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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION**

17)
18 TERESITA G. COSTELO, et al.,)

19 Plaintiffs,)

20 v.)

No. SACV 08-688 JVS (SHx)

21)
22 JANET NAPOLITANO, et al.,)

23 Defendants.)
24)

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26 **MOTION FOR LEAVE TO FILE BRIEF AS *AMICI CURIAE***
27 **IN SUPPORT OF PLAINTIFFS**
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2 *Amici Curiae* American Immigration Law Foundation (AILF) and American
3 Immigration Lawyers Association (AILA) respectfully request leave of this Court
4 to file the accompanying brief in support of Plaintiffs and in response to this
5 Court's request for supplemental briefing on the impact of *Matter of Wang*, 25
6 I&N Dec. 28 (BIA 2009), on the Plaintiffs' motion for class certification. The
7 attached *amicus* brief conforms to the Court's order that supplemental briefs be
8
9 limited to five pages.
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11 Plaintiffs consent to *Amici* appearing in this case. On June 30, 2009,
12 counsel for *Amici* Mary Kenney communicated with counsel for Defendants,
13 Gisela A. Westwater, Office of Immigration Litigation, Department of Justice, who
14 indicated that Defendants oppose this motion.
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17 AILF is a non-profit organization established to advance fundamental
18 fairness, due process, and constitutional and human rights in immigration law.
19 AILF has a direct interest in ensuring that the Child Status Protection Act (CSPA)
20 is applied in an ameliorative fashion, as Congress intended.
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23 AILA is a national association with more than 10,000 members throughout
24 the United States, including lawyers and law school professors who practice and
25 teach in the field of immigration and nationality law. AILA seeks to advance the
26 administration of law pertaining to immigration, nationality and naturalization; to
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2 cultivate the jurisprudence of the immigration laws; and to facilitate the
3 administration of justice and elevate the standard of integrity, honor and courtesy
4 of those appearing in a representative capacity in immigration and naturalization
5 matters. AILA's members practice regularly before the Department of Homeland
6 Security ("DHS") and before the Executive Office for Immigration Review
7 (immigration courts), as well as before the United States District Courts, Courts of
8 Appeal, and the United States Supreme Court.
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11 The attached *amicus* brief responds to this Court's request for supplemental
12 briefing by explaining that, under *Chevron U.S.A., Inc. v. Natural Res. Def.*
13 *Council, Inc.*, 467 U.S. 837 (1984), the BIA's decision is not entitled to deference
14 by this Court and should have no impact on the Court's ruling on class
15 certification.
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2 For all of the reasons stated above, *Amici Curiae* respectfully request leave
3 to file the attached brief.
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5 Dated: July 1, 2009

6 Respectfully submitted,

7 s/Amy Prokop

8 Amy Prokop

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3 **CERTIFICATE OF SERVICE**

4 Case No. CV 08-00688 JVS (SHx)

5
6 I hereby certify that on July 1, 2009, a copy of the foregoing Motion for
7 Leave to File Brief of Amici Curiae was filed electronically using the Court's
8 electronic filing system. I understand that notice of this filing will be sent to all
9 parties by operation of the Court's electronic filing system. Parties may access this
10 filing through the Court's system.

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28 Date: July 1, 2009