forth in paragraph 12,
2 defendants shall provide Class Counsel with a written explanation of such cause and
3 proposed alternative target periods.

4 15. Costs and Attorneys Fees.

5 Defendants will pay plaintiffs attorneys' fees and costs, as determined by a
6 separate agreement.

7 16. Duration of Agreement.

8 The parties agree that this agreement will become effective on the date it is
9 approved by the Court. The agreement will remain in effect for one year after defendants
10 adjudicate the last application for class membership. Defendants agree to promptly
11 notify Class Counsel of the date they adjudicate the last application for class membership.

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

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

18 18. Continuing Jurisdiction.

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

- 22 A. Claims by plaintiffs that the Defendants have engaged in a pattern and
23 practice of refusing to implement any of the relief set forth in this
24 Agreement.
- 25 B. Claims by plaintiffs that the Defendants have expressly repudiated this
26 Agreement.
- 27 C. At least sixty (60) days prior to bringing any action pursuant to this
28 provision, the parties shall meet and confer in a good faith effort to resolve
any of their differences.

1 D. Any action under this provision must be brought within one year after the
2 Defendants adjudicates the last application for class membership.

3 19. Class Counsel.

4 Class Counsel for the purposes of this Settlement Agreement are Peter A. Schey
5 and Carlos R. Holguín, Center for Human Rights and Constitutional Law, 256 S.
6 Occidental Blvd., Los Angeles, CA 90057, telephone (213) 388-8693, facsimile (213) 386-
7 9484, e-mail amnestycoordinator@centerforhumanrights.org.

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

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

13
14
15 _____
16 Anthony W. Norwood
17 U.S. Department of Justice
18 P.O. Box 878, Ben Franklin Station
19 Washington, DC 20044
20 202-616-4883
21 Counsel for Defendants

22 Dated: _____, 2003.

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

Dated: _____, 2003.

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

Dated: _____, 2003.

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In the United States District Court
for the Central District of California

Felicity Mary Newman; et al.)	Civ. No. 87-4757-WDK (CWx)
)	
Plaintiffs,)	ATTACHMENT 1
vs.)	
)	[Summary of settlement]
Bureau of Citizenship and)	
IMMIGRATION SERVICES, ET AL.,)	
)	
Defendants.)	
_____)	

This is a summary of a settlement filed in this case and approved by the Court on _____, 2003 (hereinafter "*Newman settlement*").

1. **Class definition**

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

A. All persons who are otherwise prima facie eligible for legalization under Section 245A of the Immigration and Nationality Act ("INA") who attempted to file a completed application and application fee with a representative of the Immigration and Naturalization Service ("INS") including a Qualified Designated Entity ("QDE"), during the period from May 5, 1987, to May 4, 1988, but had the application and fee refused by that representative because they had traveled outside of the United States and returned with a visitor's visa, student visa, or any other type of visa or travel document.

B. All persons who filed for class membership under *Newman et al. v. INS et al.*, 87-4757-WDK(CWx)(C.D. Cal.), and who are otherwise prima facie eligible for legalization under Section 245A of the INA, who were informed by an INS officer or QDE employee during the period May 5, 1987, to May 4, 1988, that they were ineligible for legalization because they had traveled outside of the United States and returned with a visitor's visa, student visa, or any other type of visa or travel document, or were refused by the INS or its QDEs legalization forms on account of that travel and the facially valid visa rule, and for whom such information, or inability to obtain the required application forms, was a substantial cause of their failure to timely file or complete a written application.

As used in subparagraph (B) the phrase "filed for class membership" includes the spouses and children of persons who actually filed for class membership as provided in 8 C.F.R. § 245a.10.

2. **Distribution of Newman settlement or this summary.**

1 The Newman settlement requires that within 14 days from the date on which district
2 court approves the settlement, or on which the separate settlement in *Catholic Social*
3 *Services, Inc. v. Reno*, CIV No. S-86-1343 LKK (E.D. Cal.), (“CSS”) is approved by the court,
4 whichever is later, the Department of Homeland Security (“DHS”) must use good faith
5 and reasonable efforts to distribute the Newman settlement or this summary thereof to all
6 DHS officers, agents and employees who will be responsible for processing class
7 membership claims. The DHS must also use good faith and reasonable efforts to provide
8 the Newman settlement or summary to all DHS personnel who may in the course of their
9 duties detain or remove individuals who may be Newman class members. DHS must use
10 good faith and reasonable efforts to serve Class Counsel with copies of all supplemental
11 instructions or guidelines it issues regarding implementation of this Settlement
12 Agreement.

13 **3. Notice to Class Members**

14 The Newman settlement requires the Bureau of Citizenship and Immigration Services
15 (“BCIS”) to issue a press release and a Class Notice in English and Spanish (the texts of
16 which are attached as Attachments 2 and 3) announcing the Newman settlement within
17 60 days following the court’s approval of the agreement, or the court’s approval of the
18 CSS settlement, whichever is later. The press release, Class Notice, and Class Member
19 Application sheet (attached as Attachment 4) must be distributed to the media and
20 community-based organizations according to the BCIS’s normal procedure for doing so.
21 BCIS shall provide class counsel with a copy of the lists to which these materials are
22 distributed. The press release, Class Notice, Class Member Applications and Appeal to
23 Special Master of Denial of Class Membership shall be posted on the BCIS’s web site until
24 the end of the application period referenced in ¶ 4 below. The press release, Class Notice,
25 Class Member Applications and Appeal to Special Master of Denial of Class Membership
26 shall also be made available at BCIS district offices until the end of the application period
27 referenced in ¶ 4 below. Within 60 days of this Settlement Agreement and during the
28 remainder of the application period specified in ¶ 4, BCIS shall make available to all
persons, upon request, a copy of Form I-687, Newman Class Member Applications and
instructions, and Form I-765.

1 **4. Application Period.**

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

9 **5. Filing of Applications.**

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

13 The fee for filing all forms in connection with the application process shall be the fees

1 applicable by regulation or Federal Register Notice at the time of filing the application(s).
2 Except as provided in ¶ 10 below, applicants must file a Form I-765 with fee if they wish
3 to receive an employment authorization document.

4 If a person previously filed for class membership as that term is defined in ¶ 1 above,
5 BCIS shall refund the fee for filing the Form I-687 if such person's application for class
6 membership is denied. Individuals who did not previously "file for class membership"
7 as that term is defined in ¶ 1 above, shall receive no refund of the fee for filing the Form I-
8 687 if such person's application for class membership is denied.

9 **6. Adjudication of class member applications and legalization applications**

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

19 **7. Intended Denials of Class Membership**

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

25 **8. Denial of Applications for Class Membership.**

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

9. Review by Special Master.

A. **Selection of the Special Masters.** These will be the same Special Masters selected
in CSS, and any appeals will be assigned in the same random manner as in that
case.

B **Review of Decisions Involving Determination of Class Membership.** Any decision
by BCIS denying an application for class membership may be appealed to a
Special Master. Any such appeal must be post-marked within 30 days of the date
of mailing of the notice denying the application for class membership. The Special

1 Master's review shall be based on the documents and other evidence submitted
2 by the applicant, and any documentary evidence the BCIS relies on in reaching
the decision to deny the application for class membership.

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

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

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

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

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

22 10. Renewal of Employment Authorization Documents

23 The BCIS shall, without fee, reissue or renew for a period of one year employment
24 authorization to applicants in the class defined herein who were previously issued such
25 employment authorization pursuant to interim relief orders in *Newman et al. v. INS*, No.
87-4757 (C.D. Cal). An applicant shall be entitled to have his or her employment
26 authorization renewed only during the application period and only one time under this
provision.

27 11. Adjudication of Applications for Temporary Residence.

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

14 12. Time for Determining Class Membership and Legalization Applications.

- 15 A. BCIS shall use good faith and reasonable efforts either to approve applications for
16 class membership or issue notices of intended denials within ninety (90) days of
17 receipt. If a notice of intended denial is issued, the BCIS shall endeavor to issue a
18 final decision on the application for class membership within ninety (90) days
19 after receipt of an applicant's supplemental evidence or explanation, if any.
- 20 B. BCIS shall use good faith and reasonable efforts to adjudicate class members' I-687
21 forms within one hundred and eighty (180) days of approval of their application
22 for class membership.
- 23 C. If the aggregate number of Form I-687 applications received under the Newman
24 settlement and the settlement reached in *Catholic Social Services, Inc. v. Reno*, CIV
25 No. S-86-1343 LKK (E.D. Cal.), exceeds 240,000, it is anticipated that the
26 approximate processing times referenced in subparagraphs A and B above will
27 double.

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

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

14. Reporting on Implementation of This Agreement.

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

1 explanation of such cause and proposed alternative target periods.

2 15. Duration of Agreement.

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

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

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

9 18. Continuing Jurisdiction.

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

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

17 19. Class Counsel.

18 Class Counsel for the purposes of this Settlement Agreement are Peter Schey and Carlos
19 R. Holguin, Center for Human Rights and Constitutional Law, 256 S. Occidental Blvd.,
20 Los Angeles, CA 90057, telephone (213) 388-8693, facsimile (213) 386-9494, e-mail
amnestycoordinator@centerforhumanrights.org.

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In the United States District Court
for the Central District of California

Felicity Mary Newman; et al.) Civ. No. 87-4757-WDK (CWx)
)
Plaintiffs,) ATTACHMENT 2
vs.)
) [Class notice]
Bureau of Citizenship and)
IMMIGRATION SERVICES, ET AL.,)
)
Defendants.)
_____)

IMPORTANT NEWMAN CLASS NOTICE

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

Who is a Newman Class Member?

You may be a *Newman* Class Member if —

1. You lived unlawfully in the United States from before January 1, 1982, until some time between May 5, 1987 and May 4, 1988 (the application period for the amnesty program) when you (or your parent or spouse) attempted to file a completed application and application fee with a representative of the Immigration and Naturalization Service ("INS") including a Qualified Designated Entity ("QDE"), but had the application and fee refused by that representative because you had traveled outside of the United States and returned with a visitor's visa, student visa, or any other type of visa or travel document, and you were otherwise eligible for legalization; **or**
2. you (or your parent or spouse) applied for a work permit under the *Newman* /LULAC case, and during the application period you had been informed by an INS officer or QDE employee that you were ineligible for legalization because you had traveled outside of the United States and returned with a visitor's visa, student visa, or any other type of visa or travel document, or were refused by the INS or its QDEs legalization forms on account of that travel, and that information, or inability to obtain the application forms, was a substantial cause of your failure to timely file or complete a written application, and you were otherwise eligible for legalization.

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

Another common name for *Newman* class members is "LULAC" class members.

What proof do I need of class membership?

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

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

7 Class members may apply for legalization under the 1986 law. Class members who show
8 that they lived in the United States continuously and unlawfully from before January
9 1982 until the time the INS turned them away in 1987-98, may be granted employment
10 authorization, permission to travel abroad, and "Temporary Resident Status." Eighteen
11 months later class members granted Temporary Resident Status may apply for
12 permanent resident status.

13 ***How do I apply for Newman Class Membership?***

14 You may ask the BCIS or a community organization or lawyer for (1) a "Newman Class
15 Membership Claim," and (2) an "Application for Temporary Resident Status (I-687)."
16 These documents are also available on the internet at www.centerforhumanrights.org.
17 ***You must submit the Class Membership Claim and I-687 application to the BCIS between***
18 ***_____, 2003 and _____ 2004.***

19 ***You may contact the lawyers representing the class at (213) 388-8693, ext. 100, or by***
20 ***mail addressed to Center for Human Rights, 256 S. Occidental Blvd., Los Angeles, Ca.***
21 ***90057, or by e-mail to amnestycoordinator@centerforhumanrights.org***

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In the United States District Court
for the Central District of California

Felicity Mary Newman; et al.)	Civ. No. 87-4757-WDK (CWx)
)	
Plaintiffs,)	ATTACHMENT 3
vs.)	
)	[Class member claim
Bureau of Citizenship and)	and instructions]
IMMIGRATION SERVICES, ET AL.,)	
)	
Defendants.)	
)	

INSTRUCTIONS

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

Who is a Newman Class Member?

You may be a *Newman* (formerly *LULAC*) Class Member if you:

- (1) lived continuously and illegally in the United States from *before* January 1, 1982, *until* some time between May 4, 1987 and May 4, 1988, when you (or your parent or spouse) visited the INS or a Qualified Designated Entity (QDE) to apply for the 1986 "amnesty" program, *and*
- (2) you (or your parent or spouse) were turned away by the INS or the QDE because you (or your parent or spouse) had, or the INS thought that you had, traveled outside the U.S. after January 1, 1982 and returned to the US using a tourist visa, student visa, or some other INS-issued document.

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

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

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

No, but class members (or their parents or spouse) must have visited an INS or QDE office during the amnesty application period (May 5, 1987 to May 4, 1988), advised an INS or QDE official that they wished to apply for amnesty, advised the INS or QDE (or the INS or QDE believed) that they had traveled outside the United States after January 1, 1982, and returned using a student visa, a tourist visa, or some other INS-issue document, and been told that they were ineligible to apply for amnesty.

1 You may also be a class member if you attempted to file a complete amnesty application and fee
2 with the INS or a QDE during the amnesty application period (May 5, 1987 to May 4, 1988), or
3 your parent or spouse tried to do so, and the application was rejected because you or your parent or
spouse had traveled outside the United States after January 1, 1982, and returned using a student
visa, a tourist visa, or some other INS-issue document.

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

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

7 Fill in the *Newman* Class Membership Claim, including as much information as you remember
8 about the visit to an INS or QDE office when you were turned away between May 5, 1987 and
9 May 4, 1988.

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

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

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

20 **How do I obtain the forms to apply for Newman class membership and legalization?**

21 You can obtain the forms from your local BCIS (formerly called the INS) office. Local community
22 groups or an immigration lawyer's office may also have the forms available. You can also obtain
23 the forms from the BCIS web site, www._____.gov, or class counsels' web page,
24 www.centerforhumanrights.org.

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

26 **You must submit the applications to the BCIS between _____, 2003, and
27 _____, 2004. Applications must be postmarked no later than _____,
28 2004.**

How do I file my application?

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

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

If the BCIS decides that you are *not* a class member, your I-687 application fee will be refunded.

1 Your refund will be delayed if you appeal the decision that you are not a class member. If the
2 appeal decides that you are a class member, BCIS will then process your legalization application.
If the appeal decides that you are not a class member, your application fee will be refunded.

3 [Note that if you did not apply for a work permit under *Newman*, your filing fee is not refundable.]

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

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

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

9 **What if the BCIS denies my claim?**

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

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

13 **Will the BCIS use the information in my Class Member Claim or legalization application to**
14 **deport me?**

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

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

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

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

23 ***Do not contact the Court for information. For assistance, you may contact the lawyers***
24 ***representing the class at (213) 388-8693 ext. 100, or by mail at Center for Human Rights, 256 S.***
25 ***Occidental Blvd., Los Angeles, Ca. 90057, or e-mail***
amnestycoordinator@centerforhumanrights.org

1 **CSS/Newman (LULAC) Class Membership Worksheet**

2

3 **Last Name** **First Name** **Middle Initial** **A Number**

4

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

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

- 11 1. During the period between May 5, 1987 and May 4, **YES** **NO**
12 1988, did you (or a parent or spouse) visit an INS
13 office to apply for legalization, but were turned
14 away because the INS or the QDE believed that (1)
15 you had traveled outside the United States after
November 6, 1986, without advance parole, OR (2)
16 you had traveled outside the United States and
17 returned after January 1, 1982, with a visitor's visa,
18 student visa, or any other type of visa or travel
document?
- 19 2. Did you enter the United States before January 1,
20 1982, and then reside in continuous unlawful status,
21 except for brief absences, from before 1982 until the
22 date you (or your parent or spouse) were turned
away by the INS when you (or your parent or
23 spouse) tried to apply for legalization in 1987-88?
- 24 3. Were you continuously physically present in the
25 United States, except for brief, casual and innocent
26 departures from November 6, 1986 until the date
27 you (or your parent or spouse) were turned away by
the INS when you (or your parent or spouse) tried to
28 apply for legalization?
4. Have you ever been convicted of a felony or three
or more misdemeanors, or have you ever been
convicted of crimes, or committed acts which make
you inadmissible pursuant to any provision of the
Immigration and Nationality Act including but not
limited to: 212(a)(2)(A)(i)(I) (crime involving moral
turpitude); 212(a)(2)(B) (multiple criminal
convictions); 212(a)(2)(C)(controlled substance
traffickers); 212(a)(2)(A)(i)(II) (controlled
substances); 212(a)(3) (security and related
grounds)?

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|----|---|------------|-----------|
| 5. | Did you (or your parent or spouse) apply for a work permit or otherwise register for class membership under <u>CSS</u> or <u>Newman/LULAC</u> before October 1, 2000. If "yes," attach copies of any available proof (for example, your <u>CSS</u> or <u>Newman</u> work permit). | YES | NO |
| 6. | When you (or your parent or spouse) visited the INS or a QDE during the legalization application period, did you (or your parent or spouse) bring with you a completed legalization application and fee? | | |

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

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

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

Signature _____ Date _____

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In the United States District Court
for the Central District of California

Felicity Mary Newman; et al.) Civ. No. 87-4757-WDK (CWx)
)
Plaintiffs,) ATTACHMENT 4
vs.)
) (APPEAL TO SPECIAL MASTER OF
Bureau of Citizenship and) Denial of Class Membership)
IMMIGRATION SERVICES, ET AL.,)
)
Defendants.)
_____)

Instructions

Use this form if you wish to appeal a final denial of class membership. Appeals will be decided by a Newman (formerly LULAC) Special Master.

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

Mail this form, along with a copy of your Class Membership Application and the final denial of your Class Membership Application, to Newman Special Master, PO Box _____, _____.

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

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

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

Complete the information requested below.

Name _____

Address _____

City _____ State _____ Zip _____

Telephone () _____ INS A number (if any) _____

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

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

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

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

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

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

Dated: _____ Signature _____