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APPENDIX D

Sample Declaration

The sample declaration below is meant to accompany the Asylum Seeker Advocacy Project (ASAP)'s June 2018 Guide, *Vindicating the Rights of Asylum Seekers at the Border and Beyond: A Guide to Representing Asylum Seekers in Expedited Removal and Reinstatement of Removal Proceedings*.

The full guide is available on ASAP's website, at asylumadvocacy.org/resources. The guide is intended to assist lawyers and advocates and is not a substitute for independent legal advice in a client's case. The cases cited do not constitute an exhaustive search of relevant case law in all jurisdictions.

The goal of the declaration is to develop client-specific facts explaining whether there were miscommunications and/or impediments to presenting facts or claims during the credible or reasonable fear interview (CFI/RFI). The declaration should also explain why these omissions or errors prejudiced the client.

The declaration below is an example, in which the client and her children were threatened by members of a drug trafficking operation who were seeking to punish the client's brother. The client's brother had witnessed a crime, reported it to the police, and then fled to the United States.

Declaration of [FULL NAME] (A# [NUMBER])

I swear under penalty of perjury that the following statements are true and accurate to the best of my knowledge.

1. My name is [FULL NAME]. I was born in [COUNTRY] on [DATE]. I am the mother of [DAUGHTER'S NAME] born on [DATE]. I make this declaration in support of a positive finding of credible fear for myself and my child.
2. I left my country because dangerous drug traffickers threatened to kill me and my child in order to punish my brother, and I fear that they will do so if we return.
3. I was born and raised in a small town called [TOWN] in [COUNTRY]. My parents had two children – me and my brother, [BROTHER'S NAME]. My father left when we were both very young, so we grew up with our mother, [MOTHER'S NAME].
4. While I was in high school, I met [HUSBAND'S NAME]. We dated for three years and I married him when I found out I was pregnant with my daughter, [DAUGHTER'S NAME]. I also stopped going to school then.
5. A few weeks later, while I was still pregnant with [DAUGHTER'S NAME], [HUSBAND'S NAME] was murdered. I do not know why he was killed, but I think it was the gang – M-18. He refused to join the gang because he told them he was going to be a father. But these gangs do not just let people walk away from them. I think they killed him because he did not join them.
6. I told the Asylum Officer about what happened to my husband because she asked me whether I was married. I could not stop crying. Whenever I talk about him, I get very upset. I was also very upset because my daughter was there in the room and I had never talked to her about how her father died – only that he was killed. I did not want her to be scared of the gang or to be angry at them. For all of these reasons, I did not want to keep talking to the Asylum Officer, so I answered his questions, didn't add anything else and went back to my room.
7. The Asylum Officer also asked me if I was afraid of M-18 coming after me and my daughter, but I said no. And I am not scared of them – they have not threatened us. My daughter and I were later threatened, but it was not the M-18.
8. The reason my daughter and I fled to the United States has to do with my brother. After my mother died last year, [BROTHER'S NAME] came back to [TOWN] from the capital where he had been living to help me take care of my daughter. He was working at a bar one night when there was an argument between three men and two of the men killed the other one.
9. That night, my brother came home and told me what had happened. He told me that both of the men were involved in drug trafficking. He knew because they talked about their

business at the bar. The men told him not to go to the police, so he said he wasn't going to.

10. I told my brother not to go to the police. The government of [COUNTRY] is completely incapable of stopping crime from happening. I thought if the police got involved, it would only make things worse since they can't protect anyone from violence. I know because after my husband was murdered, the police didn't do anything. The police officers who found his body said if I wanted to stay safe, it was better I didn't ask too many questions.
11. But our neighbor, [NEIGHBOR'S NAME], is a police officer. He came to my house the day after the man was murdered at the bar and told my brother he knew that my brother had seen who had killed the man in the bar and that he could protect him if my brother told him who had done it.
12. I don't know why, but my brother told [NEIGHBOR'S NAME] what had happened. [NEIGHBOR'S NAME] then arrested one of the men, but the other one got away. The police tried to protect my brother, but he was receiving death threats by text message from someone – I think the other man. He told my brother he had messed with the wrong people and that the man who was in prison was the head of a group that wasn't going to let this go.
13. [BROTHER'S NAME] was scared and decided to leave to the United States. He is applying for asylum and lives in [U.S. STATE] with our cousins.
14. About a month after he left, I started to receive text messages from a man who called himself [MAN'S NAME]. The first message asked me if I was [BROTHER'S NAME]'s sister. I didn't answer, but he kept texting me. He said since my brother was not coming back, he would have to get his revenge on me instead.
15. The following week, when I didn't answer, he started texting me again. He said he and his friends could not let my brother get away with going to the police. And they said if I went to the police they would rape and kill my daughter.
16. [DAUGHTER'S NAME] is so young and I knew I needed to protect her. That's when I decided I had to leave. I went to the capital to stay with my uncle, [UNCLE'S NAME]. But I kept getting the text messages. The man said he knew I was still in the [COUNTRY], and he and his friends would soon find me. He said he had a network of people throughout the country and they could find me.
17. After being in the capital for three weeks, I decided to go to the United States to join my brother. I am afraid if I return to country, this man [MAN'S NAME] and his friends will find me because they are part of a drug trafficking network in my country. Since my country is small and they are looking for us, I think it is only a matter of time until they find me and my daughter – once I put her in school or try to get a job or anything that takes us outside of my uncle's home.

18. In the first interview, I answered the Asylum Officer's questions, but he didn't ask me very many questions and he seemed impatient – he spoke to me in a harsh tone and requested a yes or no answer. He did not ask me about anything other than gangs and my husband. I was extremely nervous and shaking because I had never been asked questions about what happened to my husband in this way. Also, as I said, my daughter did not know who killed her father and I didn't want to scare her more than she already was scared.
19. At the end of the interview, the Officer asked me if I had anything else to say. I had more to say to the Asylum Officer, but I just wanted the interview to end because I felt like I couldn't breathe and I needed to take my daughter out of there and try to explain to her what she had just heard for the first time.

I, [FULL NAME], declare under penalty of perjury that the foregoing is true and correct. The following declaration was presented to me in a language that I understand, Spanish.

SIGNATURE

DATE