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15 **UNITED STATES DISTRICT COURT**  
16 **FOR THE DISTRICT OF MARYLAND**  
17 **SOUTHERN DIVISION**

18 CATHOLIC LEGAL IMMIGRATION  
NETWORK, INC.;  
19 ASYLUM SEEKER ADVOCACY PROJECT,  
20 URBAN JUSTICE CENTER  
21 Plaintiffs,  
22 v.  
23 UNITED STATES CITIZENSHIP AND  
IMMIGRATION SERVICES  
24 Defendant.

No. 8:19-cv-01074-PJM

**FIRST AMENDED COMPLAINT FOR  
INJUNCTIVE AND DECLARATORY  
RELIEF**

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**INTRODUCTION**

1. Plaintiffs, Asylum Seeker Advocacy Project at the Urban Justice Center (“ASAP”) and Catholic Legal Immigration Network, Inc. (“CLINIC”), bring this action against U.S. Citizenship and Immigration Services (“USCIS”) to compel compliance with the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552.

2. ASAP and CLINIC collaborate to assist families whom the U.S. Department of Homeland Security (“DHS”) detained and separated at the U.S.-Mexican border and then reunited and released pursuant to the injunction in *Ms. L v. ICE*, Case No. 3:18-cv-00428 (S.D. Cal. filed Feb. 26, 2018). Many of these families are eligible for asylum-related determinations pursuant to the settlement agreement in *Dora v. Sessions*, Case No. 1:18-cv-1938 (D.D.C. filed Aug. 17, 2018). ASAP and CLINIC aim to ensure that these formerly separated families are able to secure long-term counsel for their immigration cases and provide technical assistance to the pro bono attorneys who represent these families.

3. The *Dora* settlement offers a pathway to safety and security for asylum seekers who might otherwise be harmed or killed in their home countries. The only way that ASAP and CLINIC can assess a family’s eligibility for the remedies set forth in the *Dora* settlement is by having access to the family’s complete immigration files. However, many formerly separated parents were released from immigration detention without their immigration documents, and are therefore unaware of the procedural posture of their immigration cases and whether they do, in fact, benefit from the *Dora* settlement.

4. As part of the efforts to assist formerly separated families, ASAP and CLINIC seek to determine the status of their immigration cases by obtaining copies of their immigration files through FOIA requests. As a practical matter, FOIA requests are the only way the parents can ascertain whether they benefit from the potentially life-saving remedies available through the *Dora* settlement.

5. ASAP and CLINIC filed USCIS FOIA requests for the “Alien files” (aka “A files”) of the following nine reunited parents: Ena Dalila Mendez Mendez, Jared Ortiz Montalvan,

1 Merces Delgado Devides, Alejandro Perez, Melchora Francisco Andres, Noemi Aldubina Ruiz,  
2 Oscar Danilo Santos-Paz, Norin Obdulio Urvina Bueno, and Wilma Rene Reyes Villanueva. With  
3 regard to each request, Plaintiffs sought expedited processing.

4 6. None of the aforementioned parents was released from immigration detention with  
5 a complete set of their immigration documents. Without access to these records, these reunited  
6 parents cannot fully and fairly participate in the immigration process. Furthermore, Plaintiffs  
7 ASAP and CLINIC lack the information necessary to determine whether the parents qualify for  
8 relief under the *Dora* settlement.

9 7. USCIS has failed to provide determinations on Plaintiffs' FOIA requests within  
10 the time limits provided by FOIA. This lawsuit requests a declaration that USCIS has violated  
11 FOIA by withholding documents responsive to Plaintiffs' requests and an order requiring the  
12 agency to immediately provide a determination on Plaintiffs' FOIA requests and production of  
13 the records sought by a date certain.

#### 14 **JURISDICTION AND VENUE**

15 8. The Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and  
16 28 U.S.C. § 1331.

17 9. Venue is proper in this district, specifically the District of Maryland, Southern  
18 Division, pursuant to 5 U.S.C. §§ 552(a)(4)(B), 703, and 28 U.S.C. § 1391(e).

19 10. Declaratory relief is appropriate under 28 U.S.C. § 2201.

20 11. Injunctive relief is appropriate under 28 U.S.C. § 2202 and 5 U.S.C. §  
21 552(a)(4)(B).

#### 22 **PARTIES**

23 12. Plaintiff CLINIC is a 501(c)(3) organization headquartered at 8758 Georgia  
24 Avenue, Suite 850, Silver Spring, MD 20910. CLINIC's headquarters are located in Montgomery  
25 County, Maryland. CLINIC is the largest nationwide network of nonprofit immigration programs,  
26 with approximately 370 affiliates in 49 states and the District of Columbia. The network includes  
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1 faith-based institutions, farmworker programs, domestic violence shelters, ethnic community-  
2 focused organizations, libraries and other entities that serve immigrants.

3 13. Plaintiff ASAP is a project of the Urban Justice Center, a 501(c)(3) organization.  
4 ASAP works to prevent wrongful deportations by connecting families seeking asylum in the  
5 United States to community support and emergency legal aid. Since May 2015, ASAP has  
6 prevented the deportation of over 400 refugees in more than 30 states.

7 14. Defendant USCIS is an agency of the U.S. Government and is headquartered at 20  
8 Massachusetts Ave., NW, Washington, DC 20001. USCIS is a component of DHS. USCIS has  
9 possession, custody, and control of certain records to which Plaintiffs seek access.

### 10 **STATEMENT OF FACTS**

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12 15. This case concerns nine FOIA requests submitted to USCIS between February 15,  
13 2019 and February 26, 2019 for the “Alien files” (aka “A files”) of formerly separated parents.

14 16. Plaintiffs initially submitted FOIA requests for these parents’ A files on January  
15 22, 2019, but USCIS denied the initial requests for not including a verification of identity for the  
16 subject of the records. USCIS cited 6 C.F.R. § 5.21 to support this decision, which applies to  
17 requests under the Privacy Act, not FOIA. Because the parents are not Lawful Permanent  
18 Residents nor citizens, the Privacy Act does not apply in these cases. *See* 5 U.S.C. § 552a(a)(2).  
19 Plaintiffs have appealed the denials of the initial FOIA requests to the agency.

20 17. However, due to the urgent nature of the requests, Plaintiffs also sent new FOIA  
21 requests for the records of the aforementioned nine parents between February 15, 2019 and  
22 February 26, 2019, including a signed Form G-639 (Freedom of Information Act/Privacy Act  
23 Request) with each request as a verification of identity. To date, USCIS has yet to produce a  
24 single record responsive to the Plaintiffs’ new requests despite over sixty days passing. USCIS’s  
25 failure to respond to the February 15 to February 26, 2019 requests is the basis for this complaint.

**FOIA Request for the A file of Ena Dalila Mendez Mendez**

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18. On February 15, 2019, Plaintiffs filed a FOIA request for the A file of Ena Dalila Mendez Mendez (A215-762-120) to USCIS by email (uscis.foia@uscis.dhs.gov) with an accompanying signed Form G-639.

19. In the FOIA request to USCIS, Plaintiffs sought expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E) and 6 C.F.R. § 5.5(e) based on the Plaintiffs' understanding that Ena Dalila Mendez Mendez could potentially qualify for relief under the *Dora* settlement agreement.

20. Plaintiffs received an acknowledgement letter dated February 28, 2019 from Defendant USCIS confirming receipt of Plaintiffs' FOIA request, assigning the control number NRC2019027125. In this February 28, 2019 letter, Defendant USCIS indicated that due to the "increasing number of FOIA requests received by this office, we may encounter some delay in processing your request," and noted that they would "need to locate, compile, and review responsive records from multiple offices." Accordingly, Defendant USCIS stated it "will invoke a 10-day extension for your request pursuant to 5 U.S.C. § 552(a)(6)(B)."

21. Plaintiffs also received a separate letter dated February 28, 2019 from Defendant USCIS denying the request for expedited processing.

22. Pursuant to 5 U.S.C. § 552(a)(6)(A)(i), Defendant USCIS was required to determine whether to comply with Plaintiffs' FOIA request within twenty (20) working days after receipt of that request and to notify Plaintiffs immediately of its determination, the reasons therefore, and the right to appeal any adverse determination. Because Plaintiffs submitted the FOIA request on February 15, 2019, and Defendant USCIS invoked a 10-day extension, Defendant's determination of Plaintiffs' FOIA request was due at the latest by April 1, 2019.

23. As of the date of this Amended Complaint, USCIS has failed to: (i) determine whether to comply with Plaintiffs' FOIA request for the A file of Ena Dalila Mendez Mendez; (ii) notify Plaintiffs of any such determination or the reasons for such determination for the FOIA request; (iii) advise Plaintiffs of the right to appeal any adverse determination of the FOIA

1 request; or (iv) produce the requested records or otherwise demonstrate that the requested records  
2 are exempt from production.

3 **FOIA Request for the A file of Jared Ortiz Montalvan**

4 24. On February 15, 2019, Plaintiffs filed a FOIA request for the A file of Jared Ortiz  
5 Montalvan (A215-763-034) to USCIS by email (uscis.foia@uscis.dhs.gov) with an  
6 accompanying signed Form G-639.

7 25. In the FOIA request to USCIS, Plaintiffs sought expedited processing pursuant to  
8 5 U.S.C. § 552(a)(6)(E) and 6 C.F.R. § 5.5(e) based on the Plaintiffs' understanding that Jared  
9 Ortiz Montalvan could potentially qualify for relief under the *Dora* settlement agreement.

10 26. Plaintiffs received an acknowledgement letter dated March 6, 2019 from  
11 Defendant USCIS confirming receipt of Plaintiffs' FOIA request, assigning the control number  
12 NRC2019028246. In this March 6, 2019 letter, Defendant USCIS indicated that due to the  
13 "increasing number of FOIA requests received by this office, we may encounter some delay in  
14 processing your request," and noted that they would "need to locate, compile, and review  
15 responsive records from multiple offices." Accordingly, Defendant USCIS stated it "will invoke a  
16 10-day extension for your request pursuant to 5 U.S.C. § 552(a)(6)(B)."

17 27. Plaintiffs also received a separate letter dated March 6, 2019 from Defendant  
18 USCIS denying the request for expedited processing.

19 28. Pursuant to 5 U.S.C. § 552(a)(6)(A)(i), Defendant USCIS was required to  
20 determine whether to comply with Plaintiffs' FOIA request within twenty (20) working days after  
21 receipt of that request and to notify Plaintiffs immediately of its determination, the reasons  
22 therefore, and the right to appeal any adverse determination. Because Plaintiffs submitted the  
23 FOIA request on February 15, 2019, and Defendant USCIS invoked a 10-day extension,  
24 Defendant's determination of Plaintiffs' FOIA request was due at the latest by April 1, 2019.

25 29. As of the date of this Amended Complaint, USCIS has failed to: (i) determine  
26 whether to comply with Plaintiffs' FOIA request for the A file of Jared Ortiz Montalvan; (ii)  
27 notify Plaintiffs of any such determination or the reasons for such determination for the FOIA  
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1 request; (iii) advise Plaintiffs of the right to appeal any adverse determination of the FOIA  
2 request; or (iv) produce the requested records or otherwise demonstrate that the requested records  
3 are exempt from production.  
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5 **FOIA Request for the A file of Mercedes Delgado Devides**

6 30. On February 19, 2019, Plaintiffs filed a FOIA request for the A file of Mercedes  
7 Delgado Devides (A215-727-781) to USCIS by email (uscis.foia@uscis.dhs.gov) with an  
8 accompanying signed Form G-639.

9 31. In the FOIA request to USCIS, Plaintiffs sought expedited processing pursuant to  
10 5 U.S.C. § 552(a)(6)(E) and 6 C.F.R. § 5.5(e) based on the Plaintiffs' understanding that Mercedes  
11 Delgado Devides could potentially qualify for relief under the *Dora* settlement agreement.

12 32. Plaintiffs sought expedited processing based on two regulatory bases: 1) the parent  
13 faces the "loss of substantial due process rights," 6 C.F.R. § 5.5(e)(1)(iii)—in particular, the  
14 rights accorded by the *Dora* settlement agreement—and 2) "an imminent threat to the[ir] life or  
15 physical safety," *id.* § 5.5(e)(1)(i)—deportation to the violence in their home country that they  
16 have fled.

17 33. Plaintiffs received an acknowledgement letter dated March 28, 2019 from  
18 Defendant USCIS confirming receipt of Plaintiffs' FOIA request, assigning the control number  
19 NRC2019503927. In this March 28, 2019 letter, Defendant USCIS indicated that due to the  
20 "increasing number of FOIA requests received by this office, we may encounter some delay in  
21 processing your request," and noted that they would "need to locate, compile, and review  
22 responsive records from multiple offices." Accordingly, Defendant USCIS stated it "will invoke a  
23 10-day extension for your request pursuant to 5 U.S.C. § 552(a)(6)(B)."

24 34. Pursuant to 5 U.S.C. § 552(a)(6)(A)(i), Defendant USCIS was required to  
25 determine whether to comply with Plaintiffs' FOIA request within twenty (20) working days after  
26 receipt of that request and to notify Plaintiffs immediately of its determination, the reasons  
27 therefore, and the right to appeal any adverse determination. Because Plaintiffs submitted the  
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1 FOIA request on February 19, 2019, and Defendant USCIS invoked a 10-day extension,  
2 Defendant's determination of Plaintiffs' FOIA request was due at the latest by April 2, 2019.

3 35. As of the date of this Amended Complaint, USCIS has failed to: (i) determine  
4 whether to comply with Plaintiffs' FOIA request for the A file of Mercedes Delgado Devides; (ii)  
5 notify Plaintiffs of any such determination or the reasons for such determination for the FOIA  
6 request; (iii) advise Plaintiffs of the right to appeal any adverse determination of the FOIA  
7 request; or (iv) produce the requested records or otherwise demonstrate that the requested records  
8 are exempt from production.

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10 **FOIA Request for the A file of Alejandro Perez**

11 36. On February 20, 2019, Plaintiffs filed a FOIA request for the A file of Alejandro  
12 Perez (A215-614-695) to USCIS by email (uscis.foia@uscis.dhs.gov) with an accompanying  
13 signed Form G-639.

14 37. In the FOIA request to USCIS, Plaintiffs sought expedited processing pursuant to  
15 5 U.S.C. § 552(a)(6)(E) and 6 C.F.R. § 5.5(e) based on the Plaintiffs' understanding that  
16 Alejandro Perez could potentially qualify for relief under the *Dora* settlement agreement.

17 38. Plaintiffs received an acknowledgement letter dated April 2, 2019 from Defendant  
18 USCIS confirming receipt of Plaintiffs' FOIA request, assigning the control number  
19 NRC2019503932. In this April 2, 2019 letter, Defendant USCIS denied the request for expedited  
20 processing. Defendant USCIS also indicated that due to the "increasing number of FOIA requests  
21 received by this office, we may encounter some delay in processing your request," and noted that  
22 they would "need to locate, compile, and review responsive records from multiple offices."  
23 Accordingly, Defendant USCIS stated it "will invoke a 10-day extension for your request  
24 pursuant to 5 U.S.C. § 552(a)(6)(B)."

25 39. Pursuant to 5 U.S.C. § 552(a)(6)(A)(i), Defendant USCIS was required to  
26 determine whether to comply with Plaintiffs' FOIA request within twenty (20) working days after  
27 receipt of that request and to notify Plaintiffs immediately of its determination, the reasons  
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1 therefore, and the right to appeal any adverse determination. Because Plaintiffs submitted the  
2 FOIA request on February 20, 2019, and Defendant USCIS invoked a 10-day extension,  
3 Defendant's determination of Plaintiffs' FOIA request was due at the latest by April 3, 2019.

4 40. As of the date of this Amended Complaint, USCIS has failed to: (i) determine  
5 whether to comply with Plaintiffs' FOIA request for the A file of Alejandro Perez; (ii) notify  
6 Plaintiffs of any such determination or the reasons for such determination for the FOIA request;  
7 (iii) advise Plaintiffs of the right to appeal any adverse determination of the FOIA request; or (iv)  
8 produce the requested records or otherwise demonstrate that the requested records are exempt  
9 from production.

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11 **FOIA Request for the A file of Melchora Francisco Andres**

12 41. On February 21, 2019, Plaintiffs filed a FOIA request for the A file of Melchora  
13 Francisco Andres (A215-729-350) to USCIS by email (uscis.foia@uscis.dhs.gov) with an  
14 accompanying signed Form G-639.

15 42. In the FOIA request to USCIS, Plaintiffs sought expedited processing pursuant to  
16 5 U.S.C. § 552(a)(6)(E) and 6 C.F.R. § 5.5(e) based on the Plaintiffs' understanding that  
17 Melchora Francisco Andres could potentially qualify for relief under the *Dora* settlement  
18 agreement.

19 43. Plaintiffs received an acknowledgement letter dated March 8, 2019 from  
20 Defendant USCIS confirming receipt of Plaintiffs' FOIA request, assigning the control number  
21 NRC2019029713. In this March 8, 2019 letter, Defendant USCIS indicated that due to the  
22 "increasing number of FOIA requests received by this office, we may encounter some delay in  
23 processing your request," and noted that they would "need to locate, compile, and review  
24 responsive records from multiple offices." Accordingly, Defendant USCIS stated it "will invoke a  
25 10-day extension for your request pursuant to 5 U.S.C. § 552(a)(6)(B)."

26 44. Pursuant to 5 U.S.C. § 552(a)(6)(A)(i), Defendant USCIS was required to  
27 determine whether to comply with Plaintiffs' FOIA request within twenty (20) working days after  
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1 receipt of that request and to notify Plaintiffs immediately of its determination, the reasons  
2 therefore, and the right to appeal any adverse determination. Because Plaintiffs submitted the  
3 FOIA request on February 21, 2019, and Defendant USCIS invoked a 10-day extension,  
4 Defendant's determination of Plaintiffs' FOIA request was due at the latest by April 4, 2019.

5 45. As of the date of this Amended Complaint, USCIS has failed to: (i) determine  
6 whether to comply with Plaintiffs' FOIA request for the A file of Melchora Francisco Andres; (ii)  
7 notify Plaintiffs of any such determination or the reasons for such determination for the FOIA  
8 request; (iii) advise Plaintiffs of the right to appeal any adverse determination of the FOIA  
9 request; or (iv) produce the requested records or otherwise demonstrate that the requested records  
10 are exempt from production.

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12 **FOIA Request for the A file of Noemi Aldubina Ruiz**

13 46. On February 21, 2019, Plaintiffs filed a FOIA request for the A file of Noemi  
14 Aldubina Ruiz (A215-804-083) to USCIS by email (uscis.foia@uscis.dhs.gov) with an  
15 accompanying signed Form G-639.

16 47. In the FOIA request to USCIS, Plaintiffs sought expedited processing pursuant to  
17 5 U.S.C. § 552(a)(6)(E) and 6 C.F.R. § 5.5(e) based on the Plaintiffs' understanding that Noemi  
18 Aldubina Ruiz could potentially qualify for relief under the *Dora* settlement agreement.

19 48. Plaintiffs received an acknowledgement letter dated March 8, 2019 from  
20 Defendant USCIS confirming receipt of Plaintiffs' FOIA request, assigning the control number  
21 NRC2019029724. In this March 8, 2019 letter, Defendant USCIS indicated that due to the  
22 "increasing number of FOIA requests received by this office, we may encounter some delay in  
23 processing your request," and noted that they would "need to locate, compile, and review  
24 responsive records from multiple offices." Accordingly, Defendant USCIS stated it "will invoke a  
25 10-day extension for your request pursuant to 5 U.S.C. § 552(a)(6)(B)."

26 49. Pursuant to 5 U.S.C. § 552(a)(6)(A)(i), Defendant USCIS was required to  
27 determine whether to comply with Plaintiffs' FOIA request within twenty (20) working days after  
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1 receipt of that request and to notify Plaintiffs immediately of its determination, the reasons  
2 therefore, and the right to appeal any adverse determination. Because Plaintiffs submitted the  
3 FOIA request on February 21, 2019, and Defendant USCIS invoked a 10-day extension,  
4 Defendant's determination of Plaintiffs' FOIA request was due at the latest by April 4, 2019.

5 50. As of the date of this Amended Complaint, USCIS has failed to: (i) determine  
6 whether to comply with Plaintiffs' FOIA request for the A file of Noemi Aldubina Ruiz; (ii)  
7 notify Plaintiffs of any such determination or the reasons for such determination for the FOIA  
8 request; (iii) advise Plaintiffs of the right to appeal any adverse determination of the FOIA  
9 request; or (iv) produce the requested records or otherwise demonstrate that the requested records  
10 are exempt from production.

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12 **FOIA Request for the A file of Oscar Danilo Santos-Paz**

13 51. On February 21, 2019, Plaintiffs filed a FOIA request for the A file of Oscar  
14 Danilo Santos-Paz (A215-727-675) to USCIS by email (uscis.foia@uscis.dhs.gov) with an  
15 accompanying signed Form G-639.

16 52. In the FOIA request to USCIS, Plaintiffs sought expedited processing pursuant to  
17 5 U.S.C. § 552(a)(6)(E) and 6 C.F.R. § 5.5(e) based on the Plaintiffs' understanding that Oscar  
18 Danilo Santos-Paz could potentially qualify for relief under the *Dora* settlement agreement.

19 53. Plaintiffs received an acknowledgement letter dated March 8, 2019 from  
20 Defendant USCIS confirming receipt of Plaintiffs' FOIA request, assigning the control number  
21 NRC2019029704. In this March 8, 2019 letter, Defendant USCIS indicated that due to the  
22 "increasing number of FOIA requests received by this office, we may encounter some delay in  
23 processing your request," and noted that they would "need to locate, compile, and review  
24 responsive records from multiple offices." Accordingly, Defendant USCIS stated it "will invoke a  
25 10-day extension for your request pursuant to 5 U.S.C. § 552(a)(6)(B)."

26 54. Pursuant to 5 U.S.C. § 552(a)(6)(A)(i), Defendant USCIS was required to  
27 determine whether to comply with Plaintiffs' FOIA request within twenty (20) working days after  
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1 receipt of that request and to notify Plaintiffs immediately of its determination, the reasons  
2 therefore, and the right to appeal any adverse determination. Because Plaintiffs submitted the  
3 FOIA request on February 21, 2019, and Defendant USCIS invoked a 10-day extension,  
4 Defendant's determination of Plaintiffs' FOIA request was due at the latest by April 4, 2019.

5 55. As of the date of this Amended Complaint, USCIS has failed to: (i) determine  
6 whether to comply with Plaintiffs' FOIA request for the A file of Oscar Danilo Santos-Paz; (ii)  
7 notify Plaintiffs of any such determination or the reasons for such determination for the FOIA  
8 request; (iii) advise Plaintiffs of the right to appeal any adverse determination of the FOIA  
9 request; or (iv) produce the requested records or otherwise demonstrate that the requested records  
10 are exempt from production.

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12 **FOIA Request for the A file of Norin Obdulio Urvina Bueno**

13 56. On February 25, 2019, Plaintiffs filed a FOIA request for the A file of Norin  
14 Obdulio Urvina Bueno (A215-763-555) to USCIS by email (uscis.foia@uscis.dhs.gov) with an  
15 accompanying signed Form G-639.

16 57. In the FOIA request to USCIS, Plaintiffs sought expedited processing pursuant to  
17 5 U.S.C. § 552(a)(6)(E) and 6 C.F.R. § 5.5(e) based on the Plaintiffs' understanding that Norin  
18 Obdulio Urvina Bueno could potentially qualify for relief under the *Dora* settlement agreement.

19 58. Plaintiffs received an acknowledgement letter dated March 13, 2019 from  
20 Defendant USCIS confirming receipt of Plaintiffs' FOIA request, assigning the control number  
21 NRC2019031541. In this March 13, 2019 letter, Defendant USCIS indicated that due to the  
22 "increasing number of FOIA requests received by this office, we may encounter some delay in  
23 processing your request," and noted that they would "need to locate, compile, and review  
24 responsive records from multiple offices." Accordingly, Defendant USCIS stated it "will invoke a  
25 10-day extension for your request pursuant to 5 U.S.C. § 552(a)(6)(B)."

26 59. Plaintiffs also received a separate letter dated March 13, 2019 from Defendant  
27 USCIS denying the request for expedited processing.  
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60. Pursuant to 5 U.S.C. § 552(a)(6)(A)(i), Defendant USCIS was required to determine whether to comply with Plaintiffs' FOIA request within twenty (20) working days after receipt of that request and to notify Plaintiffs immediately of its determination, the reasons therefore, and the right to appeal any adverse determination. Because Plaintiffs submitted the FOIA request on February 25, 2019, and Defendant USCIS invoked a 10-day extension, Defendant's determination of Plaintiffs' FOIA request was due at the latest by April 8, 2019.

61. As of the date of this Amended Complaint, USCIS has failed to: (i) determine whether to comply with Plaintiffs' FOIA request for the A file of Norin Obdulio Urvina Bueno; (ii) notify Plaintiffs of any such determination or the reasons for such determination for the FOIA request; (iii) advise Plaintiffs of the right to appeal any adverse determination of the FOIA request; or (iv) produce the requested records or otherwise demonstrate that the requested records are exempt from production.

**FOIA Request for the A file of Wilma Rene Reyes Villanueva**

62. On February 26, 2019, Plaintiffs filed a FOIA request for the A file of Wilma Rene Reyes Villanueva (A215-720-850) to USCIS by email (uscis.foia@uscis.dhs.gov) with an accompanying signed Form G-639.

63. In the FOIA request to USCIS, Plaintiffs sought expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E) and 6 C.F.R. § 5.5(e) based on the Plaintiffs' understanding that Wilma Rene Reyes Villanueva could potentially qualify for relief under the *Dora* settlement agreement.

64. Plaintiffs received an acknowledgement letter dated March 29, 2019 from Defendant USCIS confirming receipt of Plaintiffs' FOIA request, assigning the control number NRC2019503948. In this March 29, 2019 letter, Defendant USCIS denied the request for expedited processing. Defendant USCIS also indicated that due to the "increasing number of FOIA requests received by this office, we may encounter some delay in processing your request," and noted that they would "need to locate, compile, and review responsive records from multiple

1 offices.” Accordingly, Defendant USCIS stated it “will invoke a 10-day extension for your  
2 request pursuant to 5 U.S.C. § 552(a)(6)(B).”

3 65. Pursuant to 5 U.S.C. § 552(a)(6)(A)(i), Defendant USCIS was required to  
4 determine whether to comply with Plaintiffs’ FOIA request within twenty (20) working days after  
5 receipt of that request and to notify Plaintiffs immediately of its determination, the reasons  
6 therefore, and the right to appeal any adverse determination. Because Plaintiffs submitted the  
7 FOIA request on February 26, 2019, and Defendant USCIS invoked a 10-day extension,  
8 Defendant’s determination of Plaintiffs’ FOIA request was due at the latest by April 9, 2019.

9 66. As of the date of this Amended Complaint, USCIS has failed to: (i) determine  
10 whether to comply with Plaintiffs’ FOIA request for the A file of Wilma Rene Reyes Villanueva;  
11 (ii) notify Plaintiffs of any such determination or the reasons for such determination for the FOIA  
12 request; (iii) advise Plaintiffs of the right to appeal any adverse determination of the FOIA  
13 request; or (iv) produce the requested records or otherwise demonstrate that the requested records  
14 are exempt from production.

15  
16 **Plaintiffs have Constructively Exhausted their Administrative Remedies**

17 67. Because Defendant USCIS has failed to comply with the time limit set forth in 5  
18 U.S.C. § 552(a)(6)(A) with respect to the above FOIA requests, Plaintiffs have exhausted any and  
19 all administrative remedies with respect to those requests. 5 U.S.C. § 552(a)(6)(C).

20  
21 **COUNT 1**

22 (Violation of FOIA, 5 U.S.C. § 552)

23 68. Plaintiffs ASAP and CLINIC re-allege paragraphs 1 through 67 as if fully stated  
24 herein.

25 69. Plaintiffs have a legal right under FOIA to obtain the specific agency records  
26 sought, and Defendants’ failure to make the requested records promptly available to Plaintiffs has  
27 no legal basis.



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