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NON - DETAINED

Pro Bono Counsel for Respondents

**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
STERLING, VIRGINIA**

_____)		
IN THE MATTER OF:)		
)		
CLIENT (Lead))	File Nos:	A xxx-xxx-xxx
CHILD1 (Rider))		A xxx-xxx-xxx
CHILD2 (Rider))		A xxx-xxx-xxx
)		
Respondents)		
)		
In Removal Proceedings)		
_____)		

Immigration Judge: [JUDGE]

Next Hearing: December XX, 2023 at TIME

**RESPONDENTS' PRE-HEARING BRIEF IN SUPPORT OF APPLICATIONS FOR
ASYLUM, WITHHOLDING OF REMOVAL, AND RELIEF UNDER THE
CONVENTION AGAINST TORTURE**

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INTRODUCTION

For approximately thirty years, Guatemalan native CLIENT NAME (“CLIENT”) endured severe physical, sexual, and psychological torture at the hands of her common law husband, [REDACTED] (“HUSBAND”). Unprotected by her government, which turns a blind eye to the abuse of women, she suffered abuse due to her religion, political opinion, and membership in particular social groups (“PSGs”). After many attempts to find protection within Guatemala and in El Salvador, CLIENT fled to the United States in October 2016 with her youngest daughter, CHILD1 NAME (“CHILD1”). One of CLIENT’s sons, CHILD2 NAME (“CHILD2”), a derivative on her asylum application, later fled Guatemala to join CLIENT.

As set forth below, CLIENT is eligible for asylum for herself and her derivative children pursuant to the Immigration and Nationality Act (“INA”), or alternatively, withholding of removal pursuant to the INA or the Convention Against Torture (“CAT”).

BACKGROUND

I. CLIENT’s life of terror in Guatemala.

CLIENT spent her childhood bouncing from house to house, forced to work and deprived of education because her parents chose not to raise her. *See* Declaration of CLIENT (“CLIENT’s Decl.”), Ex. A, ¶¶ 6–16. She was verbally and physically abused by the adults who were supposed to care for her and experienced frequent sexual abuse as a teenager by the boys and men around her. *Id.* ¶¶ 10–11, 13, 16.

CLIENT and her common law husband, HUSBAND, began a relationship when CLIENT was eighteen years old. *Id.* ¶¶ 17–19. Their first night together, HUSBAND told CLIENT she “had to have sex with him” because “he had taken [her] to be ‘his woman’ for that reason and that sex is what [she] had to do.” *Id.* ¶ 20. Several days later, when CLIENT declined HUSBAND’s sexual advances because she was feeling very sick, HUSBAND “went outside, found a tree branch, and used it to hit [CLIENT] until [she] agreed to have sex with him.” *Id.* ¶ 39. From then on, HUSBAND demanded sex and raped CLIENT on a near daily basis. *See id.* ¶¶ 40–46.

HUSBAND also verbally abused CLIENT every day of their relationship, and physically abused her if she “did not do exactly what he wanted.” *Id.* ¶ 23. He often would wake CLIENT up by grabbing her by the hair and demanding she cook for him. *Id.* ¶ 41. He regularly hit CLIENT with sticks, his fists or belt, and kicked her, too. *Id.* ¶ 23. He struck CLIENT when he

felt she disobeyed him, even when she made attempts to placate him. *See id.* He even abused CLIENT while she was pregnant, to the point that she considered abortion. *Id.* ¶ 27.

After CLIENT had their fourth child, HUSBAND demanded CLIENT agree to sell the land on which they lived so he could start a new life with one of his mistresses. *Id.* ¶¶ 30–31. After CLIENT refused, and HUSBAND found out that CLIENT had visited the woman’s family to warn them about HUSBAND’s abusive behavior, he grabbed a gun and threatened to kill CLIENT. *Id.* ¶¶ 31–32. He searched door-to-door for CLIENT, even firing the gun into the air. *See id.*

HUSBAND’s violence extended to their youngest daughter, CHILD1. When CHILD1 was seven or eight years old, CLIENT entered their home to find HUSBAND lying on CHILD1’s bed with her, watching television. *Id.* ¶ 67. CHILD1’s head was near HUSBAND’s lap, and “her hand was touching his zipper with his hand on top of her[s],” guiding it. *Id.* HUSBAND denied any ill intentions, but from that moment on, CLIENT closely watched HUSBAND’s interactions with CHILD1. *Id.* ¶¶ 67–68. CLIENT’s worst fears were confirmed when, a few days after this incident, CHILD1 reluctantly told CLIENT that HUSBAND had touched her where “he shouldn’t have.” *Id.* ¶ 69. CLIENT immediately confronted HUSBAND, who denied the accusation, saying that CHILD1 was a “liar” and “in heat.” *Id.* ¶ 70. A few months later, when CLIENT was helping CHILD1 take a bath, CHILD1 again revealed the abuse, saying that HUSBAND “touches [her] all the time,” and that “he fingers [her] with a lot of fingers, and it hurts.” *Id.* ¶ 72 (alterations original). CLIENT later confronted HUSBAND when she saw HUSBAND kissing CHILD1 inappropriately. *Id.* ¶ 73. HUSBAND replied, “In what century are you living woman? A father can do whatever he wants to his children.” *Id.*

CLIENT realized she could not protect herself or her daughter in Guatemala. *See id.* ¶ 89. She tried small things at first—moving CHILD1’s bed and sending CHILD1 to stay with neighbors during the day. *Id.* ¶¶ 76, 78. At one point, CLIENT took their children to seek refuge with her parents in El Salvador, although she had no right to residency in that country. *See id.* ¶ 74. They stayed in El Salvador for about two months, returning to Guatemala because CLIENT was unable to find work or any familial support; and they received word that HUSBAND had moved out of their home. *Id.* Unfortunately, HUSBAND returned home about two weeks after CLIENT and the children, and the abuse of CLIENT and CHILD1 soon resumed. *Id.* ¶ 75.

CLIENT knew that going to the police would be futile and counterproductive, and HUSBAND reinforced this belief. *Id.* ¶¶ 80–82. Police typically took hours to arrive after called, and perpetrators typically only spent a few days in jail. *Id.* ¶¶ 80, 82. CLIENT knew of at least two men from the community who attacked female neighbors without meaningful police investigation or punishment. *See id.* ¶¶ 83–84. HUSBAND, fully aware that calling the police would be ineffective, taunted CLIENT by telling her that if she ever called the police, she would be “gone” before they arrived. *Id.* ¶ 81. He reiterated to CLIENT and her children that he had “friends in the police and in the courts.” *See* [FAMILY MEMBER] Sworn Affidavit and Certified Translation, Oct. 11, 2018 (“[FAMILY MEMBER] Affidavit”), Ex. B, at 4. Once, CLIENT told HUSBAND she would have him jailed if he continued to abuse CHILD1, he responded by saying “women who gossip turn up dead, and the police don’t investigate who killed them.” CLIENT’s Decl., Ex. A, ¶ 81. HUSBAND also told CLIENT on more than one occasion that “people get out of jail, but nobody gets out of a deep hole.” *Id.* CLIENT understood these as death threats. *See id.*

In 2016, with nowhere to hide from HUSBAND in Guatemala and no protection for herself or her daughter, CLIENT saved CHILD1 from their hell and made the harrowing journey to the United States to seek refuge and protection. *See id.* ¶¶ 89, 91.

ARGUMENTS AND AUTHORITIES

II. CLIENT merits asylum.

CLIENT satisfies her burden to establish that she is a refugee as defined by section 101(a)(42)(A) of the INA. *See* 8 U.S.C. § 1101(a)(42)(A). To qualify for asylum, CLIENT “must establish that [she has] been subjected to past persecution or [has] a well-founded fear of future persecution on account of race, religion, nationality, membership in a particular social group, or political opinion,” the five statutorily protected grounds. *Perez Vasquez v. Garland*, 4 F.4th 213, 221 (4th Cir. 2021) (quoting *Alvarez Lagos v. Barr*, 927 F.3d 236, 245 (4th Cir. 2019)); *see also* 8 U.S.C. § 1101(a)(42)(A). CLIENT must show “that the protected ground was or would be ‘at least one central reason’ for the persecution.” *Id.* (quoting *Crespin-Valladares v. Holder*, 632 F.3d 117, 127 (4th Cir. 2011)). Additionally, CLIENT must demonstrate that she “is unable or unwilling to return to, and is unable or unwilling to avail [] herself of the protection of” her country of origin. 8 U.S.C. § 1101(a)(42)(A). Because she “fears persecution by a private actor,” CLIENT must demonstrate that “the government in her native country ‘is unable or unwilling to control’ her persecutor.” *Orellana v. Barr*, 925 F.3d 145, 151 (4th Cir. 2019) (quoting *Hernandez-Avalos v. Lynch*, 784 F.3d 944, 949 (4th Cir. 2015)).

A. CLIENT suffered physical, sexual, and psychological abuse rising to the level of persecution.

The physical, sexual, and psychological abuse CLIENT suffered over a 30-year period, including rape, death threats and threats of violence, and repeated beatings in her domestic

relationship, qualifies as persecution.¹ *See Baharon v. Holder*, 588 F.3d 228, 232 (4th Cir. 2009) (“Persecution involves the infliction or threat of death, torture, or injury to one’s person or freedom, on account of one of the enumerated grounds in the refugee definition.”); *Matter of A-R-C-G-*, 26 I&N Dec. 388, 389, 395 (BIA 2014) (husband’s “repugnant” physical and sexual abuse of respondent in Guatemala, including rape and weekly beatings, was persecution); *In re D-V-*, 21 I&N Dec. 77, 79 (BIA 1993) (applicant “suffered grievous harm” when she was raped and beaten by three soldiers). The Justice Department has expressly recognized that domestic violence and sexual abuse can constitute past persecution: “Serious physical harm consistently has been held to constitute persecution. Rape and other forms of severe sexual violence clearly can fall within this rule.”² Further, the Fourth Circuit has repeatedly held that “the threat of death alone constitutes persecution.” *See, e.g. Tairou v. Whitaker*, 909 F.3d 702, 707–08 (4th Cir. 2018). Courts consider all threats and harm “in the aggregate.” *See, e.g. In re O-Z- & I-Z-*, 22 I&N Dec. 23, 26 (BIA 1998).

Like the respondents in *Matter of A-R-C-G-*, *In re D-V-*, and *Tairou*, CLIENT endured “repugnant” abuse rising to the level of persecution. The harm suffered by CLIENT was repeated, brutal and severe. HUSBAND regularly forced CLIENT to have sex with him, belittled and demeaned her with insults regarding her status, appearance, and medical condition, physically abused her when she attempted to protect her children, and constantly reminded CLIENT that she was his “property.” *See generally*, CLIENT’s Decl. Ex. A. HUSBAND

¹ As discussed more fully in Respondent CLIENT’s Brief Regarding *Matter of A-B-*, 27 I&N Dec. 316 (A.G. 2018), dated Feb. 19, 2018 (“CLIENT’s A-B- Brief”) (attached as Exhibit C, and incorporated by reference herein), threats of violence, rape, and repeated beatings in a domestic relationship constitute persecution. *See* Ex. C, Section III.B.

² Considerations for Asylum Officers Adjudicating Asylum Claims from Women, Memorandum to All INS Officers/HQASM Coordinators from Phyllis Coven, Department of Justice Office of International Affairs, May 26, 1995 at 9 (attached as Exhibit D).

frequently insinuated and at times outright declared that he would kill CLIENT if she ever reported his behavior, and even went as far as to threaten CLIENT with a gun. *See id.* ¶¶ 32, 81–82, 88; Declaration of CHILD1 (“CHILD1’s Decl.”), Ex. E, ¶ 21. Any one of these physical beatings, death threats, or rapes inflicted by HUSBAND alone constitutes persecution. The cumulative thirty years of beatings, rape, and death threats weave a tightly knit pattern of violence, domination, and subjugation that clearly establish persecution in the aggregate. *See In re O-Z- & I-Z-*, 22 I&N Dec. at 23, 26. The continuing harm of HUSBAND’s torture of CLIENT has been documented by a thorough psychological evaluation by a licensed Clinical Social Worker, who diagnosed CLIENT with Post Traumatic Stress Disorder (“PTSD”) and Major Depressive Disorder as a result of “the complex trauma and multiple, chronic and prolonged overwhelming traumatic experiences caused by [HUSBAND].” [EXPERT], LCSW, Psychological Evaluation of CLIENT (“EXPERT CLIENT Psych. Eval.”), Ex. F, ¶ 21. CLIENT has suffered abuse rising to the level of persecution.

B. CLIENT suffered persecution on three protected grounds.

CLIENT was persecuted and fears persecution based on her membership in the following cognizable particular social groups: (1) Guatemalan women; (2) Guatemalan married women; (3) Guatemalan women perceived as inferior to men; (4) Guatemalan mothers; (5) the mother of CHILD1; (6) women partners of HUSBAND; (7) Guatemalan women who refuse to be subservient in domestic relationships; (8) Guatemalan women who are viewed as property by virtue of their status in a domestic relationship; and (9) Guatemalan women who are unable to leave their domestic relationship. *See* CLIENT’s *A-B-* Brief, Ex. C, Section III.D. CLIENT also

suffered persecution because of her religious beliefs and her political opinion that parents should not physically abuse their children.

1. CLIENT suffered persecution because of her membership in PSGs.

Well-settled jurisprudence establishes three distinct requirements for a cognizable social group. A cognizable PSG must be “(1) composed of members who share a common immutable characteristic, (2) defined with particularity, and (3) socially distinct within the society in question.”³ *Matter of A-R-C-G-*, 26 I&N Dec. at 392.

A “common immutable characteristic” is one that “the members of the group either cannot change, or should not be required to change because it is fundamental to their individual identities or consciences.” *Matter of Acosta*, 19 I&N Dec. 211, 233 (BIA 1985). In determining whether members of a group share common immutable traits, a court should consider both the applicant’s circumstances and country conditions information.⁴

A group must also be sufficiently particular such that it is not amorphous and is defined by characteristics that provide a clear benchmark for who falls within the group. *Matter of M-E-V-G-*, 26 I&N Dec. 227, 239 (BIA 2014). The Fourth Circuit explains particularity as the need for a particular social group to “have identifiable boundaries.” *Temu v. Holder*, 740 F.3d 887, 895 (4th Cir. 2014); *see also Zelaya v. Holder*, 668 F.3d 159, 165 (4th Cir. 2012) (stating that a particular social group must “be defined with sufficient particularity to avoid indeterminacy”).

³ While the Fourth Circuit has assumed the social distinctiveness prong’s applicability, *see, e.g. Alvarez Lagos v. Barr*, 927 F.3d at 252, it has not scrutinized its application under *Chevron, U.S.A., Inc. v. Nat. Res. Def. Council, Inc.*, 467 U.S. 837 (1984).

⁴ Where courts have accepted social groups defined by the combination of gender and nationality, they have necessarily considered country conditions evidence. *See, e.g., Bi Xia Qu v. Holder*, 618 F.3d 602 (6th Cir. 2010) (considering gender and Chinese country conditions); *Perdomo v. Holder*, 611 F.3d 662 (9th Cir. 2010) (Guatemalan women); *Ngengwe v. Mukasey*, 543 F.3d 1029 (8th Cir. 2008) (Cameroonian widows); *Bah v. Mukasey*, 529 F.3d 99 (2d Cir. 2008) (female members of the Guinean Fulani ethnic group); *Hassan v. Gonzales*, 484 F.3d 513 (8th Cir. 2007) (Somali females); *Mohammed v. Gonzales*, 400 F.3d 785 (9th Cir. 2005) (Somalian females); *Niang v. Gonzales*, 422 F.3d 1187 (10th Cir. 2005) (female members of the Tukolor Fulani tribe).

To be socially distinct, a group must be meaningfully distinguishable from other persons in the same society. *Matter of M-E-V-G-*, 26 I&N Dec. at 238. A particular social group is socially distinct when it is “generally [] recognizable by others in the community” and is not “too amorphous to provide an adequate benchmark for determining group membership.” *See In re A-M-E- & J-G-U-*, 24 I&N Dec. 69, 74, 76 (BIA 2007). The Board of Immigration Appeals (“BIA” or “Board”) has clarified that “a group’s recognition for asylum purposes is determined by the perception of the society in question, rather than by the perception of the persecutor.” *See Matter of M-E-V-G-*, 26 I&N Dec. at 242. It further clarified that social distinction does not require ocular visibility; “rather, it must be *perceived* as a group by society.” *Id.* at 240 (emphasis added). Social distinction depends on “evidence showing that society in general perceives, considers, or recognizes persons sharing the particular characteristic to be a group.” *Matter of W-G-R-*, 26 I&N Dec. 208, 217 (BIA 2014). “[C]ountry conditions reports, expert witness testimony, and press accounts of discriminatory laws and policies, historical animosities, and the like” may establish a social group exists. *Matter of M-E-V-G-*, 26 I&N Dec. at 244.

a) CLIENT is a member of legally cognizable gender-based PSGs.

CLIENT is a member of three gender-based PSGs: “Guatemalan women,” “Guatemalan married women,” and “Guatemalan women perceived as inferior to men.” Each of the PSGs are immutable, sufficiently particular, and socially distinct.

Nationality is an enumerated ground for asylum on its own, INA § 101(a)(42)(A), and the BIA first recognized “sex” as an “immutable characteristic” that could define a social group in 1985, following passage of the 1980 Refugee Act. *See Matter of Acosta*, 19 I&N Dec. at 233; 8 U.S.C. § 1101(a)(42)(A). After *Acosta*, U.S. jurisprudence has long held that gender—even on its own—can constitute a viable PSG. *See, e.g., Hassan v. Gonzales*, 484 F.3d at 518 (“[W]e hold

that a factfinder could reasonably conclude that all Somali females have a well-founded fear of persecution based solely on gender.”); *Fatin v. I.N.S.*, 12 F.3d 1233, 1240 (3rd Cir. 1993) (sex is “an innate characteristic that could link the members of a ‘particular social group’”).

The three PSGs defined by nationality and gender are also particular in that their boundaries “constitute a discrete class of persons” and the groups have “identifiable boundaries.” *Matter of W-G-R-*, 26 I&N Dec. at 214; *Temu*, 740 F.3d 892. The fact that the groups “Guatemalan women,” “Guatemalan married women,” and “Guatemalan women perceived as inferior to men” contain a large number of members does not preclude their particularity. *Alvarez Lagos v. Barr*, 927 F.3d at 253 (“[T]he size and breadth of a group alone does not preclude a group from qualifying as [a particular] social group.” (alterations in original)); *Cece v. Holder*, 733 F.3d 662, 674 (7th Cir. 2013) (en banc) (“[T]he breadth of category has never been a per se bar to protected status.”).

“Guatemalan women,” “Guatemalan married women,” and “Guatemalan women perceived as inferior to men” are also socially distinct because Guatemalan “society in general perceives, considers, or recognizes persons sharing the[se] particular characteristic[s] to be a group.” See *Matter of W-G-R-*, 26 I&N Dec. at 217. “Certainly, it is difficult to think of a country in which women are not viewed as ‘distinct’ from other members of society.” *De Pena-Paniagua v. Barr*, 957 F.3d 88, 96 (1st Cir. 2020). Not surprisingly, then, the Board has held that “social groups based on innate characteristics such as sex . . . are generally easily recognizable and understood by others to constitute social groups.” See *Matter of M-E-V-G-*, 26 I&N Dec. at 246. Whether a proposed group has the required social distinction must “be considered in the context of the country of concern and the persecution feared.” *In re A-M-E- & J-G-U-*, 24 I&N Dec. at 74; see also *Matter of M-E-V-G-*, 26 I&N Dec. at 244 (“country conditions reports, expert

witness testimony, and press accounts of discriminatory laws and policies, historical animosities and the like” may satisfy the PSG requirements). The country conditions reports and expert testimony here make clear that Guatemalan society perceives and recognizes women as sharing particular characteristics. *See* María Josefina Saldaña-Portillo, Country Conditions Expert Witness Report, Guatemala (“Saldaña-Portillo Expert Report”), Ex. G, ¶¶ 8–9, 15, 18. To treat women as subordinate requires seeing women distinctively as separate from and inferior to men. *Id.* ¶ 11. Furthermore, the existence of (albeit ineffective) laws and institutions to protect women from domestic abuse evidences the perception in Guatemalan society that women share particular characteristics that make them vulnerable to male violence. *Id.* ¶ 20.

b) CLIENT is a member of legally cognizable family-based PSGs.

As articulated in CLIENT’s *A-B-* Brief, the groups “Guatemalan mothers,” “mother of CHILD1,” and “women partners of HUSBAND” are plainly immutable, particular, and socially distinct. *See* CLIENT’s *A-B-* Brief, Ex. C, Section III.D.2. CLIENT’s membership in these groups satisfies the PSG requirements. *See id.* Indeed, the Board has explained that “innate characteristics” like “family relationship are generally easily recognizable and understood by others to constitute social groups.” *Matter of M-E-V-G-*, 26 I&N Dec. at 246 (citation omitted). “We have long recognized that family ties may meet the requirements of a particular social group depending on the facts and circumstances in the case.” *Matter of L-E-A-*, 27 I&N Dec. 40, 42 (BIA 2017); *see also Crespin-Valladares v. Holder*, 632 F.3d at 124-25 (4th Cir. 2011).

c) CLIENT is a member of legally cognizable PSGs rooted in her domestic relationship.

CLIENT’s domestic relationship, and her inability to leave it, also makes her a member of the groups “Guatemalan women who refuse to be subservient in domestic relationships,”

“Guatemalan women who are viewed as property by virtue of their status in a domestic relationship,” and “Guatemalan women who are unable to leave their domestic relationships.”

Sections III.D.3 and III.D.4 of CLIENT’s *A-B-* Brief detail how these PSGs are defined by the immutable traits of nationality, gender, permanence of the domestic relationship, and a fundamental belief in opposing and refusing subservience in a domestic relationship. *See* CLIENT’s *A-B-* Brief, Ex. C, Sections III.D.3–4. In Guatemala, these groups are also socially distinct and particular. Like in *Matter of A-R-C-G-*, “the record in this case” shows “that Guatemala has a culture of ‘machismo and family violence’” which supports the recognized PSG “married women in Guatemala who are unable to leave their relationship.” 26 I&N Dec. at 394 (citing country conditions evidence); *see* Saldaña-Portillo Expert Report, Ex. G, ¶¶ 8, 15, 18. Within Guatemala’s patriarchal society, women, like CLIENT, who assert their independence and oppose their domestic partner’s “property rights” over them stand out as a discrete class of persons distinct from the norm. *Id.* ¶ 15. The identifiable nature of these groups is reflected in Guatemalan society’s view that wives who refuse to be subservient and flee their husbands are considered to be “absconding with property.” *Id.* ¶ 16.

There is no doubt that, by virtue of their common law marriage, HUSBAND views and treated CLIENT as his property and that Guatemalan society supports that view. *See id.* at ¶ 8. There was nothing that CLIENT could do to change HUSBAND’s view of her.

2. CLIENT is an evangelical Christian.

CLIENT was also persecuted on account of her evangelical religion, which is a cognizable ground for asylum. INA § 101(a)(42)(A) (codified at 8 U.S.C. § 1101(a)(42)(A)). Against HUSBAND's wishes, CLIENT attended church and read her Bible. CLIENT's Decl., Ex. A, ¶¶ 52–53. HUSBAND's abuse of CLIENT frequently centered on her devotion to her faith. *See id.* ¶¶ 52–54.

3. CLIENT is a Guatemalan woman and mother with a political opinion.

CLIENT was further persecuted on account of her political opinion that parents should not physically abuse their children or sexually abuse their daughters. The presence of a protected political opinion “is prototypically met by evidence of verbal or openly expressive behavior by the applicant in furtherance of a particular cause.” *Saldarriaga v. Gonzales*, 402 F.3d 461, 466 (4th Cir. 2005). The behavior an applicant seeks to advance as political “must be motivated by an ideal or conviction of sorts before it will constitute grounds for asylum.” *Id.*⁵

Contrary to Guatemalan society's pervasive view that children, particularly female children, are the rightful property of their patriarch, *see* Saldaña-Portillo Expert Report, Ex. G, ¶ 8, CLIENT believed that HUSBAND had no right to physically abuse their children. CLIENT frequently attempted to halt or limit HUSBAND's abuse of their children, and often faced repercussions as a result. *See* CLIENT's Decl. Ex. A, ¶¶ 62, 63. CLIENT's political belief also extended to her protection of her youngest daughter, CHILD1. Upon discovering HUSBAND's sexual abuse of CHILD1, CLIENT constantly argued with him about his *right* to abuse his daughter in such a manner. HUSBAND would say “A father can do whatever he wants to his

⁵ Courts, including the Third Circuit, have “interpreted the concept of ‘political opinion’ broadly.” *Qorraj v. Ashcroft*, 89 F. App'x 318, n.1 (3d Cir. 2004).

children.” *Id.* ¶ 73. However, CLIENT’s repeated attempts to stand up for her daughter were only met with further abuse and death threats. *See, e.g., id.* at ¶¶ 73, 81.

C. CLIENT’s persecution is “on account of” protected grounds.

CLIENT’s persecutor physically, sexually, and psychologically abused her and threatened her with death because of her membership in the PSGs described above, her religion, and her political opinion. CLIENT can show persecution is “on account of” a protected ground “by showing that the protected ground was or would be ‘at least one central reason’ for the persecution.” *See Perez Vasquez v. Garland*, 4 F.4th at 221 (quoting *Crespin-Valladares v. Holder*, 632 F.3d at 127); accord 8 U.S.C. § 1158(b)(1)(B)(i). “[T]he protected ground need not be the central reason or even a dominant central reason for [CLIENT’s] persecution.” *Perez Vasquez v. Garland*, 4 F.4th at 221 (internal quotation marks omitted, emphasis original). “Rather, [CLIENT] must demonstrate that [her] protected status was or would be more than an incidental, tangential, superficial, or subordinate reason for [her] persecution.” *Id.* (internal quotation marks omitted). The persecutor’s motives may be established by either direct or circumstantial evidence. *I.N.S. v. Elias-Zacarias*, 502 U.S. 478, 483 (1992).

Even when persecutors “may have a personal motivation” for the harm they inflict, there may be “broader social significance” behind the persecution. *Sahran v. Holder*, 658 F.3d 649, 656 (7th Cir. 2011). Indeed, courts have long recognized persecution in a range of contexts that inherently involve personal relationships, such as close family or community ties. *See, e.g., Kamar v. Sessions*, 875 F.3d 811, 818–19 (6th Cir. 2017) (honor killing by family); *Bi Xia Qu v. Holder*, 618 F.3d at 607–08 (forced marriage by family); *In re S-A-*, 22 I&N Dec. 1328, 1335 (BIA 2000) (physical violence by father); *In re Kasinga*, 21 I&N Dec. 357, 359, 367 (BIA 1996) (female genital mutilation by family and community).

HUSBAND's own statements and actions show that he abused CLIENT on account of her membership in PSGs: he said he abused her because of her gender; her status as a wife (and therefore his property); her status as a mother; her religion; and political beliefs expressed through her efforts to prevent him from physically abusing his children. Indeed, the first time HUSBAND raped CLIENT, he said it was because she was "his woman"—it was her gender that allowed, and motivated, him to abuse her. CLIENT's Decl. Ex. A, ¶ 39. This refrain became common, and HUSBAND used it not only to justify raping CLIENT on a near-daily basis, but also his never-ending physical and verbal abuse. *See id.* ¶¶ 25 (he could do what he wanted because CLIENT "was his wife"), 42 (CLIENT was "his woman"), 48 (same). When CLIENT resisted his abuse, HUSBAND only escalated his attacks. *See id.* ¶¶ 42, 59. Ultimately, HUSBAND believed CLIENT, as a woman, was his property, and therefore felt compelled to treat his "property" however he wished. *See Saldaña-Portillo Expert Report, Ex. G, ¶ 8.*

HUSBAND also made his abuse on account of CLIENT's religion readily apparent. When CLIENT would go to mass, HUSBAND would verbally abuse her, saying that church was a waste of time and that she was just going to sleep with the pastor and members of the congregation. *See CLIENT's Decl., Ex. A, ¶¶ 52–53.* HUSBAND also forbade members of CLIENT's church from visiting her in their home. *Id.* ¶ 54. Afraid of HUSBAND's violence, CLIENT would read the Bible only when HUSBAND was away. *Id.* ¶ 52.

HUSBAND's abuse on account of CLIENT's political opinion was explicit. When CLIENT attempted to intervene to prevent HUSBAND from physically disciplining or abusing their children, HUSBAND turned his wrath upon her. *See CLIENT's Decl. Ex. A, ¶¶ 62, 63.* He would yell at her: "if you don't want me to hit them, then I will hit you." *See id.* ¶ 63. On one occasion when CLIENT attempted to stop HUSBAND from hitting their child CHILD3,

HUSBAND said to her, “you can’t tell me when to hit my kids,” before preceding to beat her with a belt, leaving a lasting wound. *Id.* HUSBAND took a similar approach in response to CLIENT’s attempts to protect CHILD1 from his sexual abuse. In addition to threatening to kill CLIENT and CHILD1 if CLIENT ever alerted the police to the abuse, HUSBAND argued that “[a] father can do whatever he wants to his children.” *Id.* ¶ 73; *see also id.* ¶ 81. Despite CLIENT’s persistent attempts to protect her children from both physical and sexual abuse, she only encountered more physical abuse and threats at the hands of HUSBAND.

The country conditions reports, expert declaration, and testimony reveal a pattern or practice of violence against Guatemalan women, particularly those in domestic relationships, at the hands of their male family members because of their perceived inferior status in Guatemalan society. “Gender-related violence in [Guatemala] is a product of pervasive sexist attitudes, a lack of institutional protection for women, and tolerance of this violence among the wider population. Mothers and daughters are at a heightened risk for domestic violence and sexual abuse in Guatemala because they are seen as rightful property of their husbands and fathers, with particular obligations to serve husbands and fathers.” Saldaña-Portillo Expert Report, Ex. G, ¶ 18. There is a “broader social significance” behind HUSBAND’s persecution. *See Sahran v. Holder*, 658 F.3d at 656. Protected grounds are central reasons for the persecution CLIENT suffered and fears. *See* INA § 208(b)(1)(B)(i) (codified at 8 U.S.C. § 1158(b)(1)(B)(i)).

D. CLIENT has a well-founded fear of future persecution.

First, an asylum applicant may be granted asylum based on past persecution alone. An “applicant who has been found to have established [] past persecution shall also be presumed to have a well-founded fear of persecution on the basis of the original claim.” 8 C.F.R. § 1208.13(b)(1). When the presumption arises, the burden shifts to the government to establish, by

a preponderance of the evidence, that: (A) there has been a fundamental change in circumstances such that the applicant no longer has a well-founded fear of persecution; or (B) the applicant could avoid future persecution by relocating to another part of his or her country and that it is reasonable to do so. 8 C.F.R. § 1208.13(b)(1)(i), (ii).

CLIENT has established past persecution. *See* Section II.B, *supra*. The government cannot rebut the presumption of CLIENT's well-founded fear of future persecution. There has been no fundamental change to CLIENT's situation. To CLIENT's knowledge, HUSBAND remains alive and well in the same area of Guatemala. CLIENT's Decl., Ex. A, ¶¶ 101–102. HUSBAND has not expressed remorse for his actions; he remains intent on finding and seeking revenge on CLIENT and CHILD1. *See id.* ¶ 101. HUSBAND also continued to harass CLIENT's children, most notably seizing the family's land and kicking the children out of their home. *See id.* ¶ 102; [FAMILY MEMBER] Affidavit, Ex. B, at 3–4 . Neither can CLIENT avoid future persecution by reasonably and safely relocating elsewhere in Guatemala. CLIENT's *A-B-* Brief and attachments lay out the deleterious conditions present in Guatemala as of February 2019, including the utter ineffectiveness of Guatemala's 2008 Law criminalizing violence against women;⁶ an untrained, resource-strapped police force turning a blind eye to domestic violence; and deep-rooted Guatemalan cultural attitudes justifying and condoning violence against women due to their perceived subordinate societal role. *See* CLIENT's *A-B-* Brief, Ex. C, Section III.C; *accord* Saldaña-Portillo Expert Report, Ex. G, ¶ 20. The conditions in Guatemala have not improved since 2019; the U.S. State Department continues to list Guatemala's crime situation as

⁶ Ley contra el Femicidio y otras Formas de Violencia contra la Mujer [Law against Femicide and Other Forms of Violence against Women], Decreto Ley N° 22 [Decree-Law No. 22] (2008) ("2008 Law") (attached as Exhibit J-1).

“critical.”⁷ In its 2022 Country Security Report, the State Department concluded that the Guatemalan police “lack sufficient personnel and training to accomplish their mission,” and “[p]olice investigations often fail to result in an arrest, much less a conviction.” *Id.*

Numerous non-governmental organizations have recognized that the shortcomings of Guatemalan policing and the justice system particularly affect women. The UN Women’s report on Guatemala notes that violence against women is a result of “patriarchal and conservative culture added to a fragile security and legal system that breeds impunity.” Saldaña-Portillo Expert Report, Ex. G, ¶ 19.⁸ Similarly, the United Nations Treaty Bodies Committee (“UNTBC”) recently expressed deep concern over the perpetuation of gross stereotypes at all levels of society and government that “contribute to the continuation of high levels of violence against women and girls, including femicide, sexual violence, domestic violence, harassment and abuse.” *Id.* ¶ 24. The UNTBC found that even with a Special Prosecutor for femicides, “scarce prosecutions” and “light sentences” for the perpetrators still led to “systemic impunity.”⁹ *Id.* ¶ 25. Guatemala thus has one of the highest rates of femicide in the world, but woefully low conviction rates for the crime. *Id.* ¶ 31 (“While Guatemala has one of the highest rates of femicide, the conviction rate for this crime in 2014 was only 1-2%.”). The prosecution of perpetrators of domestic violence is exceedingly rare: only 6.4 percent of domestic violence reports lead to indictment, and less than one percent of those indictments lead to convictions and sentencing. *Id.* ¶ 32.

⁷ U.S. Dep’t of State, Overseas Security Advisory Council, *Guatemala 2022 Country Security Report*, available at <https://www.osac.gov/Country/Guatemala/Content/Detail/Report/2013f384-296b-4394-bfcb-1c9c40b9c7df> (attached as Exhibit J-2).

⁸ Professor Saldaña is prepared to testify at the Merits Hearing regarding any relevant updates to her Country Conditions Report.

⁹ “The Committee found insufficient resources dedicated by the government for the prevention of violence against women, and a lack of established protocols taking gender into account for the investigation and prosecution of cases of violence against women and girls.” Saldaña-Portillo Expert Report, Ex. G, ¶ 25 (internal quotation marks omitted).

Beyond Guatemala's structural and societal flaws with respect to protecting women, it would also be unreasonable and unsafe for CLIENT to relocate within Guatemala given HUSBAND's repeated violent threats to find and kill CLIENT should she return. "[I]t is unrealistic to expect CLIENT and CHILD1 to receive protection from HUSBAND should they be deported to Guatemala." Saldaña-Portillo Expert Report, Ex. G, ¶ 41. Only the United States has successfully protected CLIENT from further persecution, *see* CLIENT's *A-B-* Brief, Ex. C, Section III.C, even as HUSBAND allegedly tried to pursue her across the border. *See* CLIENT's Decl., Ex. A, ¶ 101. CLIENT has already unsuccessfully attempted to relocate to nearby El Salvador to avoid HUSBAND's abuse once. *See id.* ¶ 74. CLIENT's inability to support her family in Guatemala and HUSBAND's vow to make CLIENT and CHILD1 "pay for" coming to the United States make internal relocation within the country unreasonable. *See id.* ¶¶ 101, 103.

Second, CLIENT has a well-founded fear of future persecution that satisfies 8 CFR 1208.13(b)(2). As detailed in CLIENT's *A-B-* Brief, CLIENT both subjectively and objectively fears future persecution.¹⁰ CLIENT's *A-B-* Brief, Ex. C, Section III.B; *see also* CLIENT's Decl., Ex. A, ¶ 101. And there is at least a reasonable possibility she would be persecuted if returned to Guatemala. *See I.N.S. v. Cardoza-Fonseca*, 480 U.S. 421, 440 (1987) ("[A] 10% chance of being shot, tortured, or otherwise persecuted" is sufficient to establish a "well-founded fear"). In Guatemala, where wives and daughters are commonly considered to be the property of their husbands or fathers, women like CLIENT who have defied and fled their abusers face increased

¹⁰ *See* CLIENT's *A-B-* Brief; DHS, USCIS, Record of Determination/Credible Fear Worksheet for CLIENT (Oct. XX, 2016) (finding that CLIENT had a credible fear of return, and was "harmed by [HUSBAND] on account of [her] membership in a particular social group consisting of Guatemalan women viewed as property by virtue of their position in a domestic relationship") (attached as Exhibit H). CLIENT's subjective fear is genuine as described in her declaration, the EXPERT CLIENT Psych. Eval. (Ex. F), and the Saldaña-Portillo Expert Report (Ex. G). CLIENT will further testify regarding her subjective fear at her court hearing. Her fear is objectively reasonable, as shown by the Saldaña-Portillo Expert Report and country conditions evidence included as Exhibit J to this brief.

danger. *See* Saldaña-Portillo Expert Report, Ex. G, ¶¶ 8, 16–17. HUSBAND has repeatedly threatened that if he finds CLIENT and their daughter, CHILD1, they will “pay for” coming to the United States. CLIENT’s Decl. Ex. A, ¶ 101. Because of Guatemala’s “machista culture,” “HUSBAND may seek to restore his honor by severely punishing CLIENT precisely because she sought refuge in the United States, thereby challenging his ownership” of her. Saldaña-Portillo Expert Report, Ex. G, ¶ 16. Since fleeing to the United States, CLIENT has even heard rumors from her children that HUSBAND has continued to look for CLIENT and CHILD1. CLIENT’s Decl., Ex. A, ¶ 101. CLIENT continues to fear encountering him again more than death. *See id.*

Given HUSBAND’s past actions and the lengths he has gone to try to locate CLIENT and their daughter, and Guatemala’s “machista culture,” the likelihood of harm to CLIENT if she returns to Guatemala easily exceeds 10 percent.

E. The Guatemalan government is unable and unwilling to protect CLIENT from persecution.

In cases where an applicant fears persecution from a private actor, the applicant can establish asylum eligibility by demonstrating that the government of her native country is “unable or unwilling to control” her persecutor. *Orellana v. Barr*, 925 F.3d at 151 (citation omitted). In assessing whether the government is either unable *or* unwilling to protect the asylum seeker, both prongs of the disjunctive test must be considered. *Rosales Justo v. Sessions*, 895 F.3d 154, 163–64 & n.8 (1st Cir. 2018). The existence of a protection law alone does not speak to a government’s ability to enforce it. *See Matter of A-R-C-G-*, 26 I&N Dec. at 394 (“[A]lthough the record reflects that Guatemala has laws in place to prosecute domestic violence crimes, enforcement can be problematic because the National Civilian Police ‘often failed to respond to requests for assistance related to domestic violence.’”). And even where the government takes

some actions to enforce a law, that is not dispositive of willingness or ability, where the actions were ineffective in protecting the asylum-seeker. See *In re O-Z- & I-Z-*, 22 I&N Dec. at 27 (no government protection where government failed to prosecute anti-Semitism claims under existing laws).

Moreover, seeking government protection is not required where it would have been futile or subjected the applicant to further abuse, which is often the case in countries where authorities are biased or indifferent to violence against women. See, e.g., *Portillo Flores v. Garland*, 3 F.4th 615, 635 (4th Cir. 2021) (“[A]n applicant can be excused from seeking government intervention if to do so (1) would have been futile or (2) would have subjected [her] to further abuse.” (internal quotation marks and alterations omitted)); accord *Orellana v. Barr*, 925 F.3d at 153; *In re S-A-*, 22 I&N Dec. at 1335.

Adjudicators must consider all evidence of a government’s inability or unwillingness to protect against persecution, including but not limited to testimony, witness statements, country conditions reports, and expert declarations; failure to do so is reversible error. *Martinez-Segovia v. Sessions*, 696 F. App’x 12, 14 (2d Cir. 2017) (finding error where Board ignored “the ample record evidence of the Salvadoran government’s inability to combat domestic violence”); *Alonzo-Rivera v. U.S. Attorney General*, 649 F. App’x 983, 991–92 (11th Cir. 2016) (remanding for consideration of country reports and expert declaration showing Honduran government would not protect the applicant from her abusive ex-husband); *Rosales Justo*, 895 F.3d at 167 (“The BIA failed to consider evidence of the Mexican government’s *inability* to protect [Respondent] and his nuclear family, as distinct from evidence of the *willingness* of the police.” (emphases added)).

As described more fully in CLIENT's *A-B*- Brief and attachments (Ex. C, Section III.E) and the Saldaña-Portillo Expert Report (Ex. G), the Guatemalan government was (and is) both unable and unwilling to protect CLIENT from HUSBAND's abuse. The 2008 Law's ineffectiveness in the face of deeply ingrained machismo culture is evidenced by seven out of ten women in Guatemala reporting they have experienced some form of violence in their lives.¹¹ Without training, resources, or motivation, the police force and judiciary remain unable to protect women and punish persecutors.¹² *See* Section II.D, *supra*.

CLIENT has experienced this futility. She recalls a time when the police were called after a neighbor nearly killed his wife with a machete. *See* CLIENT's Decl., Ex. A, ¶ 83. Upon arrival, the police did not even bother to look around for the husband that night. *See id.* The husband returned home, a neighbor called the police again, and the police took him into custody but released him only a few days later, without supervision. *See id.* Upon his release, the husband returned home and tried to knock down the door, and only stopped when he realized his children were inside. *See id.* Another time, the police did not investigate a man after he attacked one of CLIENT's neighbors and attempted to rape her, even though they knew who he was. *Id.* ¶ 84.

Given the police force's well-known indifference and ineptitude, CLIENT was understandably wary of seeking their assistance. Her hesitancy was compounded by HUSBAND's insistence that he had friends in the police and in the courts. *See* [FAMILY MEMBER] Affidavit, Ex. B, at 4. HUSBAND consistently threatened her with death should she

¹¹ Say Enough to Violence, *The Global Spread: Guatemala*, <https://www.sayenoughtoviolence.org/?location=gt> (attached as Exhibit J-3).

¹² *See* U.S. Dep't of State, Guatemala 2022 Human Rights Report, at 16, *available at* https://www.state.gov/wp-content/uploads/2023/03/415610_GUATEMALA-2022-HUMAN-RIGHTS-REPORT.pdf ("Police had minimal training or capacity to investigate sexual crimes or assist survivors of such crimes, and the government did not enforce the law effectively.") (attached as Exhibit J-4).

report his abuse, and there was significant evidence to suggest that contacting the police would only serve to exacerbate her abuse. *See* CLIENT’s Decl., Ex. A, ¶¶ 80–82.

F. CLIENT warrants a favorable exercise of discretion or humanitarian asylum.

The enormity, intensity, and duration of CLIENT’s suffering, along with the clear likelihood that she will be tortured and killed if returned to Guatemala, justify an exercise of discretion in her favor. In addition, in the United States, she and her children are rebuilding their lives with support from family and friends. CLIENT has stable employment, and her children are receiving an education and building community in Virginia. To send CLIENT back to Guatemala will sentence her to death, and leave her children motherless.¹³

Alternatively, humanitarian asylum should be granted because there are “compelling reasons [CLIENT is] unwilling or unable to return” to Guatemala because of “the severity of the past persecution” and, furthermore, there is “a reasonable possibility that [CLIENT] may suffer other serious harm upon removal to that country.” 8 C.F.R. § 1208.13(b)(1)(iii).

In determining whether past persecution was severe enough to constitute a “compelling reason” for being unable or unwilling to return to one’s country, the past persecution must be “atrocious”; relevant considerations are the degree of harm suffered, the length of time over which the harm was inflicted, and the evidence of severe psychological trauma (including subjective fear of return) stemming from the harm. *Matter of L-S-*, 25 I&N Dec. 705, 711–12 (BIA 2012). The extreme physical, sexual, and psychological abuse CLIENT endured for approximately 30 years coupled with her diagnoses of PTSD and Major Depressive Disorder

¹³ CLIENT’s high school-age daughter, CHILD1, and son, CHILD2, are the natural born children of CLIENT, are unmarried, and, at the time of CLIENT’s application for asylum or withholding of removal, were all under twenty-one years of age. They are entitled to derivative asylum based on CLIENT’s claim for asylum. *See* CLIENT’s I-589 Application for Asylum and Withholding of Removal (reflecting her daughter and sons are not married) (attached as Exhibit I).

stemming from her abuser's harm establish her past persecution as "atrocious." CLIENT warrants humanitarian asylum.

III. CLIENT qualifies for withholding of removal.

INA § 241(b)(3) prohibits removal if "life or freedom would be threatened . . . because of the alien's . . . membership in a particular social group, or political opinion." 8 U.S.C. § 1231(a)(3)(A). Withholding of removal requires persecution on account of a protected ground, *Alvarez Lagos*, 927 F.3d at 248, but with a different standard of proof, a "clear probability of persecution, *I.N.S. v. Stevic*, 467 U.S. 407, 413 (1984). The required burden is whether "it is more likely than not that the alien would be subject to persecution in the country to which [s]he would be returned." *Cardoza-Fonseca*, 480 U.S. at 423 (internal quotations omitted). Past persecution is presumptive of future persecution. 8 C.F.R. § 1208.16(b)(1)(i). Withholding of removal is mandatory. 8 C.F.R. § 1208.16(d)(1). As shown above, CLIENT has suffered past persecution on account of her membership in the particular social groups enumerated above, her religion, and her political belief that children should not be physically abused. She has demonstrated enormous suffering and a very likely and present threat to her life. For the reasons stated above with respect to her asylum claim, CLIENT also qualifies for withholding of removal under the INA.

IV. CLIENT should be granted relief under the Convention Against Torture (CAT).

The Convention Against Torture prohibits returning anyone to another state where she may be tortured.¹⁴ Combining the risks of torture from all sources, it must be "more likely than

¹⁴ 8 C.F.R. § 1208.18(a)(1) defines "torture" as:

any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as . . . any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.

not” that the applicant “would be tortured if removed to the proposed country of removal.” 8 C.F.R. § 1208.16(c)(2); *Rodriguez-Arias v. Whitaker*, 915 F.3d 968, 973 (4th Cir. 2019). The motivation for the infliction of torture is irrelevant. *Lizama v. Holder*, 629 F.3d 440, 449 (4th Cir. 2011). Torture is a “term of art” under the CAT. *Turkson v. Holder*, 667 F.3d 523, 526 (4th Cir. 2012). It is an “extreme form of cruel and inhuman treatment” rising to “severe pain or suffering.” 8 C.F.R. § 1208.18(a).

The past harm CLIENT endured—systemic beatings and rapes and psychological abuse, upon threats of greater violence—indicates the likelihood of future torture. See 8 C.F.R. § 1208.16(c)(3)(i) (“[A]ll evidence relevant to the possibility of future torture shall be considered, including . . . [e]vidence of past torture.”). The “willful blindness” of the Guatemalan government to the torture suffered by CLIENT constitutes “acquiescence.” *Zelaya v. Holder*, 668 F.3d at 167–68; *Suarez-Valenzuela v. Holder*, 714 F.3d 241, 245 (4th Cir. 2013) (“[G]overnment officials acquiesce to torture when they have actual knowledge of or turn a blind eye to torture.” (internal quotation marks omitted)). The record here demonstrates the Guatemalan government’s lack of commitment to protect victims of domestic violence. While Guatemala has purported to take steps to shield women from abuse and femicide, scarce prosecutions and light sentences have instead led to “systemic impunity.” Saldaña-Portillo Expert Report, Ex. G, ¶ 25. These conditions show that the Guatemalan government is willfully blind to the torture CLIENT has suffered and will likely suffer if forced to return. Hence, under CAT, CLIENT may not be returned to Guatemala.

V. CLIENT’s asylum application is not barred by the one-year filing deadline.

Simultaneous with CLIENT’s filing of *Mendez Rojas*¹⁵ class membership on [REDACTED], 2019, the Honorable [JUDGE] ruled on the record that CLIENT has met her one-year filing deadline because she was paroled into the United States, under INA § 212(d)(5), after being given a credible fear interview, and the parole was being regarded as an extraordinary circumstance exception to the one-year filing deadline.¹⁶ Because CLIENT filed her asylum application within a reasonable period of time after Judge [REDACTED] informed her of her potential eligibility for asylum at her first master calendar hearing on [REDACTED], 2018, Judge [REDACTED] found that she had met the exception to the one-year filing deadline.

CONCLUSION

For the foregoing reasons, Respondent CLIENT respectfully requests that this Court exercise its discretion to grant her application for asylum. If she is not granted asylum, then she requests withholding of removal.

Dated: November XX, 2023

Respectfully submitted,

[attorney name and information block]
Pro Bono Counsel for Respondent

¹⁵ See *Mendez Rojas v. Johnson*, No. 16-1024, 2017 WL 1397749 (W.D. Wash. Jan. 10, 2017) (Order Granting Motion for Class Certification). *Mendez Rojas* was a nationwide class action lawsuit that challenged the government’s failure to provide certain asylum seekers with adequate notice of the one-year filing deadline, and its failure to provide a uniform mechanism through which they can timely file their asylum applications.

¹⁶ The very things that caused CLIENT to need asylum—the horrific abuse CLIENT suffered at the hands of HUSBAND—caused CLIENT to develop PTSD and Major Depressive Disorder. See EXPERT CLIENT Psych. Eval., Ex. F, ¶ 21. These disabilities prevented her from filing for asylum within one year of her arrival in the United States.