Please note: This successful motion was prepared by the Asylum Seeker Advocacy Project (ASAP) in January 2018 for New York Immigration Court. Please be sure to check the relevant and up-to-date caselaw in your jurisdiction. Exhibits have been omitted.

[redacted]

NON-DETAINED

Pro Bono Counsel for Respondents

U.S. DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
NEW YORK, NY

In the Matter of:	**File No.** [redacted]
[redacted]	**File No.** [redacted]
Respondents	
Hon. Judge [redacted]	**Next Hearing: None**

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2018 JAN 31 AM 10: 38
IMMIGRATION COURT
NEW YORK, NY 10278

MOTION TO RESCIND *IN ABSENTIA* REMOVAL ORDER AND REOPEN PROCEEDINGS

NO FEE REQUIRED PER 8 C.F.R. § 1003.24(b)(2) AS MOTION BASED ON ASYLUM

AUTOMATIC STAY OF REMOVAL PER INA § 240(b)(5)(C)

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U.S. DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
NEW YORK, NY

In the Matter of:	
[redacted]	**File No.** [redacted]
[redacted]	**File No.** [redacted]
Respondents	

MOTION TO RESCIND *IN ABSENTIA* REMOVAL ORDER AND REOPEN PROCEEDINGS

I. INTRODUCTION

Lead Respondent, [redacted] ("Ms. [redacted]"), moves this Honorable Court to rescind the *in absentia* removal order which it entered against her and her minor daughter, [redacted] ("[redacted]"), on [redacted], and to reopen their removal proceedings. Because Ms. [redacted] failure to appear was due to exceptional circumstances and lack of notice and because this motion is timely filed before the 180-day deadline, their removal from the United States is automatically stayed until such a time as the Immigration Court renders a decision on this motion. INA §240(b)(5)(C).

In this case, Ms. [redacted] and her daughter [redacted] fled severe domestic violence in El Salvador, including rape, beatings, and death threats. In the United States, they passed a Credible Fear Interview and diligently attended U.S. Immigration and Customs Enforcement ("ICE") check-ins. However, they did not receive notice of their master calendar hearing on [redacted], and their absence resulted in an *in absentia* removal order.

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After learning of the removal order, Ms. [redacted] promptly retained undersigned counsel and timely filed this motion. Rescission and reopening are warranted because Ms [redacted] and [redacted] failure to appear was due to exceptional circumstances—in particular, manipulation by a coercive U.S. citizen sponsor. Rescission and reopening are also warranted based on lack of notice. In the alternative, Ms. [redacted] respectfully asks the Immigration Court to use its *sua sponte* authority to rescind and reopen their proceedings.

II. STATEMENT OF FACTS AND PROCEDURAL HISTORY

[redacted] is a [redacted]-year-old native and citizen of El Salvador. Exh. A, Declaration of [redacted] (hereinafter "Decl.") at ¶ 1; Exh. B, Form I-589 with Supporting Documents (hereinafter "I-589"). In 2016, Ms. [redacted] fled El Salvador with her minor daughter, [redacted], to escape Ms. [redacted] husband and [redacted] father, [redacted], after he raped [redacted], physically abused both Ms. [redacted] and [redacted], and threatened Ms. [redacted] with death. Exh. A, Decl. at ¶¶ 1-7; Exh. B, I-589.

Ms. [redacted] crossed the U.S.-Mexico border near [redacted] Texas in [redacted]. Exh. A, Decl. at ¶ 1; Exh. B, I-589. On or about [redacted], she was placed in ICE custody and transferred to the [redacted], TX. *Id.* at ¶ 8. Ms. [redacted] remained at the [redacted] until approximately [redacted]. *Id.*

Ms. [redacted] completed a Credible Fear Interview in the [redacted]. Exh. C, Credible Fear Interview Transcript (hereinafter "CFI"). As a result of the interview, an Asylum Officer in [redacted] Texas determined that Ms. [redacted] had established a credible fear of persecution. *Id*.

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While in detention, Ms. [redacted] learned that she would need to find a sponsor in the United States in order for her and [redacted] to be released from custody. Exh. A, Decl. at ¶ 8. She contacted a friend, [redacted] ("Mr. [redacted]"), hoping that he would sponsor them. *Id.* Mr. [redacted] responded that he had Temporary Protected Status and that he believed this status would not allow him to sponsor them. *Id.* Wanting to help, Mr. [redacted] asked a U.S. citizen colleague, [redacted] ("Mr. [redacted]"), to sponsor them instead. *Id.* Mr. [redacted] agreed, and Ms. [redacted] and [redacted] were released from detention in early [redacted] 2016. *Id.* at ¶¶ 9-10. Mr. [redacted] told Ms. [redacted] that she and [redacted] would be living at [redacted], and she provided this address to ICE officers before leaving detention. *Id.* at ¶ 9. Upon their release from detention, Ms. [redacted] and [redacted] went to [redacted] New York to live with Mr. [redacted]. *Id.* at ¶ 10.

Upon arriving in New York, Mr. [redacted] took Ms. [redacted] and [redacted] to [redacted] New York, instead of [redacted] in [redacted] New York as they had planned. *Id.* at ¶ 10. Mr. [redacted] refused to share the new address with Ms [redacted], and she did not know how to determine the address on her own. *Id.* at ¶ 11. However, Mr. [redacted] told Ms. [redacted] that he received mail at [redacted] and that he would give Ms. [redacted] any mail from immigration that arrived at that address. *Id.* When Ms. [redacted] mentioned updating her address with immigration officials, Mr. [redacted] told her that she could not change her address once it was listed on her immigration paperwork; that he could get in trouble if she tried to change the address; and that she ought to listen to him because he was very important for her case. *Id.* at ¶¶ 12-14. Ms. [redacted] was intimidated by Mr. [redacted], and he convinced her that changing her address was the wrong thing to do for her case. *Id.* at ¶ 14.

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Ms. [redacted] dutifully complied with all ICE check-in requirements, both before and after the entry of the removal order. *Id.* at ¶¶ 15, 21; Exh. D, U.S. Immigration and Customs Enforcement Personal Report Record (hereinafter "Personal Report Record"). As she never heard anything from ICE about the status of her immigration case and never received any mail from the Immigration Court via Mr. [redacted], she was under the impression that she was doing everything required by immigration authorities. Exh. A, Decl. at ¶¶ 15, 19, 21.

In [redacted] of 2017, Ms. [redacted] went to an immigration non-profit to get help with her case. *Id.* at ¶ 22. The non-profit told her that she had an *in absentia* removal order from a removal hearing held on [redacted] *Id.*

Ms. [redacted] immediately contacted Mr. [redacted] and asked him why he did not inform her of her [redacted] removal hearing. *Id.* at ¶ 23. Mr. [redacted] told her that he never received any hearing notice. *Id.* Mr. [redacted] then attempted to coerce Ms. [redacted] into marrying him. *Id.* at ¶ 24. He told her that she could obtain legal status by marrying him and paying a fine to the government. *Id.* Feeling harassed, Ms. [redacted] declined Mr. [redacted] offer. *Id.*

Ms. [redacted] then sought to hire a private attorney to represent her in reopening her case, but she could not afford the attorney's fee. *Id.* at ¶ 25. Still wanting to find a way to fight her case, Ms. [redacted] sought help in an online community for asylum seekers. *Id.* at ¶ 26. Through the online community, Ms. [redacted] became aware of the Asylum Seeker Advocacy Project at the Urban Justice Center ("ASAP"), and was put into contact with an ASAP staff attorney. *Id.* In [redacted] of 2018, ASAP informed Ms. [redacted] that the organization would represent her in a motion to reopen her case. *Id.*

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III. ARGUMENT

A. Ms. [redacted] Case Should Be Reopened Because Exceptional Circumstances Prevented Her from Attending Her Removal Hearing

Ms. [redacted] failed to appear at her [redacted] master calendar hearing due to exceptional circumstances. As such, she moves this Court to rescind the *in absentia* order issued on that day and reopen these removal proceedings. *See* INA § 240(b)(5)(C)(i) (authorizing rescission of *in absentia* removal order "upon a motion to reopen filed within 180 days after the date of the order of removal or deportation if the alien demonstrates that the failure to appear was because of exceptional circumstances"). The applicable standard for determining exceptional circumstances is consideration of the totality of the circumstances. *Matter of W-F-*, 21 I&N. Dec. 503, 509 (BIA 1996).

In this case, the totality of the circumstances prove that Ms. [redacted] was prevented from appearing at her [redacted] removal hearing by exceptional circumstances. As such, she respectfully moves this Court to rescind the *in absentia* order issued on that day, and to reopen these removal proceedings.

1. Ms. [redacted] failed to appear in Immigration Court due to exceptional circumstances caused by her exploitative and deceptive sponsor.

Ms. [redacted] inability to update her address due to the coercive behavior of her sponsor is the same type of "exceptional circumstance" that the Board of Immigration Appeals ("BIA") and the Second Circuit have recognized in other cases. Her sponsor gave her the wrong address to provide to ICE, misled her into believing she should not update the address, promised to bring her any mail sent to the wrong address, and constantly overemphasized the significance of his role in her immigration case. Exh. A, Decl. at ¶¶ 9-16. In fact, her sponsor seems to have intentionally misled Ms. [redacted] in order to coerce her into marriage. *Id.* at ¶¶ 24, 27.

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As a result of her sponsor's deceptive actions, Ms. [redacted] did not attend the [redacted] hearing because she did not receive actual notice that it would take place. *Id.* at ¶¶ 19, 22-23. Exceptional circumstances thus prevented Ms. [redacted] from attending her [redacted] removal hearing.

Ms. [redacted] arrived in this country after fleeing serious physical and sexual abuse in El Salvador. *Id.* at ¶¶ 1-7. Lacking resources, she found herself in an exploitative relationship, this time with a U.S citizen who held considerable control over her. *Id.* at ¶¶ 11-24, 27. Mr. [redacted]—a U.S. citizen who had agreed to provide Ms. [redacted] and her daughter with much-needed housing—held an unequal amount of power in his relationship with Ms. [redacted], and he used this power to intimidate her and prevent her from being in control of her case. *Id.* Mr. [redacted] misled Ms. [redacted] in an attempt to coerce her into marrying him. *Id.* at ¶¶ 24, 27. Under a totality of the circumstances analysis, Ms. [redacted] was therefore faced with exceptional circumstances that prevented her from having her day in court. These circumstances prevented her from attending her [redacted] removal hearing despite her good faith efforts to comply with the Court's requirements.

The BIA has previously found "exceptional circumstances" that warrant granting a motion to reopen in several cases where respondents missed hearings as a result of the actions of third parties—precisely the situation Ms. [redacted] found herself in. For example, in Exh. E, [redacted] (BIA March 17, 2016), the BIA accepted a former roommate's failure to tell respondent that hearing notice arrived in the mail as an exceptional circumstance. Similarly, in Exh. F, [redacted] (BIA May 6, 2015), the BIA rescinded an *in absentia* order after considering the "totality of the circumstances," in a case where respondent's grandmother misplaced the hearing notice. In Exh. G, *Adriana*

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[redacted] (BIA June 14, 2016), the BIA granted a motion to reopen to a respondent who could not attend her hearing because her former boyfriend took her immigration documents. The Court should similarly reopen Ms. [redacted] and her daughter's case because they missed their hearing due to a third party's actions, which were beyond their control.

The Second Circuit has also remanded a case for an IJ to consider whether an individual was entitled to rescission of an *in absentia* removal order where a third party lost the mail. *See Alrefae v. Chertoff*, 471 F.3d 353, 360 (2d Cir. 2006) (remanding and directing that the "IJ should assess [respondent]'s claim of exceptional circumstances independently of his claim of nonreceipt and explain whether [respondent] is entitled to rescission on this ground on the basis of his claim that he did not receive notice because his friend lost his mail. In doing so, the IJ may consider the totality of the circumstances.").

With regard to coercive sponsors, the BIA has found that when a respondent fails to attend a removal hearing after finding herself in a situation in which she is under the virtual control of a sponsor, this can be considered an "exceptional circumstance" that warrants granting a motion to reopen. Exh. H, *S-F-Z-M-*, A[redacted] (BIA July 19, 2017). In *S-F-Z-M-*, the respondent was under the "virtual control" of others and was not allowed to access her mail. The BIA found that this difficult situation, combined with the respondent's "substantial claim for asylum," diligent pursuit of a motion to reopen, and consistent ICE reporting, constituted an "exceptional circumstance" under the totality of the circumstances standard.

Like the respondent in *S-F-Z-M-*, Ms. [redacted] found herself under the virtual control of a U.S. citizen sponsor who did not allow her to access her mail. Additionally, like the respondent in *S-F-Z-M-*, Ms. [redacted] has a strong asylum claim, diligently pursued a

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motion to reopen, and complied with all ICE check-in requirements. Considering the totality of the circumstances in Ms. [redacted] case, the Court should adopt the BIA's reasoning in *S-F-Z-M-* and find that exceptional circumstances prevented Ms. [redacted] from attending her [redacted] removal hearing.

2. Ms. [redacted] strong asylum case, compliance with ICE reporting requirements, and diligence in attempting to reopen her case further demonstrate exceptional circumstances.

Moreover, Ms. [redacted] has demonstrated exceptional circumstances under a totality of the circumstances analysis based on her strong asylum claim, compliance with all ICE reporting requirements, and diligence in attempting to reopen her case. The First Circuit has provided multiple factors relevant to assessing exceptional circumstances, including: the non-citizen's promptness in filing a motion to reopen, the strength of her underlying claim for relief, the harm she would suffer if the motion were denied, and the inconvenience to the government if the motion were granted. *Kaweesa v. Gonzales,* 450 F.3d 62, 68-69 (1st Cir. 2006) (citing *Matter of B-A-S,* 22 I.&N Dec. 57, 58-59 (BIA 1998)). In *Kaweesa*, the First Circuit held that an asylum applicant who mistakenly believed her hearing was scheduled four days after the actual date established exceptional circumstances because she was diligent in pursuing her legal case and faced potential harm if removed. *Id.* at 70. The First Circuit also found that it did not "appear that [Respondent's] failure to appear was deliberate or due to a desire to delay proceedings." *Id*. For these reasons, the First Circuit reversed the denial of the motion to reopen, and remanded for a hearing on the merits. *Id*. at 70-71.

Ms. [redacted] failure to appear was similarly far from deliberate, as she has worked diligently to comply with this country's rules and procedures. She fully intended to attend her removal hearing in order to present her strong case for relief from removal. Exh. A, Decl. at ¶

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Note that Matter of A-R-C-G has since been overruled by Matter of A-B-, 27 I. & N. Dec. 316 (2018), and the caselaw on particular social groups is evolving.

28. She has been violently beaten and raped by her husband, who is a member of the powerful MS-13 gang and who has threatened her with death multiple times. *Id*. at ¶¶ 1-7. She therefore has a prima facie case for asylum under *Matter of A-R-C-G*, which held that a female victim of domestic violence may establish her membership in a "particular social group" by showing that, for religious, societal, cultural, legal, or other reasons, she was "unable to leave" the relationship with her husband. 26 I&N Dec. 388, 389 (BIA 2014). Furthermore, Ms. [redacted] attended ICE check-ins both before and after the removal order was entered. Exh. A, Decl. at ¶¶ 15, 21; Exh. D, Personal Report Record. She also quickly sought out legal assistance and took steps to have her case reopened as soon as she found out that she missed her removal hearing. Exh. A, Decl. at ¶¶ 22-26. After being turned down by a non-profit, Ms. [redacted] attempted to hire a private attorney to represent her in her case, demonstrating an interest in actively pursuing her asylum claim. *Id*. After realizing that she could not afford the help of a private attorney, Ms. [redacted] took steps to find alternative representation. *Id*. In [redacted] of 2017, she became aware of the Asylum Seeker Advocacy Project at the Urban Justice Center (ASAP) via an internet community for asylum seekers. *Id.* After reaching out to an ASAP representative, she learned in [redacted] of 2018 that ASAP would be able to represent her in her attempt to reopen her case and promptly filed the instant motion. *Id*.

For all of these reasons, the Court should find that Ms. [redacted] missed her hearing due to exceptional circumstances.

B. Ms. [redacted] Case Should Be Reopened Due to Lack of Notice

In the alternative, Ms. [redacted] case should be reopened due to lack of notice, as she did not receive notice of her [redacted] hearing. *Id.* at ¶¶ 22-23. An order of removal *in absentia* may be rescinded at any time upon a showing that the respondent did not receive notice

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of the hearing at which they were ordered removed due to failure to appear. INA § 240(b)(5)(C)(ii). This court must consider "all relevant evidence submitted," including the respondent's own sworn declaration, in determining whether Ms. [redacted] demonstrated she did not receive notice. *Matter of M-R-A-*, 24 I&N Dec. 665, 673 (BIA 2008). Although Ms. [redacted] did not physically live at [redacted] her sponsor claimed that he continued to check the mail at the [redacted] address and that he did not receive notice from the Immigration Court of a hearing on [redacted]. Exh. A, Decl. at ¶¶ 11, 23. Furthermore, Ms. [redacted] has a strong underlying asylum case and has complied with other immigration requirements. *Id*. at ¶¶ 1-7, 15, 21; Exh. D, Personal Report Record. She thus had no "incentive" to miss her hearings in immigration court. *Matter of M-R-A-*, 24 I&N Dec. at 674. Had Ms. [redacted] received notice of her [redacted] hearing, she would have attended the hearing to seek asylum. Exh. A, Decl. at ¶ 28.

Ms. [redacted] made a good faith effort to comply with all immigration requirements. When her sponsor told her she would be living at a different address than the one she had provided to ICE, she told him she wanted to update her address with immigration authorities. *Id.* at ¶¶ 11-12. Mr. [redacted] then intimidated her and gave her false information, leading her to believe that she both did not need to update her address and that updating her address might in fact harm her case. *Id.* at ¶¶ 12-14. The Second Circuit has found that individuals may be found to have received "constructive notice," even where they did not receive actual notice, if they "thwarted delivery" by failing to change their address when they knew the consequences of failing to do so. *Maghradze v. Gonzales*, 462 F.3d 150, 153-54 (2d Cir. 2006). However, this case is distinguishable from *Maghradze* because, due to her sponsor's deception, Ms. [redacted] did not understand the importance of changing her address or the consequences of failing to do so. Instead, Ms.

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[redacted] followed Mr. [redacted]'s instructions in an effort to receive mail from immigration authorities, rather than intentionally thwarting delivery of her hearing notice. Ms. [redacted] was especially susceptible to misinformation and exploitation by Mr. [redacted] because she lacked critical information regarding the importance and role of her sponsor in her immigration case. Mr. [redacted] took advantage of this confusion. Due to her sponsor's deception, which undermined any information she may have received while in detention, the doctrine of constructive notice is inappropriate in this case.

Ms. [redacted] vulnerability to manipulation by her sponsor caused her to receive neither actual nor constructive notice of her hearing. The Fifth Circuit has directed the BIA to "give due consideration to the reality that many departed aliens are poor, uneducated, unskilled in the English language, and effectively unable to follow developments in the American legal system—much less read and digest complicated legal decisions." *Lugo-Resendez v. Lynch*, 831 F.3d 337, 345 (5th Cir. 2016). This Court should give similar consideration to Ms. [redacted] situation upon arrival in the United States. Ms. [redacted] wanted to change her address but was prevented from doing so by her sponsor, who insisted that she keep the Brooklyn address on file. Exh. A, Decl. at ¶ 12-24. Based on her sponsor's misrepresentations, she believed he was essential to her immigration case, that he would check the mail at the address he gave, and that she was doing everything correctly. *Id.* An *in absentia* removal order is inappropriate in this case because Ms. [redacted] did not receive actual or constructive notice of her hearing due to Mr. [redacted]'s exploitation of Ms. [redacted] vulnerable state.

In fact, Ms. [redacted] had every incentive to attend the [redacted] hearing and pursue her strong claims for protection in the United States. Ms. [redacted] actions and her strong underlying asylum claim demonstrate that, had she been informed of the [redacted]

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hearing, she would have attended. In *Matter of M-R-A-*, the BIA held that the respondent was entitled to have his proceedings reopened after entry of an *in absentia* removal order where he submitted affidavits stating that he did not receive the notice, had filed an application for affirmative relief, had appeared at an earlier hearing, and exercised due diligence in promptly requesting reopening of proceedings. 24 I&N Dec. 665. Like the respondent in *Matter of M-R-A-*, Ms. [redacted] seeks affirmative relief in the form of asylum, has complied with all ICE reporting requirements, and makes this prompt request to reopen proceedings. Exh. B, I-589; Exh. D, Personal Report Record. In fact, Ms. [redacted] reported to ICE both before and after receiving the *in absentia* removal order. Exh. D, Personal Report Record. *See also* Exh. I, [redacted] (BIA June 22, 2017) (circumstantial evidence that respondents willingly presented themselves to ICE officers both "before and after their *in absentia* removal orders" and promptly retained counsel to request reopening supported a finding of lack of notice). Ms. [redacted] has a colorable claim for asylum, as evidenced by her credible fear determination. Exh. C, CFI. She has every reason to attend her immigration court hearings in order to gain asylum and legal immigration status in the United States, and she would have attended her Immigration Court hearing had she received notice. Exh. A, Decl. at ¶ 28. And as soon as Ms. [redacted] learned that she had a removal order, she diligently sought legal counsel and prepared this motion. *Id.* at ¶ 22-26. These factors support a finding that Ms. [redacted] did not receive actual or constructive notice of her [redacted] immigration hearing.

Due process requires that a respondent be provided with notice of proceedings and an opportunity to be heard. *Matter of G-Y-R*, 23 I&N Dec. 181, 186 (BIA 2001) (citing *Landon v. Plasencia*, 459 U.S. 21, 32-33 (1982); *Bridges v. Wixon*, 326 U.S. 135, 154 (1945); *Kaoru Yamataya v. Fisher*, 189 U.S. 86, 101 (1903)). Because Ms. [redacted] did not receive

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notice, she respectfully requests that the *in absentia* removal order against her and her minor daughter be rescinded and their proceedings be reopened.

C. In the Alternative, Ms. [redacted] Merits the Court's Exercise of *Sua Sponte* Authority to Rescind Her *In Absentia* Removal Order

Should the Court not be persuaded that this matter should be reopened due to exceptional circumstances or lack of notice, the Court should reopen these proceedings through an exercise of *sua sponte* authority. An Immigration Judge may reopen a proceeding in which he or she has made a decision at any time, unless jurisdiction is vested in the BIA. 8 C.F.R. § 1003.23(b)(1). The BIA has held that this *sua sponte* authority is "not meant to be used as a general cure for filing defects or to otherwise circumvent the regulations." *Matter of J- J-*, 21 I&N Dec. 976, 984 (BIA 1997). Instead, *sua sponte* authority is "an extraordinary remedy reserved for truly exceptional situations." *Matter of G- D-*, 22 I&N. Dec. 1132, 1134 (BIA 1999).

Ms. [redacted] case is precisely the type of case in which *sua sponte* reopening is appropriate. Ms. [redacted] was deemed by an Asylum Officer to have a credible fear of returning to El Salvador based on prior persecution on account of a protected ground. Exh. C, CFI. Her husband not only beat, raped, and threatened her while they were in a relationship, but he threatened to kill her and harm her family if she left the relationship. Exh. A, Decl. at ¶¶ 2-7; Exh. B, I-589; Exh. C, CFI. He also physically abused their six-year-old daughter, [redacted]. Exh. A, Decl. at ¶ 3. Ms. [redacted] intends to apply for asylum, withholding of removal, and relief under the Convention Against Torture ("CAT"), as evidenced by the enclosed I-589. Exh. B, I-589. She and [redacted] face serious harm and potential death if deported back to Mr. [redacted], a violent abuser and member of the MS-13 gang who has attempted to kill Ms. [redacted] before. Exh. A, Decl. at ¶¶ 2-7.

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Ms. [redacted] has done her best to pursue her asylum claim despite finding herself in an exploitative relationship with a manipulative U.S. citizen sponsor who, in an attempt to coerce her into marriage, took advantage of her lack of resources and ignorance of the complexities of U.S. immigration law and procedure. Despite finding herself in a confusing and frightening situation in an unfamiliar country, she diligently attended ICE check-ins both before and after receiving a removal order, and diligently worked to obtain legal representation in order to reopen her case and present her strong asylum claim. Ms. [redacted] is not asking for a second bite at the apple. She is simply asking the Court to allow her case to be heard on the merits, so she can pursue her claim for asylum, withholding of removal, and protection under CAT for the first time.

Ms. [redacted] respectfully asks the Court to consider the continuing danger that she and her daughter [redacted] would face if returned to El Salvador and to conclude that she should be given a chance to present her claim for relief on its merits.

V. CONCLUSION

For all of the reasons stated above, the Ms. [redacted] respectfully moves the Court to rescind the *in absentia* removal order that it entered against her and her minor daughter [redacted] on [redacted] and to reopen their removal proceedings.

Respectfully submitted on this [redacted] **2018.**

[redacted]

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U.S. DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
NEW YORK, NY

In the Matter of:	
[redacted]	**File No. A** [redacted]
[redacted]	**File No. A** [redacted]
Respondents	

ORDER OF THE IMMIGRATION JUDGE

Upon consideration of Respondent's Motion to Rescind Removal Order and Reopen Proceedings, it is HEREBY ORDERED that the motion be _____ because:

___ DHS does not oppose the motion.
___ A response to the motion has not been filed with the court.
___ Good cause has been established for the motion.
___ The court agrees with the reasons stated in the opposition to the motion.
___ Other: _____

Deadlines:

___ The application(s) for relief must be filed by _____.
___ The respondent must comply with DHS biometrics instructions by _____.

_____ _____
Date The Hon. [redacted]

Certificate of Service

This document was served by: [ ] Mail [ ] Personal Service

To: [ ] Alien [ ] Alien c/o Custodial Officer [ ] Atty/Rep [ ] DHS

Date: _____ By: Court Staff_____

Immigration law frequently changes. This sample document is not legal advice or a substitute for independent research, analysis, and investigation into local practices. This document may be jurisdiction-specific or reflect outdated practices or law. CLINIC does not vouch for the accuracy or substance of this document and it is intended rather for illustration.

PROOF OF SERVICE

On [redacted] 2018, I, [redacted] served a copy of the foregoing Motion to Rescind Removal Order and Reopen Proceedings in person on DHS/ICE office of Chief Counsel at:

New York Office of Chief Counsel

[redacted]

[redacted]/18

Date

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