

I-130 MANDAMUS PETITION — COMMUNITY TEMPLATE

Redacted for public use. Fill in all [BRACKETED] fields with your own information.

Posted by a pro se filer as a public resource. Verify all case citations before filing.

IN THE UNITED STATES DISTRICT COURT

FOR THE [YOUR DISTRICT, e.g., EASTERN] DISTRICT OF [YOUR STATE], [YOUR
DIVISION] DIVISION

CIVIL No. _____

 **TEMPLATE NOTE:** File in the federal district where you reside. Look up 'U.S. District Court [your state]' to find the correct court and division.

[YOUR FULL LEGAL NAME],	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
United States Citizenship and Immigration	)	Case No.
Services (USCIS)	)	
[CURRENT AG], Acting Attorney General	)	COMPLAINT FOR MANDAMUS,
Of the United States,	)	INJUNCTIVE AND
[CURRENT SECRETARY OF DHS], Secretary,	)	DECLARATORY RELIEF
Department of Homeland Security,	)	(PRO SE)
[YOUR U.S. ATTORNEY], United States Attorney,	)	
[YOUR DISTRICT] of [YOUR STATE]; and	)	
[CURRENT DIRECTOR OF USCIS], Director,	)	
U.S. Citizenship and Immigration Services,	)	
	)	
Defendants.	)	
_____	)	

 **TEMPLATE NOTE:** Defendants: Always name (1) USCIS, (2) the current Attorney General, (3) the current DHS Secretary, (4) the U.S. Attorney for YOUR district, and (5) the current USCIS Director. Verify current officeholders before filing — they change with administrations. Sue each in their official capacity only.

INTRODUCTION

[YOUR FULL NAME] ("Plaintiff"), respectfully petitions this Honorable Court for a Writ of Mandamus to compel the United States Citizenship and Immigration Services (USCIS) to adjudicate his/her I-130 Petition for Alien Relative (Receipt Number: [YOUR RECEIPT NUMBER, e.g., IOE...]), which has been subjected to an unreasonable and unjustifiable delay, depriving him/her of rights and protections guaranteed under federal law.

JURISDICTION AND VENUE

1. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 (federal question) and 28 U.S.C. § 1361 (mandamus). Defendants owe a non-discretionary duty to Plaintiff to process and adjudicate the pending application. This duty is mandated by the Administrative Procedure Act (APA), 5 U.S.C. § 555(b), which requires that an agency conclude matters presented to it ‘within a reasonable time.’ This Court is empowered to compel agency action unlawfully withheld or unreasonably delayed pursuant to 5 U.S.C. § 706(1).

2. Venue is proper in this district pursuant to 28 U.S.C. § 1391(e) because a substantial part of the events or omissions giving rise to the claim occurred in this District, and Defendants are officers or employees of the United States acting in their official capacities.

PARTIES

3. [YOUR FULL NAME] resides at [YOUR ADDRESS] and is seeking adjudication of an I-130 Petition for his/her spouse, [BENEFICIARY'S FULL NAME]. According to USCIS, the application is still pending at the [YOUR FIELD OFFICE, e.g., Memphis Field Office].

 *TEMPLATE NOTE: To find your current field office: use the USCIS EMMA chat tool and ask 'Which field office or service center is my case located at?' Save the transcript — it is powerful evidence.*

4. Defendant, United States Citizenship and Immigration Services (USCIS), is an agency of the United States government responsible for implementing and enforcing immigration laws. USCIS's headquarters is located at 5900 Capital Gateway Drive, Camp Springs, MD 20588.

5. Defendant, [CURRENT ATTORNEY GENERAL], is the [Acting] Attorney General of the United States, with an official address at the U.S. Department of Justice, 950 Pennsylvania Ave NW, Washington, DC 20530-0001. He/She is responsible for overseeing the lawful execution of federal laws. He/She is sued in his/her official capacity.

6. Defendant, [CURRENT DHS SECRETARY], is the Secretary of the Department of Homeland Security (DHS), the parent agency of USCIS. He/She is sued in his/her official capacity. His/Her official address is U.S. Department of Homeland Security, c/o Office of the General Counsel, 2707 Martin Luther King Jr. Ave SE, Mail Stop 0485, Washington, DC 20528-0485.

7. Defendant, [YOUR U.S. ATTORNEY'S FULL NAME], is the United States Attorney for the [YOUR DISTRICT] District of [YOUR STATE] and represents the federal government's interests within this jurisdiction. He/She is sued in his/her official capacity. His/Her official address is [U.S. ATTORNEY'S OFFICE ADDRESS].

 *TEMPLATE NOTE: Find your U.S. Attorney and address at: justice.gov/usao — click your state.*

8. Defendant, [CURRENT USCIS DIRECTOR], is the Director of USCIS, tasked with supervising the agency's administration of immigration applications and petitions. He/She is sued in his/her official capacity. His/Her official address is USCIS Office of the Chief Counsel, 5900 Capital Gateway Drive, Mail Stop 2120, Camp Springs, MD 20588-0009.

FACTS

9. On [DATE OF MARRIAGE], [BENEFICIARY'S FULL NAME] married [YOUR FULL NAME], a United States Citizen.

10. On [DATE OF I-130 FILING], Plaintiff filed a Petition for Alien Relative (Form I-130) with USCIS. A true and correct copy of the Form I-797C Receipt Notice is attached hereto as **Exhibit A**.

11. As of the date of this filing, the application has been pending for approximately [X MONTHS] months. Despite clear guidelines and Plaintiff's compliance with all requests, the case was transferred to the [YOUR FIELD OFFICE]. USCIS's online processing time portal reveals that the current processing backlog at USCIS field offices has increased to an unreasonable queue of [X] months.

 *TEMPLATE NOTE: Check the current processing time at egov.uscis.gov/processing-times — select Form I-130, your category (U.S. citizen filing for spouse), and 'All Field Offices.' Screenshot this with a timestamp.*

12. Despite completing all prerequisites for adjudication, Plaintiff's application remains pending, with no decision rendered as of the date of this filing, constituting an unreasonable delay under the APA and relevant immigration laws.

13. Plaintiff has diligently and repeatedly sought updates regarding the status of his/her case, attempting to utilize all prescribed administrative channels, only to be systematically blocked by shifting processing metrics, as documented in **Exhibit B**:

- Numerous attempted inquiries to USCIS without resolution
- [DATE OF FIRST BLOCKED INQUIRY]: Plaintiff attempted to submit an official case inquiry through the USCIS online platform. He/She was blocked from doing so because the agency's posted processing times had retroactively risen to approximately [X] months, as shown in **Exhibit B-1**.
- [DATE OF SECOND BLOCKED INQUIRY]: Plaintiff again attempted an online inquiry, but was blocked because the posted processing times had been altered yet again to [X] months, as shown in **Exhibit B-2**.

- **[DATE OF PHONE CALL]**: Plaintiff reached a telephone representative via the USCIS customer service line and was explicitly told that no inquiry could be logged or examined by staff until **[DATE GIVEN BY USCIS REPRESENTATIVE]**.
- **[DATE OF EMMA CHAT]**: Plaintiff initiated an inquiry via the online EMMA chat system. The live USCIS agent informed Plaintiff that his/her file had been transferred from a centralized service center to the **[YOUR FIELD OFFICE]**, which possesses an average processing backlog of **[X] months** for this form type. True and correct copies of the chat transcripts and USCIS processing time estimates are attached hereto as **Exhibit C**.

 **TEMPLATE NOTE:** Document every contact attempt. Screenshot the blocked inquiry tool showing the date and the processing time that prevented your inquiry. Save EMMA chat transcripts. These are your most powerful exhibits.

14. As documented in **Exhibit C-[X]**, USCIS's own processing time portal indicates that Plaintiff will not be eligible to submit a case inquiry until **[YOUR INQUIRY ELIGIBILITY DATE]**, more than **[X] years** from the date of this filing. This date is not a projection of when the petition will be adjudicated; it is merely the earliest date on which Plaintiff would be permitted to ask about its status.

 **TEMPLATE NOTE:** This is one of the most powerful facts in your petition. To find your eligibility date: go to egov.uscis.gov/processing-times, select your form/category/field office, scroll down to 'When can I ask about my case?', enter your receipt date, and click 'Get Inquiry Date.' Screenshot the result with a timestamp. If it returns a date years away, this is strong evidence of unreasonable delay.

15. Plaintiff has sought assistance from external sources, including contacting **[YOUR REPRESENTATIVE'S NAME]**'s office on **[DATE OF CONGRESSIONAL OUTREACH]**, with no resolution. True and correct copies of this correspondence are attached hereto as **Exhibit D**.

 **TEMPLATE NOTE:** Contact your House representative AND both Senators. Each outreach is additional evidence of exhaustion of remedies. Save the digital privacy release forms and any email responses.

16. The prolonged delay has caused significant emotional distress, financial instability, and uncertainty for Plaintiff and his/her family, who remain separated across international borders as a direct consequence of Defendants' inaction.

17. The delay is also inconsistent with the sense of Congress expressed in 8 U.S.C. § 1571(b), which reflects Congress's intent that immigration benefit applications be processed within a reasonable time and informs the reasonableness analysis under the APA.

18. Delays of this magnitude have been held unreasonable in cases such as *Kashkool v. Chertoff*, 553 F. Supp. 2d 1131 (D. Ariz. 2008), where the court found a nearly six-year delay in adjudicating an adjustment application unreasonable, and *Aslam v. Mukasey*, 531 F. Supp. 2d 736 (E.D. Va. 2008), where the court found a nearly three-year delay in the adjudication of an adjustment application unreasonable.

 **TEMPLATE NOTE:** These are adjustment-of-status cases, not I-130 cases, but the APA delay principles are the same. Research additional cases in your circuit. Verify all citations before filing — never cite a case without reading it.

LEGAL ARGUMENT

19. Plaintiff has a clear and indisputable right to the relief requested. Under 5 U.S.C. § 706(1), the APA authorizes courts to compel agency action unlawfully withheld or unreasonably delayed. USCIS’s failure to adjudicate Plaintiff’s application violates its statutory obligations and denies Plaintiff the timely resolution to which he/she is entitled.

20. The Defendants owe Plaintiff a nondiscretionary duty to process and adjudicate his/her application within a reasonable time, as mandated by the INA, APA, and relevant regulations.

21. In evaluating claims of unreasonable agency delay, courts apply the six-factor test set forth in *Telecommunications Research & Action Center v. FCC*, 750 F.2d 70 (D.C. Cir. 1984) (“TRAC”). Each factor weighs in Plaintiff’s favor:

- a) First, the time agencies take to make decisions must be governed by a rule of reason. USCIS’s processing times have been retroactively extended on multiple occasions—with no reasoned explanation. An agency cannot satisfy this requirement by simply extending its own benchmarks indefinitely.
- b) Congress enacted 8 U.S.C. § 1571(b), expressing the sense of Congress that immigration benefit applications should be processed within 180 days, signaling that delay of this kind is inconsistent with legislative intent even though the provision does not itself impose a binding deadline.
- c) Third, the delay is far less tolerable where the interests at stake implicate human health and welfare. Here, Plaintiff and his/her spouse—separated across international borders—have suffered documented emotional distress, financial hardship, and the ongoing deprivation of family unity.
- d) Fourth, there is no competing higher-priority agency obligation that would justify the delay. Plaintiff’s I-130 petition on behalf of an immediate relative of a U.S. citizen represents the highest immigration preference category, suggesting adjudication should proceed with particular expedition.
- e) Fifth, Plaintiff’s interests are significantly and concretely prejudiced by continued delay. USCIS’s own system does not permit Plaintiff to even inquire about his/her petition’s status until **[YOUR INQUIRY ELIGIBILITY DATE]**. The ongoing separation of a married couple and the absence of any administrative remedy constitutes irreparable harm.

- f) Sixth, courts “need not find any impropriety lurking behind agency lassitude in order to hold that agency action is unreasonably delayed.” *TRAC*, 750 F.2d at 80. No finding of bad faith is required; the documented facts alone establish that the delay is unreasonable.

22. Plaintiff has exhausted all available administrative remedies, including repeated attempted inquiries to USCIS and seeking assistance from an elected representative. Despite these efforts, Defendants have failed to act.

23. The Court’s intervention is necessary to redress this inaction and ensure compliance with statutory and regulatory duties. Further delay risks irreparable harm to Plaintiff, including ongoing family separation and financial hardship.

CLAIMS FOR RELIEF

24. Defendants’ failure to make a determination on Plaintiff’s petition for an alien relative within a reasonable period of time, notwithstanding his/her clear right to relief and Defendants’ clear duty to adjudicate the application, entitles Plaintiff to petition this Court for a Writ of Mandamus pursuant to 28 U.S.C. § 1361.

25. Plaintiff seeks an order compelling Defendants to grant or deny his/her Petition for an Alien Relative within sixty (60) days of the Court’s order.

 *TEMPLATE NOTE: 60 days is the standard request. Courts will sometimes modify this to 90 days. Asking for 30 days is generally too aggressive and may give the judge an easy reason to modify rather than grant outright.*

WHEREFORE, Plaintiff requests that the Court:

- Assume jurisdiction over this matter;
- Grant this petition and order Defendants to adjudicate Plaintiff’s I-130 Petition for Alien Relative within sixty (60) days;
- Grant recovery of allowable litigation costs incurred in this action pursuant to 28 U.S.C. § 2412; and
- Grant such other and further relief as the Court deems just and proper.

Dated:

Respectfully Submitted,

[YOUR FULL NAME IN CAPS]

/s/ [Your Full Name]

[Your Name]

[Your Address]

[Your Email]

[Your Phone]

EXHIBITS

 *TEMPLATE NOTE: Replace all exhibit images with your own documents. Never file someone else's personal information. Each exhibit should be a separate attachment. Label each page clearly.*

Exhibit A: Copy of Form I-130 Receipt Notice (Receipt Number: [YOUR RECEIPT NUMBER]).

Exhibit B-1: Timestamped screenshot of USCIS processing time portal dated [DATE OF FIRST BLOCKED INQUIRY].

Exhibit B-2: Timestamped screenshot of USCIS processing time portal dated [DATE OF SECOND BLOCKED INQUIRY].

Exhibit C: Transcripts of EMMA chat sessions and screenshots of USCIS processing time portal from [DATE OF EMMA CHAT]. (Exhibits C-1 through C-[X]).

Exhibit D: Documentation of Congressional Outreach. (Exhibits D-1 through D-[X]).

 *TEMPLATE NOTE: Exhibit tips: (1) Screenshot EVERY interaction with USCIS, including blocked inquiry attempts showing the date and processing time. (2) The 'inquiry eligibility date' screenshot (showing how far in the future you can even ask) is your single most powerful exhibit. (3) Save all EMMA chat transcripts. (4) Get responses from your congressional representative in writing. (5) Always include timestamps.*

AFFIDAVIT

I, [YOUR FULL NAME], declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge and belief.

Executed on: _____

/s/ [Your Full Name]

[Your Full Name]

FILING CHECKLIST & ADDITIONAL NOTES

 **TEMPLATE NOTE: SERVICE OF PROCESS:** Under Fed. R. Civ. P. 4(i), to serve the U.S. Government you must: (1) deliver a copy of the summons and complaint to the U.S. Attorney for your district (certified mail works), AND (2) send a copy by certified mail to the Attorney General in Washington, DC. Also serve each named agency/official at their listed address. Keep all certified mail receipts and USPS tracking printouts — you will need to file Proof of Service (AO 440 form) for each defendant.

 **TEMPLATE NOTE: PROOF OF SERVICE (AO 440):** After your certified mail is delivered, fill out an AO 440 form for each defendant. Check the 'Other (specify)' box and write: 'Served by certified mail pursuant to Fed. R. Civ. P. 4(i). USPS Tracking No. [TRACKING NUMBER]. Delivered [DATE] as confirmed in attached USPS tracking printout.' File these with the court. The AO 440 form is available at uscourts.gov.

 **TEMPLATE NOTE: FILING FEE:** The civil filing fee is currently \$405 in most districts. Check your court's fee schedule. If you cannot afford this, you may apply for in forma pauperis (IFP) status using AO 240.

 **TEMPLATE NOTE: WHAT TO EXPECT:** The government will likely file a motion to dismiss or a response within 60 days. Common arguments: (1) lack of jurisdiction, (2) the delay is not unreasonable, (3) the matter is discretionary. Be prepared to file a response brief. Courts have granted mandamus relief in I-130 delay cases, but outcomes vary significantly by district and judge.

 **TEMPLATE NOTE: IMPORTANT DISCLAIMER:** This template is shared as a public resource by a pro se filer and is NOT legal advice. Immigration law is complex. Verify all case citations and statutes before filing. Consider consulting an immigration attorney if possible. The original filer assumes no responsibility for outcomes in other cases.