

Declaration of Jenna Gilbert, Esq. on behalf of Human Rights First

I, Jenna Gilbert, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I submit this declaration to provide a few examples of the many ways in which people seeking asylum in the United States are being harmed by the U.S. government's failure to timely process applications to renew employment authorization documents ("EADs").
2. Human Rights First is a non-profit, non-governmental organization established in 1978 that works to ensure the United States' leadership on human rights globally, and compliance domestically with its human rights commitments. With offices in New York, Los Angeles, and Washington, D.C., Human Rights First operates one of the largest programs for pro bono legal representation of refugees in the nation. Human Rights First has worked in partnership with volunteer lawyers at leading law firms to provide legal representation and social work services, without charge, to thousands of indigent asylum applicants over the last forty years.
3. At Human Rights First I serve as Director of Refugee Representation, overseeing Human Rights First's pro bono legal representation program. I am an attorney licensed to practice law in the state of California. I have been a practicing immigration attorney for eleven years. Previously, I served as managing attorney of the Los Angeles office of Human Rights First from 2017 to 2021, leading the Los Angeles team, and from 2013 to 2017 I was a staff attorney in Human Rights First's New York then Los Angeles offices.
4. Before joining Human Rights First, I worked as an associate attorney at a Los Angeles immigration law firm and as a public interest fellow at Asylum Access Ecuador.
5. I received my Bachelor of Arts from the University of San Diego and my Juris Doctorate from Loyola Law School, Los Angeles.

6. Work authorization in the United States provides asylum seekers with the stability and autonomy necessary to support themselves and their families while their asylum applications remain pending before U.S. Citizenship and Immigration Services (USCIS) or the Executive Office for Immigration Review (EOIR). Applications for asylum often remain pending for several years, so asylum seekers regularly seek initial and then subsequent renewal of their work authorization throughout that process. Without permission to work, asylum seekers are forced to rely on the charitable support of friends, family, or their local communities. Without work authorization, many asylum seekers become homeless, live in overcrowded or unsafe conditions, and lack basic necessities like food and clothing.¹
7. The importance of employment authorization for asylum seekers extends far beyond the realm of work. Without employment authorization, asylum seekers cannot obtain a social security number or purchase health insurance under the Affordable Care Act. In most states, asylum seekers do not qualify for state-run Medicaid. Often, without work authorization asylum seekers cannot apply for state-issued identification cards or driver's licenses, further limiting their access to transportation, banking, or other private support services. Lack of income also hinders opportunities to find and retain competent legal counsel, particularly given that asylum seekers do not have access to government-funded counsel, non-profit organizations lack the capacity to meet the demand for legal services, and private immigration attorneys charge large fees for representation.²

¹ See Human Rights First, "Callous and Calculated: Longer Work Authorization Bar Endangers Lives of Asylum Seekers and Their Families" (Apr. 2019), https://www.humanrightsfirst.org/sites/default/files/Work_Authorization.pdf.

² *Id.*

8. Many Human Rights First clients currently experience significant delays in the processing of their applications to renew their EADs. Despite the automatic 180-day extension granted to asylum seekers if they file to renew an EAD prior to its expiration, USCIS is failing to process many of our clients' applications for EAD renewal within the 180-day extension period, leading to the expiration of their work authorization.³ The loss of work authorization resulting from USCIS adjudication and processing delays is catastrophic for our clients. Many lose their jobs, their ability to pay rent or support their children and families, and lose their driver's licenses or state identification documents, whose validity is frequently tied to that of the EAD. All this leads to significant stress and deterioration of our clients' mental health.
9. For Isabel,⁴ a domestic violence survivor from Guatemala, USCIS's delay in processing the renewal of her EAD caused Isabel to lose her job of two-and-a-half years as a forklift driver, as well as her driver's license. She and her children are experiencing significant psychological distress as a result. Isabel is the primary caregiver for her two young daughters, ages ten and thirteen, and supports other family members who depend on her.
10. As of November 2021, Isabel has been without work authorization for two months. Because she lost her job, the OSHA and employer certification Isabel obtained to operate a forklift has also lapsed. Without income, Isabel does not have enough money to pay rent for her apartment next month. She and her daughters are extremely anxious about their survival. Isabel told Human Rights First that she is experiencing physical pain, difficulty sleeping, gastrointestinal issues, and migraines that worsened after her EAD

³ U.S. Citizenship and Immigration Services, "Automatic Employment Document Authorization (EAD) Extension," (February 1, 2017), <https://www.uscis.gov/working-in-the-united-states/information-for-employers-and-employees/automatic-employment-authorization-document-ead-extension>.

⁴ Pseudonyms are used in this declaration to protect the privacy of our clients.

expired. One of her daughters is so anxious about her mother's job loss that the girl is suffering body aches and has been pulling out her hair. Isabel had to take her daughter to the local emergency room for care. Isabel is also without a driver's license because the validity of her driver's license was connected to the now-expired EAD.

11. Isabel filed her EAD renewal request in January 2021, three months prior to her work authorization's expiration date. USCIS took two months to even acknowledge receipt of the application. The government delayed processing Isabel's EAD application, even with advocacy by Isabel's lawyers, who repeatedly contacted USCIS and the USCIS Ombudsman to request that USCIS provide case updates and process Isabel's case. Her attorneys have also made a constituent casework request to her congressional representative. Despite these efforts to resolve the application, in September 2021 USCIS responded that Isabel's EAD renewal application is considered within the current nine and a half month processing timeframe for such applications.⁵

12. Samuel, a Ugandan asylum seeker and sole provider for his wife and their three children who remain stranded in Uganda, lost two jobs as a certified nursing assistant and his driver's license because it took USCIS nearly 17 months to approve his EAD renewal application. Samuel had applied to renew his EAD in April 2020, but the automatic six-month EAD extension period expired in November 2020, leaving him without employment authorization or any form of valid identification. Without proof of employment authorization, Samuel left his nursing jobs. I represent Samuel and submitted repeated case inquiries to USCIS, multiple case assistance requests to the

⁵ U.S. Citizenship and Immigration Services, "Check Case Processing Times" (*last accessed* Nov. 4, 2021) <https://egov.uscis.gov/processing-times/> (indicating that Employment Authorization Applications, I-765, at the Potomac Service Center can take up to nine-and-a-half months to process).

USCIS Ombudsman, and a constituent casework request to his congressional representative, but USCIS did not approve the EAD renewal until August 2021, after I wrote a letter to the agency informing them of my intent to file a writ of mandamus in federal district court to compel adjudication of the application.

13. USCIS's delay in processing the EAD renewal application for Hisham, a Syrian asylum seeker and the sole provider to his family and then pregnant wife, caused his bank to threaten shutting down his account. Recently married, Hisham and his wife bought a house and were expecting their first child when the COVID-19 pandemic hit. Hisham's job as a telecommunications specialist required frequent travel. Out of concern to shield his pregnant wife from the coronavirus, he traveled by car rather than airplane, to his work sites. But the loss of his EAD threatened his driver's license. Hisham applied to renew his EAD in October 2019, at the earliest time USCIS rules allowed, but by Fall 2020, Hisham's existing EAD expired and the renewal application remained unprocessed, despite Hisham's diligent follow-up both with USCIS and with the USCIS Ombudsman's office. The bank notified Hisham that due to banking rules affecting Syrian nationals in particular, it would be shutting down his account because his EAD was expired. USCIS did not send Hisham his renewed EAD until December 2020, fourteen months after applying for the renewal.

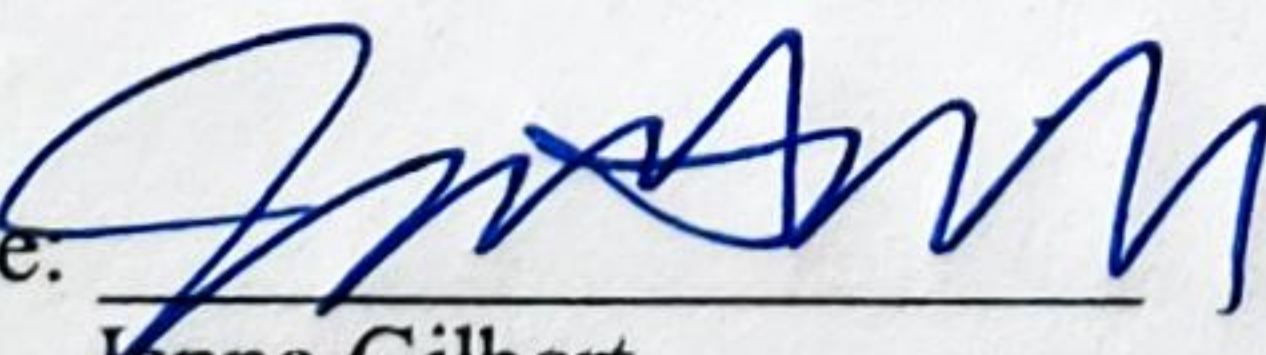
14. Graciela, a Guatemalan asylum seeker, will imminently lose her job due to USCIS delay in processing her EAD renewal application. Graciela is a single mother and primary caregiver for her thirteen-year-old daughter and provides the primary financial support to other family members. Without stable income, Graciela told Human Rights First that she is afraid she will not be able to pay rent or afford food, and that her family will be

evicted. She also no longer has valid identification because her EAD served as her primary form of identification. USCIS has been processing Graciela's EAD renewal request for nine-and-a-half months. Graciela's attorneys filed case assistance requests with USCIS and the USCIS Ombudsman on multiple occasions but were informed that Graciela's pending application had not yet exceeded normal processing times.

15. Rosa, an asylum seeker from Honduras with three children ages twenty-two, twenty, and eighteen, lost her job in the summer of 2021 at a deli because of USCIS delays in processing the renewal of her EAD. Because the government took more than six and a half months to process and grant the EAD renewal, the automatic 180-day extension of Rosa's EAD had expired in early June 2021. As a result, Rosa was without work authorization for over a month and was forced to leave her job during the COVID-19 pandemic. Rosa's pro bono attorneys contacted USCIS and the USCIS Ombudsman who, in one instance, responded that USCIS was unable to locate Rosa's application at all.
16. These clients are some of the many asylum seekers who have been harmed by USCIS delays in processing EAD renewal applications. Their livelihoods, ability to work and drive, and their mental health have been severely affected by the instability generated through excessive delays in processing their work authorization renewal applications.

I declare under penalty of perjury under the laws of the United States and California that the foregoing is true and correct.

Executed on: November 10, 2021, in Los Angeles, California, United States.

Signature: 
Jenna Gilbert