IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LIHI LUTAN GAVRIELY TABOOLA, Inc. Plaintiffs, v. LEON RODRIGUEZ, Director U. S. Citizenship & Immigration Services; JEH JOHNSON, Secretary, U.S. Department of Homeland Security Defendants.	))))))))))))	Case No. 15 CV 554

PETITION FOR WRIT OF MANDAMUS

Plaintiffs, LIHI LUTAN GAVRIELY and TABOOLA, Inc. through the LAW OFFICES OF KRIEZELMAN BURTON & ASSOCIATES, LLC, hereby petition this Honorable Court for a Writ of Mandamus directing the U.S. Citizenship & Immigration Services (hereinafter "USCIS") and the Department of Homeland Security (hereinafter "DHS") to adjudicate their pending I-485 adjustment of status application and I-140 visa petition for immigrant worker, and in support thereof, we state as follows:

I. INTRODUCTION

1. This is a civil action brought by the Plaintiffs to compel the Defendants and those acting under them to take action on the visa petition for immigrant worker (USCIS Form I-140) and application to adjust status to that of a lawful permanent resident (USCIS Form I-485) filed by the Plaintiffs with the USCIS/Department of Homeland Security and which Defendants and those acting under them have failed to take timely action on.

II. JURISDICTION AND VENUE

2. This court has jurisdiction over this action pursuant to 28 USC Sec. 1331 (federal subject matter jurisdiction) in conjunction with 28 USC Sec. 1361 (mandamus), the Administrative Procedure Act (APA)(5 USC Sec. 555(b), and the Immigration & Nationality Act and regulations implementing it (Title 8 of the CFR).

3. Under 28 USC Sec. 1331, "(t)he district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States." There is jurisdiction under 28 USC Sec. 1331 because this action arises under 28 USC Sec. 1361 (mandamus), the Administrative Procedure Act (APA)(5 USC Sec. 555(b) and 5 USC Sec. 702), and the Immigration & Nationality Act (INA) and regulations implementing it (Title 8 of the CFR).

4. Under 28 USC Sec. 1361, "(t)he district courts shall have original jurisdiction of any action in the nature of mandamus to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff."

5. The APA requires USCIS and the DHS to carry out their duties within a reasonable time. The provision of the APA that provides this is 5 USC Sec. 555(b), which states that "(w)ith due regard for the convenience and necessity of the parties or their representatives and within a reasonable time, each agency shall proceed to conclude a matter presented to it." USCIS and DHS are subject to 5 USC Sec. 555(b). The Plaintiffs contend that the delays in processing the visa petition and application for adjustment of status are unreasonable.

6. Both the regulations and the INA provide numerous examples of duties owed by the USCIS in the adjustment of status process. 8 USC Sec. 1103 states that "[t]he