

1
2 UNITED STATES DISTRICT COURT
3 WESTERN DISTRICT OF WASHINGTON
4 AT SEATTLE
5

6 NORTHWEST IMMIGRANT RIGHTS PROJECT,) Case No. 88-379R
7 ET AL.,)
8 Plaintiffs,) Exhibit 2
9 vs.) INSTRUCTIONS AND CLASS MEMBER
10) WORKSHEET
11 U.S. CITIZENSHIP AND IMMIGRATION)
12 SERVICES, ET AL.,)
13 Defendants.)
14 _____)

15 INSTRUCTIONS
16

17 The attached Class Member Worksheet should be completed by persons who believe they
18 are *IAP/NWIRP* class members and who wish to apply to legalize their status under the
19 1986 Immigration Reform and Control Act.

20 Use this form if (1) the Immigration and Naturalization Service ("INS") or a Qualified
21 Designated Entity ("QDE")² rejected your application and filing fees for legalization or
22 "amnesty" between May 5, 1987 and May 4, 1988; or (2) you filed a legalization
23 application during the 1987-88 application year, but your application was denied (or your
24 temporary residence was revoked or proposed for revocation). You may, but are not
25 required to, use this form if you filed a legalization application during the 1987-88
26 application year, but your application has still not been decided, or you have an appeal of
27 a denial of your timely application that is still pending at the Administrative Appeals
28 Office (AAO). You may submit whatever additional evidence you have to support your
application to the United States Citizenship and Immigration Services ("USCIS"), and the
your application will be adjudicated.

2

² QDEs were usually community-based non-profit organizations (such as Catholic Charities) that were authorized to accept amnesty applications for the INS.

1 You may consult with an accredited community organization, church group or lawyer to
2 help you fill out this form.

3 **The benefits of class membership.**

4 The primary benefit of class membership is that you will be able to apply for legalization
5 and receive a decision based upon specified legal standards.

6 The basic issue asserted by *IAP/NWIRP* class members is that during the 1987-88
7 legalization program the INS or QDE concluded that they were ineligible for legalization
8 because their unlawful status was not "known to the government" prior to January 1,
1982.

9 In *IAP/NWIRP*, it was argued that students and other "nonimmigrants" violated their
10 status whenever they failed to report their addresses to the INS or when they failed to
11 take the required number of units at school. It was argued that such violations were in all
12 likelihood known to the government, precisely because the required reports were not
13 made or because schools were required to report foreign students whenever they failed to
14 take the required number of units. It was argued that a pre-1982 violation of status was
15 presumptively "known to the government" if you failed to file address reports, failed to
16 maintain full-time student status, or worked without authorization. Class members who
17 obtained a visa or were reinstated to lawful status after January 1, 1982, based upon a
18 false statement may also apply for consideration under the terms of this agreement.

19 Class members whose legalization applications are approved are first granted
20 "Temporary Resident Status." Eighteen months later, these class members may apply for
21 permanent resident status. In addition the spouses and minor, unmarried children (who
22 arrived in the United States before 5/4/1988) of *approved* applicants may be eligible for
23 family unity benefits (work authorization and a stay of removal) while they wait to
24 immigrate through their newly legalized family member.

25 In addition, class member are entitled to work authorization and protection against
26 removal (deportation) while their applications are pending.

27 **Determining whether you are an *IAP/NWIRP* class member.**

28 The requirements for *IAP/NWIRP* class membership are quite complex, and you should
consult a qualified attorney or community-based immigrant assistance agency if you
think there is any possibility that you may be a *IAP/NWIRP* class member.

In summary, you must meet three types of requirements to be an *IAP/NWIRP* class
member:

- 1 (1) Basic eligibility for legalization. You must appear to meet all of the following basic
2 requirements for legalization:
- 3 (a) You entered the United States on a non-immigrant visa (for example a
4 visitor's visa, or student visa, or temporary worker visa) prior to January 1,
5 1982; and
- 6 (b) You lived continuously and illegally in the United States from prior to
7 January 1, 1982 until some time between May 5, 1987 and May 4, 1988, when
8 you visited the INS or a Qualified Designated Entity ("QDE") to apply for
9 legalization under the 1986 "amnesty" law; and
- 10 (c) You have not been convicted of certain criminal offenses: (1) one felony or
11 three misdemeanors in the United States, (2) any crime involving moral
12 turpitude, such as theft or fraud, except a single petty offense or a juvenile
13 conviction, or (3) any drug offense, except simple possession of marijuana
14 under 30 grams.
- 15 (2) IAP/NWIRP requirements. Next, you must fall into at least one of the following
16 three categories:
- 17 (a) You violated your nonimmigrant status prior to January 1, 1982 and the
18 violation of status is evident based on a review of federal government files
19 (for example, you worked without authorization before January 1, 1982 and
20 you have Social Security records, tax records, or other federal government
21 records to show income relating to your pre-1982, unauthorized work in
22 your name; or you were here with a non-immigrant visa and before 1982,
23 you failed to file annual or quarterly address reports with the INS, as then
24 required by the law); or
- 25 (b) You entered the United States prior to January 1, 1982 as a student (on "F"
26 or "J" visa) or as a temporary workers (on "H" or "L" visa), and you failed
27 to maintain your status through January 1, 1982 (for example, before
28 January 1, 1982, you dropped out of school, took less than a full course of
study, transferred schools without advance INS authorization, or terminated
your authorized H or L employment); or
- (c) After January 1, 1982, you obtained reinstatement to nonimmigrant status,
or entry into the United States on a nonimmigrant visa, or a change of
nonimmigrant status, or adjustment of status, or some other immigration
benefit that apparently put you in lawful immigration status, though you
did not qualify for such benefit (for example, because when you applied for

the benefit, you did not inform INS or the consulate that you had previously worked without authorization).

- (3) Attempt to file timely application. Finally, you must have made a significant effort to apply for legalization between May 5, 1987 and May 4, 1988.

You must have either filed an application for legalization or attempted to apply at an INS or QDE office between May 5, 1987 and May 4, 1988, and been denied an application form, told that you were ineligible for legalization, or told that your application for legalization would not be accepted.

Proving that you meet the three requirements of IAP/NWIRP class membership.

You must file an I-687 together with your Class Member Worksheet, as described below. However, if you filed an application for legalization during the application period between May 5, 1987 and May 4, 1988 and your application remains pending or was denied, you do not have to file a new I-687 form. If your application remains pending (at the District Office, Regional Office or Service Center), then you may, but are not required to, submit a Class Member Worksheet to USCIS. If your 1987-88 application was denied, you must file a motion to reopen on Form I-290B to USCIS.

Filling out and filing the Notice of Class Member Worksheet and other forms.

Fill in a Class Member Worksheet by checking the appropriate boxes. You can obtain this form from your local USCIS (formerly called the INS) office. Local community groups and immigration lawyers may also have the forms available. You can also obtain the forms from the USCIS web site, www.uscis.gov, or class counsels' web pages, www.gbp-law.net, or www.centerforhumanrights.org.

There is no separate fee for filing a Class Member Worksheet.

You will need to prepare and file the following forms:

- (1) If you assert that the INS or a QDE rejected your application between May 5, 1987 and May 4, 1988, then you must file the Class Member Worksheet together with an Application for Status as a Temporary Resident (Form I-687).
- (2) If you filed a legalization application between May 5, 1987 and May 4, 1988, but your timely application remains pending (at a District Office, Regional Office, or Service Center), then you may but are not required to file a Class Member Worksheet.
- (3) If you filed a legalization application between May 5, 1987 and May 4, 1988, but your application has been denied (either at the District Office, Service Center or the

Administrative Appeals Office), then you must file a Class Member Worksheet together with a Form I-290B and filing fee.

If you request work authorization, then you must submit an Application for Employment Authorization (Form I-765) together with the filing fee. Class members are entitled to temporary employment and advance parole while their applications or timely filed appeals from any denials of class membership or legalization are pending.

Subclass A and B members (those who were turned away when they attempted to file legalization applications in 1987-88) must attach to the Class Member Worksheet any available evidence regarding their non-immigrant entry into the United States before January 1, 1982, including, for example, copies of passports, entry stamps, visa applications, I-94's, I-20's, airline travel records, documents showing that they were present in the United States in non-immigrant status prior to or shortly after January 1, 1982, or credible declarations regarding entry prior to January 1, 1982 with a non-immigrant visa. If an applicant does not possess or is unable to obtain this type of evidence, the applicant may submit a sworn statement including the U.S. Consulate where the pre-1982 non-immigrant visa was applied for, the approximate date that it was obtained, the type of visa obtained, the date when the visa was used to enter the United States, where the applicant entered the United States using the non-immigrant visa, and a brief description of any activities that the class member engaged in consistent with the terms of the visa immediately after entering the United States. Applicants may also request that the USCIS check its records, prior to an adjudication of the Worksheet, to determine if any evidence exists of the alien's nonimmigrant entry prior to January 1, 1982.

If you are filing a Class Member Worksheet together with either an I-687 or I-290B form (Subclass B or C(i)), then mail the completed Class Member Worksheet together with the appropriate forms and filing fees, and four passport photos, and the current biometrics fee, as follows. If you are sending the Worksheet and forms via U.S. Postal Service:

U.S. Citizenship and Immigration Services
P.O. Box 804727
Chicago, IL 60680-4108

If you are sending the Worksheet and forms via any other means:

USCIS, Attn: NWIRP
131 South Dearborn—3rd Floor
Chicago, IL 60605-5517

1 If you are filing only a Class Member Worksheet to notify USCIS of your pending I-687
2 application (Subclass C(ii)), mail the Class Member Worksheet to:

3 NWIRP Worksheet
4 USCIS
5 National Benefits Center
6 P.O. Box 9001
Lee's Summit, MO 64002-9001

7 Be sure to keep a copy of everything that you submit to the USCIS, including your filing
8 fee checks or money orders. It is strongly recommended that you send your application
9 documents by a method that provides proof of delivery, such as USPS Priority Mail with
10 Confirmation, or FedEx, UPS or DHL. You may also send a copy of your application to
class counsel at the address below.

11 **Filing deadline**

12 If your application was rejected between May 5, 1987 and May 4, 1988, you must submit a
13 Class Member Worksheet and completed legalization application form to the USCIS in the
14 12 month period beginning _____, and ending _____. [insert dates
pursuant to Paragraph 4B of the Settlement]

15 If you filed a legalization application during the May 5, 1987 and May 4, 1988 application
16 year but the INS denied your application you may file a motion to reopen (re-decide)
17 your application at any time but no later than one year from the date you receive a
written notice of this settlement sent to you by the CIS.

18 **Processing your Class Member Worksheet.**

19 USCIS will decide within 120 days whether it agrees that you are a class member. If
20 USCIS agrees that you are a class member, it will then decide your legalization
21 application. Normally, this will take an additional 180 days.

22 If the USCIS opposes your class membership, it will issue you a Notice of Intent To Deny
23 your class membership. You will then have 30 days to submit additional evidence that
24 you are a class member. The USCIS will then have 90 days to decide whether it still
25 opposes your class membership. If it does, you will have 30 days to ask a court officer,
26 known as a Special Master, to decide whether you are a class member. If the Special
Master decides that you are a class member, USCIS will then process your legalization
application in accordance with the time limits previously described.

1 **Processing your I-687 legalization application.**

2
3 The settlement requires the USCIS to adjudicate *IAP/NWIRP* class members' legalization
4 applications just as though they had been filed during the original 1987-88 application
5 year, except the USCIS will apply the specified "known to the government" and
continuous unlawful residence standard.

6 While your properly filed I-687 application or Motion to Reopen is pending, you are
7 entitled to protection against removal (deportation) and to apply for work authorization.
8 You must apply for employment authorization by submitting a Form I-765 along with
9 your I-687 legalization application and Class Member Worksheet. An employment
authorization card (EAD) will be issued to you if the USCIS agrees you are a class
member.

10 Class members whose legalization applications the USCIS intends to deny will be sent a
11 notice of intended denial and will have at least 30 days to correct whatever problems the
12 USCIS identifies in the legalization application.

13 Class members whose legalization applications the USCIS denies are entitled to appeal to
14 the USCIS Administrative Appeals Office. You will have 30 days to file such an appeal. To
15 make sure that your appeal time does not run out before you get notice of a denial, be
sure to keep USCIS informed of your current address.

16 **Confidentiality.** Unless you commit fraud, all the information you submit in connection
17 with an *IAP/ NWIRP* Class Member Worksheet or legalization application may generally
18 be used only to decide those applications and, generally, may not be used to obtain a
removal (deportation) order against you.

19 **Travel.** You may apply for advance parole while your application is pending by
20 submitting a Form I-131 application, together with the applicable filing fee and photos.
21 The Form I-131 can be submitted with your initial application or later.

22 Class counsel strongly recommend, however, that you not leave the country until after
23 you have received Temporary Residence. Obtaining travel authorization (advance parole)
24 does not guarantee that you are admissible to the United States, and your legalization
application could also be denied while you are outside of the country.

25 **Family members.** Family members do not obtain legalization merely by being listed on
26 your legalization application. Each applicant must qualify independently for legalization.

27 However, the spouses and unmarried children of *NWIRP* class members who become
28 Temporary Residents are eligible to apply for "family unity" benefits if they resided in the
United States on May 5, 1988. Family members granted such benefits will be permitted to

Settlement

1 stay and work lawfully in the United States until they become residents through the
2 normal family-based immigration system.

3 **Further information. Do not contact the Court for information.** For further information
4 and forms, go to the web site of class counsel, www.centerforhumanrights.org and
5 www.ghp-law.net Forms and information are also available on the U.S. Citizenship and
Immigration Service's web site, www.uscis.gov/graphics/index.htm.

6 *After you have read these information sheets, and reviewed the web pages of class counsel, you*
7 *may also contact the lawyers representing the class:*

8 CENTER FOR HUMAN RIGHTS & CONSTITUTIONAL LAW
9 256 S. Occidental Blvd.,
Los Angeles, CA 90057
10 (213) 388-8693, exts. 104 or 109
11 E-mail: amnestycoordinator@centerforhumanrights.org

12 GIBBS, HOUSTON PAUW
13 1000 Second Ave., Suite 1600,
Seattle, WA 98104
14 (800) 654-9155
15 E-mail: info@ghp-law.net.