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2 This is an action for declaratory and injunctive relief challenging defendants’
3 applying § 3 of the Defense of Marriage Act, 1 U.S.C. § 7 (DOMA),¹ to deny
4 immigrant members of lawfully married same-sex couples marriage-based benefits
5 under the Immigration and Nationality Act, 8 U.S.C. §§ 1101, *et seq.* (INA).
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7 By order dated April 19, 2013 (Dkt. 126), this Court held that “DOMA § 3 is
8 not rationally related to Congress’ interest in a uniform federal definition of marriage
9 ... does not ‘ensur[e] that similarly situated couples will be eligible for the same
10 federal marital status regardless of the state in which they live’ ... and that Plaintiffs
11 have stated a claim that DOMA § 3 violates their equal protection rights.” *Id.* at 14.
12

13 The Court certified this action pursuant to Rule 23(b)(2), Fed.R.Civ.Proc., on
14 behalf of the following class:
15

16 All members of lawful same-sex marriages who have been denied or will be
17 denied lawful status or related benefits under the Immigration and Nationality
18 Act, 8 U.S.C. §§ 1101 *et seq.*, by the Department of Homeland Security solely
19 due to § 3 by the Defense of Marriage Act, 1 U.S.C. § 7.
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21 Order Granting Provisional Class Certification, Dkt. 127, at 12.
22

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25 ¹ DOMA § 3 provides:

26 In determining the meaning of any Act of Congress, or of any ruling,
27 regulation, or interpretation of the various administrative bureaus and agencies
28 of the United States, the word ‘marriage’ means only a legal union between
one man and one woman as husband and wife, and the word ‘spouse’ refers
only to a person of the opposite sex who is a husband or a wife.

1 On April 24, 2013, the Court stayed further proceedings in this action pending
2 the ruling of the United States Supreme Court in *United States v. Windsor*, No. 12-
3 307, on the ground that the Supreme Court’s ruling “will simplify the issues before
4 this Court.” Dkt. 129 at 2.

6 On June 26, 2013, the Supreme Court held that DOMA § denies due process
7 and equal protection in violation of the Fifth Amendment to the U.S. Constitution.
8 *United States v. Windsor*, U.S. ; 2013 U.S. LEXIS 4921, 2013 WL 3196928 (June
9 26, 2013).

11 Plaintiff class representative DeLeon and defendants accordingly now
12 stipulate to the following interim relief for plaintiff and members of the certified
13 class:
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15 1. Within fourteen (14) days of the Court’s approval of this Stipulation,
16 defendants will identify all class members whose applications for employment
17 authorization were denied pursuant to DOMA § 3, or, alternatively, all class
18 members whose applications or petitions for benefits under the INA were denied
19 pursuant to DOMA § 3.
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21 2. Within thirty (30) days of the Court’s approval of this Stipulation,
22 defendants will provide to Class Counsel a brief statement regarding how Paragraph
23 1 above was accomplished and a list of the names, last known addresses, telephone
24 numbers, and email addresses of class members and their legal counsel, if any,
25 identified pursuant to Paragraph 1 above. Class Counsel shall solely and exclusively
26 use such information for purposes of providing members of the certified class legal
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28

1 assistance relating to this litigation.

2 3. Within thirty (30) days of the Court’s approval of this Stipulation,
3
4 defendants will forward to identified class members by certified mail, return receipt
5 requested, to their last know addresses, with copies sent by first class mail to Class
6 Counsel, a notice describing the certified class and advising that defendants’
7 previous denials of class members’ employment authorization applications are
8 revoked, that class members with *prima facie* eligibility for adjustment of status
9 under the INA are eligible for temporary employment authorization without
10 additional fee, and providing instructions on how class members may obtain
11 documentary proof of employment authorization (“Class Notice”).
12
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14 4. The Class Notice shall also advise that class members’ presence in the
15 United States will be treated as authorized as of the date of defendants’ Class Notices
16 addressed to members of the certified class.
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18 5. The Class Notice will advise class members that defendants and class
19 counsel are conferring regarding permanent relief to be extended to members of the
20 class, and that if a tentative agreement is reached class members may be notified of
21 the tentative agreement before it is submitted to the Court for final approval, and if
22 no such agreement is reached, the Court may decide whether steps taken by
23 defendants are adequate to protect the rights of class members.
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26 6. The Class Notice will advise class members of the names, address,
27 telephone number, and email addresses of Class Counsel and inform class members
28 that they may, without charge, contact Class Counsel for assistance.

1 7. For purposes of this Stipulation, Class Counsel include only Peter Schey
2 and Carlos Holguin, Center for Human Rights and Constitutional Law, 256 S.
3 Occidental Blvd., Los Angeles, CA 90057, telephone (213) 388-8693,
4 pschey@centerforhumanrights.org, crholguin@centerforhumanrights.org.
5

6 8. The USCIS will issue proof of employment authorization to class members
7 who request it, without additional fee and on a priority basis, within 21 days
8 following a class member's written request made pursuant to the Class Notice. Class
9 members who have already provided biometrics will not be required to do so again
10 unless good cause exists to request that a class member again provide his or her
11 biometrics.
12

13 9. The USCIS will place on its web site a notice to class members in
14 substantially the same form as the Class Notice described above.
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16 8. The USCIS is not required pursuant to this Stipulation to approve
17 employment authorization or treat presence as authorized for any class member who
18 reasonably appears to be ineligible for adjustment of status regardless of application
19 of DOMA § 3.
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21 9. On a monthly basis, until all class members' previous denials of
22 employment authorization have been reconsidered and addressed, defendants shall
23 provide to Class Counsel an update including how many class members have sought
24 evidence of authorization to be employed, how many have been forwarded such
25 evidence, how many have been denied such evidence, and how many requests
26 remain pending. Defendants shall copy Class Counsel on any written denial of
27
28

1 employment authorization issued to any class member.

2 10. In the event any dispute arises regarding implementation of this
3 Stipulation, the party raising the dispute shall advise the other party or parties in
4 writing of the nature of the dispute. The party or parties receiving such written notice
5 of dispute shall respond in writing within one week of receipt of the notice of
6 dispute. Within one week of this response, the parties will meet and confer
7 telephonically or in person in a good faith effort to resolve the dispute. In the event
8 the parties are unable to resolve a dispute after a good faith meet and confer, they
9 may seek appropriate relief before United States District Judge Consuelo Marshall,
10 the presiding judge who certified the class in this case.
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15 Dated: July __, 2013. _____

List of attorneys for plaintiff
and defendants

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18 For good cause shown, IT IS SO ORDERED.

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20 Dated : July __, 2013

United States District Judge

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