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14 IN THE UNITED STATES DISTRICT COURT
15 FOR THE CENTRAL DISTRICT OF CALIFORNIA

16 AMERICAN-ARAB ANTI-DISCRIMINATION
COMMITTEE;
17 COUNCIL ON AMERICAN-ISLAMIC
RELATIONS;
18 ALLIANCE OF IRANIAN AMERICANS;
NATIONAL COUNCIL OF PAKISTANI
19 AMERICANS;
JOHN DOE 1;
20 JOHN DOE 2;
JOHN DOE 3;
21 JOHN DOE 4;
JOHN DOE 5;
22 JOHN DOE 6,

23 Plaintiffs,

24 v.

25 JOHN ASHCROFT, ATTORNEY

Civil Case No. _____

COMPLAINT FOR INJUNCTIVE
AND DECLARATORY RELIEF.

(Class Action)

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GENERAL OF THE UNITED STATES;
IMMIGRATION AND NATURALIZATION
Service,

Defendant.

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1 I. INTRODUCTION

2 1. This action is brought by and on behalf of certain U.S. residents whom the
3 Immigration and Naturalization Service ("INS") has unlawfully arrested or whom it will
4 arrest when they appeared or will appear for special registration pursuant to the INS's
5 "Special Registration Procedures for Certain Nonimmigrants" ("SRPCN"). *See* 67 Fed.Reg.
6 52584 (Aug. 12 2002) *to be codified at* 8 C.F.R. § 264.1(f). Pursuant to the SRPCN, thousands of
7 persons born in specified countries have been directed to appear before INS agents "to
8 notify the Attorney General of the current addresses and furnish such additional
9 information as the Attorney General may require." *See* 67 Fed.Reg. 67766 (Nov. 6, 2002)
10 (requiring citizens and nationals of Iran, Iraq, Libya, Sudan and Syria to appear for special
11 registration); 67 Fed.Reg. 70525 (Nov. 22, 2002) (requiring citizens and nationals of
12 Afghanistan, Algeria, Bahrain, Eritrea, Lebanon, Morocco, North Korea, Oman, Qatar,
13 Somalia, Tunisia, United Arab Emirates and Yemen to appear for special registration); and
14 67 Fed.Reg. 77642 (Dec. 18, 2002) (requiring citizens and nationals of Pakistan and Saudi
15 Arabia to appear for special registration).

16 2. The individual plaintiffs and their proposed class members were born in SRPCN-
17 designated countries and have applied for benefits under the Immigration and Nationality
18 Act which, if they qualify, will allow them to adjust their status to that of lawful temporary
19 or permanent residents. Despite their right to have such applications adjudicated, the INS
20 has failed to adjudicate those applications and has instead arrested plaintiffs and their class
21 members preparatory to removing them from the United States.

22 3. The INS has unlawfully arrested, and will continue to arrest plaintiffs and their
23 proposed class members unlawfully, in violation of the both the plain terms of 8 U.S.C. §
24 1226, as well as the Fourth and Fifth Amendments to the United States Constitution, because
25 these arrests are being effected without warrants, and without the INS ever determining
26 that the individuals arrested are likely to flee before warrants for their arrest may be
27 secured. At the time of their arrest, plaintiffs and their proposed class members were not
likely to flee before an arrest warrant could be obtained: All had voluntarily appeared at

1 INS offices to register, all have applications to legalize their status pending before the INS;
2 most have families residing here and are employed with the permission of the INS.

3 4. Some plaintiffs and class members, though born in SRPCN-designated countries,
4 are citizens or nationals of non-SRPCN-designated countries and were wrongfully required
5 to register by the INS merely because they were born in a SRPCN-designated country. These
6 persons entered the United States on a Visa Waiver Program, and, since being arrested by
7 the INS, have been jailed without bail or bail hearings, and face summary removal from the
8 country without hearings, despite being prima facie eligible to legalize their status and
9 having applications to do so pending before the INS. Some plaintiffs and class members
10 who entered the United States on a visa waiver program because while they were born in a
11 designated country they are citizens of non-designated countries, face detention without
12 bond or bond hearings and removal from the country without a hearing of any kind.

13 5. Other plaintiffs and class members, including some who were supposed to register
14 in the past few days and others who are required to register in the coming few weeks, fear
15 registering because the INS will unlawfully detain them and seek to remove them from the
16 country despite their eligibility to legalize their status through pending applications.

17 6. The organizational plaintiffs have members injured by the INS's implementation of
18 the registration requirement, and the provision of services by these organizations is made
19 more difficult by the manner in which the registration requirement is being implemented.

20 7. Defendants, and each of them, are unlawfully implementing the SRPCN program.
21 Instead of employing special registration to identify terrorists, the INS in some offices is
22 using the SRPCN to arrest individuals who are pursuing legal means toward permanent
23 residence, who are not likely to flee before a warrant for their arrest may be obtained, who
24 pose no threat to the national security of the United States, and who are being targeted for
25 arrest on the basis of race, religion, or national origin. Plaintiffs and their proposed class
26 members face irreparable injury in the form of unlawful arrests, detention without bond,
27 and possible removal from the country without hearings unless this Court issues

1 preliminary and permanent relief preventing such injuries.

2 II. JURISDICTION AND DECLARATORY JUDGMENT

3 8. This Court has jurisdiction pursuant to U.S. Const. Art. III, 28 U.S.C. § 1331 (federal
4 question jurisdiction); 28 U.S.C. § 1361 (mandamus jurisdiction), and 28 U.S.C. § 2241
(habeas corpus jurisdiction).

5 9. Plaintiffs' prayer for declaratory relief is brought pursuant to 28 U.S.C. §§ 2201 and
6 2202.

7 10. Venue is properly in this court pursuant to 28 U.S.C. § 1391(b) and (e)(1), (2), and
8 (4), because acts complained of occurred in this district, some of the plaintiffs reside in this
9 district, defendant has offices in this district, and no real property is involved in this action.

10 III. PARTIES

11 **A. Plaintiffs**

12 11. Plaintiff the AMERICAN-ARAB ANTI-DISCRIMINATION COMMITTEE (ADC), is a non-
13 profit civil rights advocacy organization with most of its members being of Arab descent.
14 ADC, which is headquartered in Washington, DC, has members and chapters in cities
15 throughout the United States, including Los Angeles County. ADC has members injured by
16 the policies and practices challenged throughout this Complaint who reside in Los Angeles
17 County and in the INS Western Region, and such policies and practices also make ADC's
delivery of services more difficult and divert the organization's limited resources.

18 12. The COUNCIL ON AMERICAN-ISLAMIC RELATIONS (CAIR) is one of the largest
19 grassroots civil rights and advocacy groups working primarily on behalf of the American-
20 Muslim community nationwide through 21 chapters. CAIR has dedicated resources to the
21 plight of detainees since September 11, 2001. It is an incorporated 501(c)(4) non-profit
22 advocacy organization with members throughout the country, including members injured
23 by the policies and practices challenged throughout this Complaint who reside in Los
24 Angeles County and in the INS Western Region, and such policies and practices also make
25 CAIR's delivery of services more difficult and divert the organization's limited resources.

1 13. The ALLIANCE OF IRANIAN AMERICANS is a California non-profit public benefit
2 corporation established to foster and promote the social, economic, and civil rights of
3 Iranian-Americans through education and civil rights endeavors. The organization has
4 members who reside in Los Angeles County and the Western Region of the INS who have
5 been injured or who face injury by the failure of Defendants to perform their duties as
6 alleged in this Complaint. In addition, such failure diverts this plaintiff's very limited
7 resources away from providing assistance and services to its members.

8 14. Plaintiff NATIONAL COUNCIL OF PAKISTANI AMERICANS (NCPA) is a non-profit
9 advocacy organization with most of its members being Pakistani-Americans, including
10 many who reside in this judicial district. NCPA works to promote the political, social and
11 economic betterment of members of the Pakistani-American community. It has members
12 who have been or will be injured by the policies and practices challenged throughout this
13 Complaint who reside in Los Angeles County and in the INS Western Region, and such
14 policies and practices also make NCPAs work more difficult and divert the organization's
15 limited resources.

16 15. Plaintiff JOHN DOE 1 is a citizen of Denmark. He was born in Iran on September 1,
17 1964. His family fled Iran in or about 1979 during the Iranian revolution. He was granted
18 political asylum in Denmark in or about 1982, and became a citizen of Denmark in or about
19 1998. His mother, a lawful resident alien, filed an I-130 relative visa petition on plaintiff's
20 behalf, which was approved by the INS on or about April 23, 1999. Plaintiff John Doe 1
21 entered the United States on or about July 13, 2000, on the Visa Waiver Program, and has
22 remained here since that time. His mother filed an application for naturalization with the
23 INS on or about November 2001. On information and belief, her naturalization application
24 has been approved, but the INS has delayed formally swearing her in as a United States
25 citizen. Were the INS to swear his mother in as a United States citizen, plaintiff John Doe
26 would be immediately eligible to adjust his status to that of a lawful permanent resident.
27 Even if the INS does not swear his mother in as a U.S. citizen, plaintiff John Doe 1 will be

1 eligible January 1, 2003, to obtain lawful permanent resident status in the United States. On
2 December 12, 2002, plaintiff John Doe 1, accompanied by his counsel, voluntarily appeared
3 before the INS to register pursuant to the SRPCN. He was immediately arrested without
4 warrant despite the fact that he was not a flight risk and was eligible to have his status
5 legalized. Defendants have informed his counsel that because he entered the country most
6 recently on the Visa Waiver Program, plaintiff John Doe 1 is not entitled to bail or to a bail
7 hearing, and that he is subject to summary removal without a hearing. Plaintiff John Doe 1
8 seeks declaratory and injunctive relief requiring defendants to release him from custody
and to desist in their efforts to summarily remove him from the United States.

9 16. Plaintiff JOHN DOE 2 was born in Iran on June 1, 1963. He is a resident of
10 Woodland Hills, California. His mother is a United States citizen; his father is a lawful
11 permanent resident alien. He has two sisters who are citizens of the United States. Plaintiff
12 John Doe 2 resides in this judicial district and in the INS's western region, in Woodland
13 Hills, California. Plaintiff John Doe 2 entered the United States on or about April 17, 1989,
14 with a tourist visa. In 1995 his mother, then a lawful permanent resident alien, but now a
15 U.S. citizen, filed a family-based visa petition on his behalf. On May 21, 1998, plaintiff John
16 Doe 2 was married to a lawful permanent resident alien. His wife has applied for
17 naturalization. However, due to INS delays her naturalization application remains
18 unadjudicated. plaintiff John Doe 2's wife thereafter filed a visa petition on his behalf, which
19 was approved by the INS in or about May 2002. Plaintiff John Doe 2 has been gainfully
20 employed in the United States and has regularly paid taxes here. He owns two homes here.
21 Plaintiff John Doe 2 did not register as required last week because he feared that he would
22 be unlawfully arrested and detained by the INS, as many other registrants were. John Doe 2
23 seeks declaratory and injunctive relief to permit his SRPCN registration without unlawful
arrest and detention.

24 17. Plaintiff JOHN DOE 3 was born in and is a national of Iran. His sister is a United
25 States citizen who, on April 26, 2001, filed a visa petition with the INS on his behalf. The visa

1 petition remains pending. Because he entered the United States with a non-immigrant visa,
2 plaintiff John Doe 3 was required to and did register with the INS's San Diego District Office
3 on or about December 16, 2002. He was immediately arrested without a warrant and
4 without a determination being made that he was likely to flee before a warrant could be
5 obtained, that he was a threat to the community or that he was a threat to the national
6 security of the United States. He has been detained in the INS's western region since his
7 arrest and to date has not been provided a hearing before a neutral and detached
8 decisionmaker to determine the lawfulness of his incarceration. John Doe 3 seeks
9 declaratory, injunctive, and habeas corpus relief requiring defendants to release him from
10 custody and to cease and desist in their efforts to remove him from the United States.

11 18. Plaintiff JOHN DOE 4 was born in Iran on July 22, 1959. He left Iran in or about
12 1987 and went to Sweden, where he was granted political asylum. He was granted Swedish
13 citizenship in 1994. Plaintiff John Doe 4 entered the U.S. in 1995 as a Swedish citizen on the
14 Visa Waiver Program, and has remained here since then. He is married and has a child
15 born in the United States in 1999. His wife has an approved visa petition, and as a derivative
16 beneficiary of that petition, plaintiff John Doe 4 applied to adjust his status to that of a
17 lawful permanent resident. Although he filed his adjustment application in or about August
18 1997, the INS failed to act on that application until 1999, when it finally interviewed plaintiff
19 John Doe 4 and his wife. The INS instructed plaintiff John Doe 4 to submit a certificate
20 demonstrating his wife's nursing qualifications. The requested document was promptly
21 filed, but the INS lost the document and then notified plaintiff John Doe 4 and his wife that
22 their applications for adjustment were denied because they had failed to submit the nursing
23 certificate. In May 2001, plaintiff John Doe 4 filed a Motion to Reopen and Reconsider the
24 denial of adjustment on the ground that the requested certificate had in fact been submitted
25 to the INS. On or about December 19, 2002, the INS granted the motion to reopen and
26 reconsider. Plaintiff John Doe 4 appeared for Special Registration on December 16, 2001. He
27 was immediately arrested without a warrant and without a determination being made that

1 he was likely to flee before a warrant could be obtained, that he was a threat to the
2 community or that he was a threat to the national security of the United States. He was
3 thereafter transferred to the Lancaster Detention Facility, located within this judicial district
4 and within the INS's western region, where he continues to be held pending removal from
5 the United States. Plaintiff John Doe 4 seeks declaratory, injunctive, and habeas corpus relief
6 requiring defendants to release him from custody and to cease and desist in their efforts to
7 remove him from the United States.

8 19. Plaintiff John Doe 5 is a male citizen and national of Pakistan and is therefore
9 required to soon register with the INS. He was born on April 12, 1960 in Karachi, Pakistan.
10 He has resided in the United States since 1980. He is an applicant for adjustment of status
11 under the legalization provisions of the Legal Immigration Family Equity Act, Pub.L.No.
12 106-553, Title XI, 114 Stat. 2762 (Dec. 21, 2000), *as amended by* Pub.L.No. 106-554, Title XV,
13 114 Stat. 2763 (Dec. 21, 2000) ("LIFE Act"), § 1104. He resides in Los Angeles, California, an
14 area within the INS Western Region. Because he has not been granted adjustment of status,
15 and may not be until such time as his adjustment application is adjudicated, plaintiff John
16 Doe 5 fears unlawful arrest without a warrant if he appears at the INS as required under the
17 SRPCN. Plaintiff John Doe 5 seeks declaratory and injunctive relief to prevent his unlawful
18 arrest and detention when he appears for SRPCN registration.

19 20. Plaintiff John Doe 6 was arrested by the INS on or about December 18, 2002 when
20 he attempted to register pursuant to the SRPCN with the INS in Fresno, California. He is a
21 citizen and national of Yemen. He was born on May 5, 1944. He entered the United States on
22 or about September 13, 1996, with a visitor's visa which he overstayed. He has no criminal
23 record. He is married to a citizen of the United States who has sought to obtain lawful status
24 on his behalf. He has no history of flight and there was no basis for his arrest without a
25 warrant. On information and belief he is being detained by the INS without bond and has
26 requested but not been granted a bond hearing.
27

1 **B. Defendants**

2 21. Defendant JOHN ASHCROFT is the Attorney General of the United States and is
3 sued in his official capacity only. Defendant Ashcroft is charged with the enforcement of the
4 Immigration and Nationality Act. INA § 103, 8 U.S.C. § 1103.

5 22. Defendant the IMMIGRATION AND NATURALIZATION SERVICE is an agency of the
6 United States Government which implements immigration, detention and removal statutes,
7 regulations and policies.

8 **C. Class action allegations**

9 23. Plaintiffs bring this action on behalf of themselves and all other persons similarly
10 situated pursuant to Fed.R.Civ.Proc. Rule 23(a) and 23(b)(2). Plaintiffs provisionally propose
11 the following class definition:

12 All persons who are required to register with the INS pursuant to 8 U.S.C. § 1305(b)
13 and implementing regulations and notices, and who have been or will be —

14 (1) arrested without warrant or probable cause to believe that they will flee
15 before a warrant can be obtained; or

16 (2) subjected to removal without any possibility of release on bond or
17 recognizance despite being prima facie eligible to adjust their status to that of
18 a lawful permanent resident, and who either —

19 (A) have pending applications for relief from removal pursuant to INA
20 § 245; or

21 (B) would become immediately eligible for relief from removal
22 pursuant to INA § 245 were the INS to approve a pending application
23 or petition that is predicate to eligibility for relief under INA § 245.

24 24. The proposed class members number in the hundreds or thousands. The size of
25 the class is so numerous that joinder of all members is impracticable. The claims of plaintiffs
26 and those of the proposed class members raise common questions of law and fact
27 concerning whether defendant's implementation of the registration requirement is

1 consistent with the INA and the Fourth and Fifth Amendments of the United States
2 Constitution. These questions are common to the named parties and to the members of the
3 proposed class because defendants have acted and will continue to act on grounds generally
4 applicable to both the named parties and proposed class members. Plaintiffs' claims are
5 typical of the class claims.

6 25. The prosecution of separate actions by individual members of the class would
7 create a risk of inconsistent or varying adjudications establishing incompatible standards of
8 conduct for defendants respecting, for example, whether, and under what conditions,
9 defendant may arrest class members without a warrant, hold them without possibility of
10 release on bond or recognizance, and/or subject them to summary removal without
11 hearings. Unless this matter proceeds as a class action, unrepresented class members may be
12 unable to protect their interests.

13 26. Defendant Ashcroft, his agents, employees, and predecessors and successors in
14 office have acted or refused to act, and will continue to act or refuse to act, on grounds
15 generally applicable to the class, thereby making appropriate injunctive relief or
16 corresponding declaratory relief with respect to the class as a whole. Plaintiffs will
17 vigorously represent the interests of unnamed class members. All members of the proposed
18 class will benefit by the action brought by plaintiffs. The interests of the named plaintiffs
19 and those of the proposed class members are identical.

20 27. Plaintiffs are represented by several counsel associated with non-profit public
21 interest law firms and private counsel serving *pro bono publico*. Counsel have other clients
22 injured by defendant's challenged practices and therefore have an independent interest in
23 ensuring the lawfulness of defendant's conduct. Plaintiffs' counsel include attorneys
24 experienced in federal class action litigation involving the rights of foreign nationals and
25 refugees within the United States.

26 V. THE REGISTRATION PROGRAM AND ITS LOCAL IMPLEMENTATION

27 28. Pursuant to 8 U.S.C. §§ 1305(b) and 1303(a), the Attorney General has determined

1 to require certain nonimmigrant aliens to appear for SRPCN "special" registration. *See also*
2 67 Fed.Reg. 52584 (Aug. 12 2002) *to be codified at* 8 C.F.R. § 264.1(f). The first group subject to
3 the SRPCN program comprised certain "nationals or citizens" of Iran, Iraq, Libya, Sudan or
4 Syria. Members of this group were required to appear before the INS by December 16, 2002,
5 to be fingerprinted, photographed, and interviewed under oath. *See* 67 Fed.Reg. 67766 (Nov.
6 6, 2002). The second SRPCN group includes certain nationals and citizens of Afghanistan,
7 Algeria, Bahrain, Eritrea, Lebanon, Morocco, North Korea, Oman, Qatar, Somalia, Tunisia,
8 United Arab Emirates and Yemen, who are required to appear for SPRCN registration by
9 January 10, 2003. 67 Fed.Reg. 70525 (Nov. 22, 2002). The third group subject to SPRCN
10 registration covers nationals and citizens of Pakistan and Saudi Arabia, who must appear
11 for registration by February 21, 2003. 67 Fed.Reg. 77642 (Dec. 18, 2002). All males from these
12 designated countries, who are 16 years or older as of the date that registration begins for the
13 relevant call-in group, must register. Special registration is not required of lawful
14 permanent residents, applicants for political asylum, or who has been granted political
15 asylum in the United States. *See, e.g.,* 67 Fed.Reg. 67766, *supra*, at 67767.

15 29. Defendants define citizenship or nationality for purposes of SRPCN registration
16 as including both the country of an immigrant's present citizenship or nationality, as well as
17 his country of birth. *Id.* Thus, for example, plaintiffs John Does 1 and 4 were required
18 to register, and were thereupon arrested, even though they are citizens of countries other than
19 a designated one. Native-born citizens of non-designated countries are not subject to
20 SRPCN registration and are generally neither arrested nor deported, but allowed to remain
21 while the INS adjudicates their pending applications to legalize their status, and are
22 provided interim employment authorization while their applications are adjudicated.

23 30. While the INS asserts that SRPCN registration is required solely based upon
24 nationality and citizenship, and not on ethnicity or religion, to date, with the exception of
25 North Korea, it has required nationals and citizens of only Arab or Muslim countries to
26 register. *See, e.g.,* SPECIAL CALL-IN REGISTRATION PROCEDURES FOR CERTAIN
27

1 NONIMMIGRANTS , Questions and Answers

2 (http://www.ins.usdoj.gov/graphics/lawenfor/-specialreg/CALL_IN_ALL.pdf).

3 31. The INS's publicity on the registration program is misleading in that it does not
4 inform potential registrants that they will be subject to arrest and detention even if they
5 have applications to legalize their status pending before the INS. The INS notice asks,
6 "WHAT WILL HAPPEN WHEN I GO TO REGISTER?" It answers that at the interview,
7 registrants will be fingerprinted and photographed. Registrants are told to bring with them
8 their passports and INS Arrival-Departure Record, and proof of residence, employment
9 and/or school matriculation. Registrants are informed that they may also be asked
10 additional questions of a national security or law enforcement nature. INS materials advise
11 registrants that "legal representation is not necessary," and promises that once registration is
12 completed, the INS "will mark [his/her] Form I-94 to indicate that [s/he] [has] complied
with the registration requirement." *Id.*

13 32. Call-in group 1 targeted citizens and nationals of Iran, Iraq, Libya, Sudan and
14 Syria, who were informed by way of notice in the Federal Register that had to report
15 between November 15, 2002, and December 16, 2002. 67 Fed.Reg. 67766 (Nov. 6, 2002). Call-
16 in group 2 targets citizens and nationals of Afghanistan, Algeria, Bahrain, Eritrea, Lebanon,
17 Morocco, North Korea, Oman, Qatar, Somalia, Tunisia, United Arab Emirates, and Yemen,
18 who were informed by way of notice in the Federal Register that had to report between
19 December 2, 2002 and January 10, 2003. *See* 67 Fed. Reg. 70525-28. Call-in group 3 targets
20 citizens and nationals of Pakistan or Saudi Arabia, who were informed by way of notice in
21 the Federal Register on December 18, 2002, that they must report between January 13, 2003
22 and February 21, 2003. 67 Fed.Reg. 77642 (Dec. 18, 2002). While Armenia was originally
23 included as a designated country in call-in group 3, the media has widely reported that after
24 political pressure from the Armenian community, Armenia was dropped as a designated
25 country for reasons having nothing to do with any change in conditions affecting national
26 security.

1 33. At INS offices in the Western Region of the INS, particularly in Los Angeles, class
2 members are being arrested without warrants despite their having a range of applications to
3 legalize their status pending before the INS. The only reason these applicants are subject to
4 SRPCN registration and to arrest and removal is because the INS has unreasonably delayed
5 approving their applications for lawful resident status.

6 34. 8 U.S.C. § 1226 provides that "on a warrant" issued by the Attorney General, an
7 alien may be arrested and detained pending a decision on whether the alien is to be
8 removed from the United States. 8 U.S.C. § 1357(a)(2) provides that the INS may make a
9 warrantless arrest when any officer or employee of the Service authorized under regulations
10 prescribed by the Attorney General has "reason to believe that the alien so arrested is in the
11 United States in violation of any such law or regulation *and is likely to escape before a warrant*
12 *can be obtained for his arrest ...*" Defendants have nevertheless encouraged and permitted
13 widespread warrantless arrests of plaintiffs and their proposed class members without any
14 determinations being made of the registrants' likelihood to escape before warrants could be
15 obtained.

16 35. Because they are now citizens of certain non-designated countries, Plaintiffs 1 and
17 4 and many class members entered the United States on a Visa Waiver Program (VWP)
18 authorized by 8 U.S.C. 1187. This provision permits nationals from participating countries to
19 apply for admission to the United States for a duration of 90 days as nonimmigrant visitors
20 for business or pleasure, without first obtaining a nonimmigrant visa, provided that all
21 other statutory and regulatory requirements are met. 8 U.S.C. 1187(b) requires the VWP
22 alien to waive any right to contest, other than on the basis of an application for asylum, any
23 action for removal of the alien. Plaintiffs thus have no access to a removal hearing before
24 being ousted from the country despite their statutory eligibility to adjust their status under
25 INA § 245, nor have they been provided bail hearings, and therefore seek the protection of
26 this Court. Section 245 of the INA generally allows an alien to adjust his/her status to that of
27 a lawful permanent resident (LPR) while in the United States if certain conditions are met.

1 Plaintiffs 1 and 4 and numerous class members meet such conditions. There is no basis, in
2 such cases, and Congress could not have intended, for the defendants to prefer to exercise
3 removal authority while delaying the exercise of authority to adjudicate pending
4 applications for adjustment of status.

5 VI. IRREPARABLE INJURY AND AFFIRMATIVE MISCONDUCT

6 36. Plaintiffs and members of the proposed plaintiff class have suffered and will
7 continue to suffer irreparable harm because of defendants' challenged policies and practices
8 as described throughout this Complaint. Plaintiffs and members of the proposed plaintiff
9 class have experienced and will continue to experience improper arrests, detentions without
10 bond or bond hearings, summary removals without hearings, family separation, loss of
11 employment, and denials of the right to apply for and be granted legalization in the United
12 States.

13 VII FIRST CLAIM FOR RELIEF: UNLAWFUL WARRANTLESS ARRESTS.

14 37. Plaintiffs hereby incorporate by reference paragraphs 1-36 of this complaint as
15 though fully set forth herein.

16 38. Defendants' policy and practice to arrest SRPCN registrants without warrants and
17 without determining whether the individuals arrested are to flee before a warrant can be
18 obtained is an unlawful seizures violative of the Immigration and Nationality Act, 8 U.S.C.
19 §§ 1226 and 1357(a)(2), and the Fourth and Fifth Amendments to the United States
20 Constitution.

21 VIII SECOND CLAIM FOR RELIEF: UNLAWFUL REMOVAL OF AND DENIAL OF RELEASE ON BAIL
22 OR RECOGNIZANCE TO CERTAIN APPLICANTS FOR LAWFUL RESIDENT STATUS.

23 39. Plaintiffs hereby incorporate by reference paragraphs 1-36 of this complaint as
24 though fully set forth herein.

25 40. Defendants' policy and practice to remove and to deny any possibility of release
26 on bond or recognizance to SRPCN registrants who are prima facie eligible to adjust their
27 status to that of a lawful permanent resident, and who either —

1 (A) have pending applications for relief from removal pursuant to INA § 245; or
2 (B) would become immediately eligible for relief from removal pursuant to INA § 245
3 were the INS to approve a pending application or petition that is predicate the
4 eligibility for relief under INA § 245,
5 violate the Immigration and Nationality Act, 8 U.S.C. § 1255, and the Due Process Clause
6 and Equal Protection Guarantee of the Fifth Amendment to the United States Constitution.

7 X PRAYER FOR RELIEF.

8 WHEREFORE, plaintiffs pray this Court —

9 A. assume jurisdiction of this cause;

10 B. certify that this action may be maintained as a class action pursuant to Rule 23,
11 Fed.R.Civ.Proc.;

12 C. enter declaratory judgment that defendants' policies and practices as challenged
13 herein are in violation of the INA and the due process clause and equal protection
14 guarantee of the Fifth Amendment to the United States Constitution;

15 D. issue temporary and permanent injunctions enjoining defendant

16 E. award plaintiffs their costs, reasonable attorney's fees; and

17 F. issue such further relief as plaintiffs seek or the Court deems just and proper.

18 Dated: December 24, 2002.

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COMMITTEE
Albert Mokhiber
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20 COUNCIL ON AMERICAN-ISLAMIC RELATIONS
21 Khurram Wahid

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