Consolidated Case Nos. 18-15068, 18-15069, 18-15070, 18-15071, 18-15072, 18-15128, 18-15133, 18-15134

In the United States Court of Appeals for the Ninth Circuit

REGENTS OF THE UNIVERSITY OF CALIFORNIA, ET AL.,
Plaintiffs-Appellees-Cross-Appellants.

v.

U.S. DEPARTMENT OF HOMELAND SECURITY, ET AL.,
Defendants-Appellants-Cross-Appellees,

On Appeal from the United States District Court
for the Northern District of California

BRIEF OF SERVICE EMPLOYEES INTERNATIONAL UNION, AMERICAN FEDERATION OF TEACHERS, AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, COMMUNICATIONS WORKERS OF AMERICA, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, INTERNATIONAL UNION OF PAINTERS AND ALLIED TRADES, AND UNITED FARM WORKERS OF AMERICA AS *AMICI CURIAE* IN SUPPORT OF PLAINTIFFS

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CORPORATE DISCLOSURE STATEMENT

Amici curiae Service Employees International Union, American Federation of Teachers, American Federation of State, County and Municipal Employees, Communications Workers of America, International Brotherhood of Teamsters, International Union of Painters and Allied Trades, and United Farm Workers of America have no parent corporations. They have no stock, and therefore, no publicly held company owns 10% or more of their stock.

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INTEREST OF *AMICI CURIAE*[1]

Amici curiae are the Service Employees International Union, American Federation of Teachers, American Federation of State, County and Municipal Employees, Communications Workers of America, International Brotherhood of Teamsters, International Union of Painters and Allied Trades, and United Farm Workers of America.

Service Employees International Union (SEIU) is a labor organization of approximately two million working men and women in the United States and Canada. SEIU's members include foreign-born U.S. citizens, lawful permanent residents, and undocumented immigrants authorized to work in the United States. Many of SEIU's members have mixed-status families. As described below, SEIU members will be directly affected by the termination of DACA.

The **American Federation of Teachers (AFT)**, an affiliate of the AFL-CIO, was founded in 1916, and today represents approximately 1.7 million members who are employed across the nation in K-12 and higher education, public employment, and healthcare. The AFT has a longstanding history of supporting and advocating for the civil rights of our members and the communities they serve. The AFT has members throughout the country that have received work permits

[1] All parties consent to the filing of this brief. No counsel of any party to this proceeding authored any part of this brief. No party or party's counsel, or person other than *amici* and their members, contributed money to the preparation or submission of this brief.

through the DACA program. These members have utilized DACA work permits to obtain employment in institutions that provide essential services in communities throughout the United States. AFT members also teach students who have received DACA benefits. These students are integral members of their educational institutions. They contribute to the diversity of experience and viewpoint in classrooms, engage in valuable research projects, and play leadership roles in student life.

American Federation of State, County and Municipal Employees, AFL-CIO (AFSCME), is a union of 1.6 million members in the United States and Puerto Rico, both in the public and private sectors, who share a commitment to service. AFSCME is participating in this case to advance its mission of helping all working people, including immigrants and people of color, achieve the American dream regardless of their identity. AFSCME is proud to represent members who came to the United States as children and who are contributing to our communities, states and country. The public servants of AFSCME, and indeed all Americans, deserve better.

The **Communications Workers of America, AFL-CIO (CWA)**, is an international labor union representing more than 700,000 workers in the telecommunications, media, manufacturing, airlines, and health care industries and in a wide variety of public sector positions in the United States, Canada, and Puerto

Rico. CWA represents and advocates on behalf of workers with respect to workplace rights and broader political and civil rights. As part of this mission, CWA has supported fair, humane, comprehensive immigration reform, as programs like Deferred Action for Childhood Arrival affect CWA members' communities and the lives and welfare of fellow workers.

The **International Brotherhood of Teamsters (IBT)** is a labor organization with more than 1.3 million members who are employed in a wide array of industries across the United States and Canada. Its members include persons who will be harmed by any impairment of the Deferred Action for Childhood Arrivals program.

The **International Union of Painters and Allied Trades (IUPAT)** is a labor organization comprised of approximately 140,000 members. Our members work as commercial and industrial painters, glaziers, drywall finishers, floor coverers, trade show workers and in many other occupations. IUPAT welcomes any person who does the work we do. Our members are of many races, practice many religions, were born in many countries, speak many languages and have different political views. They include beneficiaries of DACA and citizens or lawful permanent residents whose family members benefit from DACA. They, and many other members, will be directly affected by the termination of DACA.

United Farm Workers of America (UFW) represents thousands of migrant and seasonal farmworkers in various agricultural occupations throughout the country and has members of diverse racial, ethnic, and immigration backgrounds throughout the United States. UFW seeks to improve the lives, wages, and working conditions of agricultural workers and their families through collective bargaining, worker education, state and federal legislation, and through public campaigns. UFW's members include foreign-born U.S. citizens, lawful permanent residents, immigrants authorized to work in the United States, and undocumented immigrants. Many of UFW's members have mixed-status families, and many farmworkers have children who qualify and would qualify as DREAMers under DACA. As described below, UFW's members will be directly affected by the termination of DACA.

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INTRODUCTION AND SUMMARY OF ARGUMENT

Through the Deferred Action for Childhood Arrivals program, law-abiding undocumented young people in the United States have been able to achieve a longstanding dream: to become productive members of the society in which they were raised. In just five years, DACA recipients have made invaluable contributions to the American labor force as doctors, lawyers, teachers, community health workers, janitors, homecare providers, and more. They are the working parents and siblings of 200,000 adolescent American citizens,[2] providing what is often their family's sole source of income. The question before this Court is whether the defendants' abrupt termination of this program violates the U.S. Constitution and federal statutes.

Amici submit this brief to demonstrate how rescinding DACA jeopardizes its employed recipients, their families, and the country in general, while doing little to address the need to reform our broken immigration system. It is conservatively estimated that DACA recipients would increase the gross domestic product by $215 billion and tax revenues by $60 billion over the next decade.[3] Terminating DACA eliminates these gains. It also denies the recipients the security and confidence in knowing that they will return home safely to their families every day—a fear only

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[2] Priscilla Alvarez, *Will DACA Parents Be Forced to Leave Their U.S.-Citizen Children Behind?*, The Atlantic, Oct. 21, 2017, https://perma.cc/XD7H-282Q.

[3] Ike Brannon & Logan Albright, *The Economic and Fiscal Impact of Repealing DACA*, Cato Institute (Jan. 18, 2017), https://perma.cc/ZH57-8D98.

amplified now that the government has gained sensitive information about them through the program—and severely limits their educational and employment opportunities. Multiple studies establish the obvious and acute negative consequences of living in such uncertain conditions and how DACA has already provided observable relief from those consequences. The experiences of individual union members and their relatives shared below illustrate that research, demonstrating the real human toll that rescinding DACA will have on undocumented young adults, their families, their communities, their workplaces, and the nation.

ARGUMENT

I. Rescinding DACA will adversely impact employers and the U.S. economy.

Rescinding DACA subjects 800,000 young people to deportation while reducing local, state, and federal revenues and forcing employers to expend significant resources to hire and train new employees.

The most immediate costs are those imposed on the American workplace. One study estimates that for "every business day DACA renewals are halted, over 1,400 jobs [will be] lost" in the next two years.[4] This places a substantial burden on employers and employees, considering how even a short-term loss of DACA work authorization can seriously hinder a workplace. Take, for example, the story of Dr.

[4] Center for American Progress & FWD.us, *Study: The Impact of Deferred Action for Childhood Arrivals (DACA) Program Repeal on Jobs*, FWD.us, 4 (Aug. 23, 2017), https://perma.cc/3X8Q-ZJSM.

T.W. in Part III of this brief. Dr. T.W. is a retired NFL athlete and fifth-year medical resident in Harvard's orthopedic surgery department. During his intern year, he was forced to abruptly stop working for a period of six weeks while waiting for the extension of his DACA authorization. This created a critical void that threw his surgery team into disarray because his role could not be temporarily filled. In this way, rescinding DACA will cause employers to grapple with the loss of staff in which they have invested while also forcing them to absorb unnecessary turnover expenses—a cost that is projected to total $3.4 billion for the wholesale replacement of employed DACA recipients.[5]

Terminating DACA will also mean that $24.6 billion worth of Medicare and Social Security contributions will be lost over the next ten years, as well as most of the federal and tax revenues generated from the 91% gainfully employed DACA recipients.[6] These effects will be particularly burdensome for the six states that are home to 59% of the undocumented immigrant population in the U.S.: California, Texas, Florida, New York, New Jersey, and Illinois.[7] By contrast, DACA implementation has entailed almost no direct cost to taxpayers because the program's overhead is covered by the $495 fee paid by the applicants.

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[5] Jose Magaña-Salgado, *Money on the Table: The Economic Cost of Ending DACA*, Immigrant Legal Resource Center (Dec. 2016), https://perma.cc/S4NY-V33Z.

[6] *Id.*

[7] Jens Manuel Krogstad, Jeffrey S. Passel & D'vera Cohn, *5 facts about illegal immigration in the U.S.*, Pew Research Center (Apr. 27, 2017), https://perma.cc/FYM8-GAEA.

In addition, the federal government's threat to deport DACA beneficiaries would lead to a staggering result: a burden of $7.5 billion[8] on taxpayers. The public-opinion evidence suggests that the American people may at some level understand this stark cost-benefit calculus: 84% of Democrats, 74% of Independents, and 69% of Republicans think that DACA recipients should be able to stay in the country in some way, whether through citizenship or other means.[9] Costly, ineffective, and unpopular, the deportation of these American-raised young adults would not repair our broken immigration system in any real way.

II. Terminating the DACA program inflicts irreparable harm on DACA recipients and their families, including American-citizen children.

Undocumented immigrants face a mountain of hardships. They suffer poverty rates nearly twice that of American citizens and have a harder time escaping those conditions because of their status.[10] Employment opportunities are generally limited to low-wage jobs, but even that can be difficult to access without a driver's license. Most undocumented immigrants also lack a bank account and carry cash, since "financial institutions often request U.S. identification and a Social Security

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[8] Brannon & Albright, *The Economic and Fiscal Impact of Repealing DACA*.

[9] Edward Graham, *Trump's DACA Move Comes as Most Voters Back Citizenship for 'Dreamers'*, Morning Consult (Sept. 5, 2017), https://perma.cc/6BX9-J6K5. The statistics given here are calculated from the "allow them to become citizens" and "allow them to stay" categories of the graph from Morning Consult.

[10] Catalina Amuedo-Durantes & Francisca Antman, *Can authorization reduce poverty among undocumented immigrants? Evidence from the Deferred Action for Childhood Arrivals program*, Elsevier, 147 Econ. Lett. 1, 1 (2016).

number," making them targets for robbery.[11] Undocumented youth encounter additional hurdles in their education because of their ineligibility for federal and state financial aid, paid internships, and study opportunities that require identification. On top of all these stressors is the constant fear of being deported that wreaks havoc on mental health, causing many undocumented immigrants to suffer from anxiety, depression, and suicidal thoughts.

What makes DACA so significant is that, in just five years, it has led to improved socioeconomic and health outcomes—including for American-citizen children. Researchers have found that the odds of life in poverty in households headed by DACA recipients fell by 38 percent.[12] The stories of K.R. and M.R., presented in Part III below, confirm this research. K.R. is a 30-year-old community-health worker who is the sole caretaker of her three American-citizen siblings. Because of DACA, she is able to pay rent for her family, attend parent-teacher conferences for her younger siblings, and support her brother's university tuition. M.R. also has three U.S.-citizen siblings. DACA helped him obtain a driver's license and secure employment as a homecare worker so that he can help his parents financially support their family and also pick up his siblings from school. DACA has produced these kinds of tangible gains for the majority of its recipients. According to one sur-

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[11] Roberto G. Gonzales, et al., *Becoming DACAmented: Assessing the Short-Term Benefits of Deferred Action for Childhood Arrivals (DACA)*, 58 Am. Behav. Sci. 1852, 1855 (2014).

[12] Amuedo-Durantes & Antman, *Can authorization reduce poverty*, at 1.

vey, the program has led to new employment for 59 percent of beneficiaries, 45% of whom also experienced salary growth.[13] 55% of recipients were also able to purchase a vehicle while more than 10% purchased their first home.[14]

Looking at improved health outcomes, a study from Stanford University found that since 2012, the diagnoses of adjustment and anxiety disorders for the American children of DACA-eligible parents fell by an astounding 50 percent.[15] Such "immediate and sizable improvements in the mental health of their US citizen children . . . suggests that parents' unauthorized status is a substantial stressor that stymies normal child development and . . . transfer[s] parental [health] disadvantages to children."[16] These improvements are likely only preliminary, due to DACA's short existence, and can reasonably be expected to create more observable gains in the long term if the program continues. As Stanford researcher Jens Hainmueller noted, "It's not every day that public policy has such an immediate effect."[17]

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[13] Gonzales et al., *Becoming DACAmented*, at 1863.

[14] Center for American Progress & FWD.us, *Study: The Impact of DACA Program Repeal on Jobs*, at 5.

[15] Jens Hainmueller et al., *Protecting unauthorized immigrant mothers improves their children's mental health*, 357 Science 1041, 1043 (2017).

[16] *Id.*

[17] Milenko Martinovich, *Rescinding DACA protections on immigrant mothers could have negative health impacts on their children, Stanford study finds*, Stanford News (Sept. 7, 2017), https://perma.cc/ZMT5-K2MB.

But nothing more clearly illustrates the value of DACA to its recipients than the fact that 78% of the law-abiding, American-raised young people eligible for the program have applied[18]—in spite of its hefty $495 fee and two-year limit. Ending DACA threatens all these advances, the improvements to come, and the hopes of young people like the union members and families described below.

III. Union members and their family members have become vital parts of American society as a direct result of the opportunities provided to them by the DACA program.

Millions of employees nationwide are united in the *amici* unions, and many union members and their families will be harmed by a repeal of DACA. The experiences of individual union members and their family members confirm and illustrate the social science data cited above.[19]

T.W.: *From NFL athlete to Harvard orthopedic surgeon.*

Dr. T.W. is a fifth-year medical resident in Harvard's program in orthopedic surgery, a former National Football League (NFL) athlete, and a beneficiary of DACA status for about four years. His wife, a U.S. citizen, is an alumni member of SEIU's Committee of Interns and Residents (CIR).

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[18] Jens Manuel Krogstad, *DACA has shielded nearly 790,000 young unauthorized immigrants from deportation*, Pew Research Center (Sept. 1, 2017), https://perma.cc/A5NW-HKYD.

[19] The individuals whose stories are told here all consented to having their experiences recounted in this brief. Participants chose to maintain a measure of anonymity by using initials only.

Born in Nigeria, Dr. T.W. came to the United States at age three with his family. The family fled political unrest in Nigeria and settled in California. Dr. T.W's only memories are of life in the United States, and he grew up believing that with hard work and commitment, he could do anything. "I saw only the American Dream and truly believed if I put forth effort and determination, there was nothing I could not do." A brilliant student and a track, wrestling and football star in high school and at Stanford University, he graduated and spent several years playing football on NFL teams.

Throughout his childhood and early adult years, Dr. T.W. believed he was American. It was only when he needed his passport to travel to Canada for a position with the Canadian Football League that he learned that he was not a U.S. citizen. "In some ways, the fact that I didn't know my true immigration status freed me from the stress and obstacles imposed by undocumented status and allowed me to imagine limitless possibilities in my life."

As Dr. T.W.'s football career ended, he turned to his other passion: medicine. He excelled in his studies at Northwestern University Feinberg School of Medicine, but recognized that his undocumented status would prevent his acceptance to a medical residency program in the United States. "DACA saved me, it rescued me, and allowed me to pursue my medical residency at the Harvard

Combined Orthopaedic Residency Program at Massachusetts General Hospital. Thank God for DACA."

A six-week lapse of his DACA status served as a reminder to Dr. T.W. of the critical importance of DACA to his medical career. Dr. T.W. had to stop working for 6 weeks during his intern year while he waited for the extension of his DACA work authorization card. "The orthopedic surgery intern functions as a crucial member of a team, and when I wasn't able to work, I let my team down, my program could not fill the void, and I was sleepless with anxiety. All of a sudden it didn't matter that I was a doctor. Without DACA I was thrust back into the status of an unwelcome, alien intruder."

Dr. T.W. will continue his training in orthopedic surgery, joining a fellowship program next year, and working in an orthopedic surgery practice. He intends to continue serving the community and treating muscular injuries, broken bones and a wide range of conditions.

In June of 2017, Dr. T.W's application for legal residency was approved. Although he no longer relies on DACA, he values the program that was vital to his medical career and his life.

P.V.: ***A dedicated public servant prosecuting crime for Travis County, Texas.***

P.V. is an Assistant County Attorney for Travis County, Texas, where Austin is located. As a dedicated public servant and an AFSCME Local 1624 mem-

ber, he spends his workdays as a criminal prosecutor protecting public safety by handling all sorts of criminal cases from running red lights to DWI's.

P.V. came to the United States with his family from Mexico when he was three years old. He and his family settled in the Houston area, but his living situation was difficult when he first arrived. His father found work as a dishwasher and his mother as a busser, and the family lived with various relatives while they got their footing. His father is now a bartender and his mother a licensed massage therapist. After 19 years, his parents became legal permanent residents. P.V., however, remains without legal status because he aged out of his parents' application during the 19-year wait.

P.V. knew from a young age that he wanted to create a path to success in the United States and he studied hard to make that dream a reality. He graduated from high school in 2009 and went on to study sports management at the University of Texas at Austin, where he graduated with high honors. At first, P.V. thought he wanted to pursue a career as a sports agent, "like Jerry Maguire," he said, but then decided he enjoyed public service and instead went to law school at The University of Texas School of Law. He graduated from law school in 2016 and soon after passed the Texas Bar.

P.V. is a DACA recipient and that status is what allows him to be a dedicated public servant and prosecuting attorney today. Without DACA, he would not

be eligible to do the work he does every day for Travis County. P.V. is the first member of his family to go to college and graduate school; the first member of his family to work as a professional. Without DACA, he would be "unemployable" in most workplaces, and forced to work in the underground economy instead. However, because of DACA, P.V. can do the job he loves, and contribute to the economy by supporting himself, paying taxes, making contributions to the county retirement plan.

He also knows that without DACA his community would suffer dire consequences. As a prosecutor, P.V.'s experience has taught him that without legal status, many immigrants refuse to report crimes or avoid testifying when they are victims of assaults and other crimes for fear of deportation enforcement. As an immigrant himself, he knows that many immigrant families' conduit to law enforcement and the community at large is through their DACA recipient children who serve as their "ambassadors."

P.V. wants to continue to be a "positive agent of change in the criminal justice system", but he knows he cannot do so without DACA. The ability to achieve work status through DACA is what gave him the confidence to go to law school in the first place, and make his family and community so proud.

K.R.: ***A sister-turned-guardian putting food on the table.***

K.R. is a 30 year-old SEIU 521 member and shop steward who was brought to the United States from Mexico when she was five years old. During her 25 years of residence in California, she has attended school and college, worked in a community health center, and cared for her three U.S. citizen siblings.

DACA changed K.R.'s life. She was granted DACA status in 2013, and it came at a crucial time in her life. K.R's father had just passed away leaving her responsible for her three younger siblings. Since K.R.'s mother had left the family many years earlier, K.R. assumed sole responsibility for her siblings upon her father's death.

"All of my siblings were in high school or middle school at the time of my father's passing. I had to pay the rent and make certain there was food on the table. I had to attend parent-teacher conferences and make sure my teenage brothers were staying school and being good kids. Having DACA made my life better in so many ways. It meant that I could get a job to pay for my siblings' needs. It also allowed me to have a job that paid for my brother's tuition at Sacramento State University. I'm so grateful to have DACA."

K.R.'s career goal was to become a lawyer and she attended college for two years, majoring in criminal justice. Unable to afford tuition, she now works as a patient appointment coordinator at a community health clinic. She assists low-income

patients and helps them manage the appointments they need for complex heart, diabetes and other health conditions. Some of the patients K.R. works with have never seen a doctor before, and K.R. helps them arrange services including medical and dental referrals and taxi vouchers. "I'm a good listener and I reassure patients so they will feel safe."

K.R. is committed to working for the benefit of others. "It's important to me to care for others and make sure that we all work together."

J.D. ***A public school teacher filling the gap for special-needs instruction to deaf children.***

J.D. is a 29-year-old public school teacher and member of the American Federation of Teachers (AFT) who was brought to the United States at age two from Mexico. Educated entirely in the United States, she teaches special education in Texas to Pre-K children (3 to 4 years old) who are deaf or hard of hearing.

J.D. attended the University of Texas at San Antonio, where she focused on education. During her undergraduate studies, she took a special-education course called "exceptionalities," which taught her about deaf education. After graduating from college, J.D. enrolled in a graduate program at the University of Texas, Health Science Center in San Antonio. Shortly after enrolling in graduate school, she received her work authorization though DACA (December 2012).

DACA transformed J.D.'s life. "DACA made it possible for me to be able to find a job in teaching. If I wanted to, I could now go for a doctorate. It made it

possible to be able to earn money to help out my mom while she went through numerous health issues. DACA made it possible for me to teach children who are deaf and hard of hearing. I am helping these students and families on their journey to being able to communicate and achieve their dreams."

J.D. loves her job and her students and worries that, without DACA, her life and the lives of her students will suffer. She started working as a special education teacher for deaf children in 2014, shortly after she graduated from graduate school. Her school district has a shortage of teachers who are qualified to teach deaf students. J.D. understands the critical importance of early intervention and preschool programs for deaf children and fears the consequences that losing DACA will have on not only herself but her students and their families.

E.M.: ***The father supporting his family and planning for college.***

E.M. is a 31-year-old member of SEIU 32BJ who has lived in Washington, D.C. since he came to the United States from Mexico in 1999. He is a husband, a father of two U.S. citizen children, aged seven and four, an active member of his community, and a DACA beneficiary. E.M has been in DACA status for about four years.

E.M. attended Francis Junior High School and graduated from Roosevelt Senior High School in Washington, D.C. He wanted to go to college but without immigration status, it didn't seem possible.

A grant of DACA gave him hope. With DACA he has been able to "step out of the shadows," participate in the community, and not be afraid of arrest and deportation. "I can't stand the thought of being deported and leaving my kids alone."

DACA also inspired E.M. to consider once again taking college courses so that he could move into a better job and then afford better housing. "I want to be able to afford a house so that my kids can play in our own backyard." E.M's kids are the world to him. "I want my kids to grow up to be someone—I want them to go to college, have a good future and be better than I am. My seven-year-old son says he wants to be a doctor and he wants to buy me a big house. My kids are my motivation, they are my anchor, and they keep me fighting for a better future."

The growth of gangs and cartels has increased dramatically since E.M. left his hometown of Puebla, Mexico in 1999. E.M.'s sister, his only close family member still in Mexico, warned him "don't you ever come back here, it's too dangerous."

After 18 years of living in the U.S. and contributing to his community through his work and union activities, E.M. believes that everything valuable to his life is in the U.S. "I'm not here to hurt anyone—I'm here to work hard and make a better life for me and my family—I don't want to go back to living in the shadows."

O.S.: ***21 and "able to do normal things" like attend college.***

O.S. is a 21-year old citizen of Colombia, the nephew of a SEIU 1199 member, and a former DACA beneficiary who is now a legal resident of the United States. He resides in Queens, New York with his U.S. citizen wife, his brother, mother and grandmother.

O.S. has lived in New York City since he arrived in the United States with his family at age 8, more than 13 years ago. He always knew that he was undocumented, and as soon as the DACA program was created, O.S. applied and was granted DACA status. "Having DACA meant that I was able to do normal things that other people my age were doing. I was a sophomore in high school and with DACA, I qualified to get my first job through the city Summer Youth Employment Program. DACA allowed me to feel more confident and more comfortable. I didn't feel ashamed and alien."

In 2015, after O.S. graduated from high school in Queens, he enrolled in a bachelor's degree program at a campus of the City College of New York. In addition to his studies, O.S. works part-time at a New York City museum and part-time at a pharmacy. He hopes to complete his bachelor's degree in 2 years and work in his field.

O.S. renewed DACA twice and remained in DACA status until he obtained legal residency last year through his marriage to a U.S. citizen. O.S.'s wife works

with him at the museum and also attends a campus of the City College of New York.

"Although I have a green card now, I'll never forget how much it meant to me to receive DACA. It came at just the right time in my life and helped put me on the path to college and a better future."

F.G.: ***Living without fear of being deported from his American wife.***

F.G., a citizen of Mexico who came to the United States 22 years ago at age four, received DACA status in 2014. He is a member of SEIU 32BJ and resides in New York City with his U.S. citizen wife.

DACA allowed F.G. to live, work, and participate in civic life without worrying that he would be deported. Fear of deportation shaped F.G's life for two decades. F.G. learned that he was undocumented when he was in high school and did everything he could to keep his undocumented status hidden. "It's hard to describe the level of fear that affects immigrant communities. My own loving parents were so frightened that they might be deported leaving my brother alone, that they gave up their parental rights in order to allow my U.S. citizen aunt to adopt us. That is level of fear I lived with until 2014 when I was granted DACA status. With DACA I could breathe freely for the first time."

F.G. spent his childhood and teenage years in Fayetteville, a small college town in northwest Arkansas. He attended Catholic school and excelled at litera-

ture, art and football. He worked on the art magazine in high school and acted as a stage manager for high school productions. "Despite my fear of deportation, I was resolved to continue my education. After I graduated from high school in 2010, I attended the University of Arkansas for several years with the goal of becoming an architect. But without work authorization, I felt that I could never get a good job. I left the University discouraged and without a degree."

F.G. met his wife at the University of Arkansas and lived in Fayetteville until his wife graduated from the University. "We moved to Atlanta for a short time while my wife worked for CNN, and then to New York City where my wife found a job working as a photo editor for a national magazine. By the time we moved to New York, I had DACA and was able to get a good job."

F.G. applied for legal residency in the United States and anticipates the final processing of his application in the near future. "I won't need DACA after I receive my green card. Now my wife and I are making plans to open a business, and for my return to college. We are able to take advantage of the benefits of living in New York and often go to New York's museums. We're also making plans for a family. But I'll always be grateful to DACA for giving me a sense of confidence, allowing me to work, and giving me the belief that I could live my life fully without the trauma of possible deportation. After receiving DACA I felt that I could finally relax."

M.R.: ***Homecare worker for the elderly by day, tutor to his American siblings by night.***

M.R. is a 22-year-old member of SEIU 2015 who came to the United States from El Salvador at age eight. He lives in San Jose, California with his family, including his three U.S.-citizen siblings, aged seventeen, eleven and seven.

M.R. was granted DACA status in 2013. "With DACA I was able to work at a job that allowed me to make a difference in the life of a very ill, elderly patient. I'm a homecare worker and I care for an elderly man who is blind, diabetic, has kidney failure, a pacemaker, and is on dialysis. DACA made this meaningful job possible for me."

M.R. attended school in California, graduating high school from Gunderson High School in 2014. During his high school years, received an honor roll award and played soccer on the varsity team. Active in school clubs and sports, he participated in the multicultural club, the boxing club, and volleyball.

"My parents raised me with the idea that I should make something of myself and contribute to the community. After graduation, I studied at DeAnza College for several quarters, but when my dad was laid off from his job, I knew I had to find full-time work."

M.R. is a conscientious and responsible member of his family, his workplace and his community. He picks up his siblings from school, helps them with their homework, and does chores around his house. He attends church regularly and is

involved in a leadership development program with his millennial co-workers. "I believe that I am responsible for more than myself alone. I think that in a democratic society we must care for the needs of our neighbors, friends and coworkers—not just ourselves and our families. These are the values that I learned from my parents—you have to hard for work for what you want, but you must respect others and treat them the way that you want to be treated."

As a child in El Salvador, M.R. faced danger and uncertainty. His earliest memories are of warnings to avoid the gang members who moved freely through his neighborhood. M.R.'s family rushed him out of the country before the gangs could recruit him. "The gangs search for young boys to become members at an early age. I was lucky to escape before I was forcibly recruited. DACA has allowed me to live in safety and security in the U.S."

C.F.: ***Living the American dream until 17, regaining it through DACA.***

C.F. is a member of SEIU 32BJ who was brought to the United States from Mexico 22-years ago when he was a one-year-old child. He works as a custodian and lives in Baltimore with his parents and his three U.S.-citizen brothers, aged 20, 18, and 13.

C.F. attended school in Baltimore, completing his studies and graduating from Lansdowne High School. His favorite subject was math and he participated

in the chess team in high school. At age 17, C.F. learned for the first time that he was undocumented when he sought to apply for a Social Security card.

"I felt like I was as American as anyone else and finding out that I was undocumented was terrible for me. It changed my outlook and undermined my confidence." C.S. felt that he didn't belong, that he was different, even in his own family. "I'm really close to my three U.S. citizen brothers. But finding out about my immigration situation made me feel like an outsider, different and alone."

C.F. also worried that he couldn't invest in his future, because as a person without documents, his future was uncertain. He feared he could be deported without warning. "My hopes for living the American dream—going to college, studying marketing, buying a home some day—the belief that I could succeed and a build a good life suddenly seemed impossible."

But shortly after C.F. graduated high school, he heard about and applied for the DACA program. "DACA gave me permission to work, and with that permission I was able to get a steady job and join the union. DACA gave me a chance and the hope for a better future." With DACA, C.F.'s self-assurance returned and he began participating in activities to help his community and in activities supporting his co-workers. "There are many people like me who just want a chance to work hard and be part of the American dream. DACA gave me that chance."

V.S.: ***A+ student, psychology graduate, and caretaker of her American siblings.***

V.S. was born in Mexico City and has resided in the United States since infancy. She is the 23-year-old daughter of a SEIU 1021 member. Educated entirely in the United States, from elementary school through the university, she was granted DACA status in 2012.

"DACA was a game changer for me. It gave me hope and allowed me to believe that I always could be a little more. That I could graduate from the University of California, Santa Cruz and be on the dean's list, go to graduate school, and prepare for a career as an occupational therapist. When my parents were forced to depart the U.S. a few months ago and I became the head of my family, DACA kept my spirits up and helped me to trust that I would be able to support and care for my three younger U.S. citizen brother and sisters."

V.S. grew up with faith in the power of education and the value of community service. In high school she maintained a 4.0 average, organized a schoolwide activities committee, worked on the yearbook and volunteered at her at a nursing home, running activities, music lessons, exercise sessions and movie events for the elderly and fragile seniors. During her years at U.C. Santa Cruz, she studied psychology at the same time that she worked as a research assistant in a child development lab, tutored over 40 students, and interned in a special program to advance

and support diversity at the University. V.S. graduated in 2016 with a B.A. in psychology.

V.S. plans to enter a master's program and pursue a career in occupational therapy. "My mother is a nurse and I watched her care for her patients with compassion and diligence. She inspired me to become an occupational therapist and help patients overcome trauma. But until my parents complete their immigration processing and are allowed to return to the U.S., I carry the responsibility for my 12-year-old brother and my two U.S. citizen sisters, ages 16 and 21, on my shoulders. I have to make sure everything goes smoothly."

V.S. attends her brother and sister's parent-teacher conferences and open house nights, oversees their homework, and makes sure they get to school on time. She takes her brother and sister to the doctor, does the family grocery shopping and cooking, and handles the financial issues for her siblings and her parents. "We're a close-knit family, and I can sense if my brother and sisters are upset. I know they're going through a lot and I want to be there for them. Our community, my mother's union, and our church have been great to us."

V.S.'s 21-year-old sister is a senior at U.C. Santa Cruz but she comes home on the weekends. "I'm really close to my sister and I want to support her and help her as she faces her last year of college. She's a human bio major and plans to go to med school and be a pediatrician."

"I've always felt that I was an American," she says. "But DACA has made me feel like my dreams could come true and I could have a career that will allow me to give something back to my community and my country."

R.A. ***A history teacher for immigrant students at a public school in the Bronx.***

R.A. is a 9th grade history teacher in New York City and a member of the American Federation of Teachers (AFT). He came to the United States from Mexico when he was 7 years old, nearly 18 years ago. R.A. attended school and college in California, graduating from the University of California Los Angeles (UCLA).

DACA gave R.A. the opportunity to participate in educational programs and practice his career. "The grant of DACA literally changed my life 180 degrees from one day to another. When I first heard about DACA I couldn't believe it was real. But my mother helped me research the program and apply for it. DACA meant that I could participate in an externship with the Congressional Hispanic Caucus and a study abroad program in Italy."

During R.A.'s studies at UCLA, he wrote an honors thesis on the impact of the California Dream Act on California students. His thesis led to expanded opportunities in research, mentoring, and volunteering. He also learned of teaching opportunities, and following his graduation in 2016, began teaching at a public school in the Bronx.

"My school is 100% English language learners. That means the majority, 95%, are immigrants. Some have green cards, some are citizens, some may be undocumented. These students and future leaders, who look up to me and with whom I have conversations on a daily basis, will be affected if I lose DACA. I feel that I will be abandoning my students. This is something I think about it constantly."

CONCLUSION

The district court's orders granting a preliminary injunction and denying in part the government's motion to dismiss should be affirmed and its order granting in part the motion to dismiss should be reversed.

March 20, 2018

Respectfully submitted,

/s/ Deepak Gupta

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STATEMENT OF RELATED CASES

This proceeding is a consolidated case arising out of (a) the government's appeal of the district court's preliminary injunction, *Regents of the University of California v. United States of America, et al.*, Case Nos. 18-15068, 18-15069, 18-15070, 18-15071, 18-15072; (b) plaintiffs' petitions for interlocutory review of elements of the district court's ruling on the government's motion to dismiss, Case Nos. 18-15128, 18-15133, 18-15134; and (c) the government's petition for interlocutory review of different elements of that order, Case No. 18-80004.

This Court also previously heard a petition for writ of mandamus against the district court order regarding the administrative record in this case. *In re United States of America, et al.*, Case No. 17-72917.

CERTIFICATE OF SERVICE

I hereby certify that on March 20, 2018, I electronically filed this brief with the Clerk of the Court for the U.S. Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system. I certify that all participants are registered CM/ECF users, and that service will be accomplished by the appellate CM/ECF system.

/s/ Deepak Gupta
Deepak Gupta

Form 8. Certificate of Compliance Pursuant to 9th Circuit Rules 28.1-1(f), 29-2(c)(2) and (3), 32-1, 32-2 or 32-4 for Case Number 18-15068

Note: This form must be signed by the attorney or unrepresented litigant *and attached to the end of the brief.*

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The brief is 6,046 words or _____ pages, excluding the portions exempted by Fed. R. App. P. 32(f), if applicable. The brief's type size and type face comply with Fed. R. App. P. 32(a)(5) and (6).

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Signature of Attorney or Unrepresented Litigant: s/ Deepak Gupta

Date: 3/20/2018

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