
IN THE SUPREME COURT OF THE
STATE OF CALIFORNIA

BIANKA M.,
Petitioner,

v.

THE SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES,

Respondent;

GLADYS M.,
Real Party in Interest.

SUPREME COURT
FILED

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Second District Court of Appeal
Case No. B267454
Los Angeles County Superior Court
The Honorable Holly J. Fujie
Civil Case No. BF052072

**APPLICATION FOR LEAVE TO FILE *AMICI CURIAE* BRIEF AND
BRIEF OF THE LEGAL SERVICES FOR CHILDREN, IMMIGRATION
CENTER FOR WOMEN AND CHILDREN, LAW FOUNDATION OF
SILICON VALLEY, AND LAWYERS' COMMITTEE FOR CIVIL
RIGHTS OF THE SAN FRANCISCO BAY AREA AS *AMICI CURIAE* IN
SUPPORT OF PETITIONER BIANKA M.**

Daniel Grunfeld (Bar No. 128494)
David Sean Cox (Bar No. 181232)
Nicolette L. Young (Bar No. 280810)
Lauren S. Schwartz (Bar No. 312253)
MORGAN, LEWIS & BOCKIUS LLP
300 South Grand Avenue, 22nd Floor
Los Angeles, CA 90071
Telephone No. (213) 612-2500
Facsimile No. (213) 612-2501

Thomas M. Peterson (Bar No. 096011)*
MORGAN, LEWIS & BOCKIUS LLP
One Market Street, Spear Tower
San Francisco, CA 94105
Telephone No. (415) 442-1000
Facsimile No. (415) 442-1001

ATTORNEYS FOR *AMICI CURIAE* LEGAL SERVICES FOR CHILDREN,
IMMIGRATION CENTER FOR WOMEN AND CHILDREN, LAW
FOUNDATION OF SILICON VALLEY, AND LAWYERS' COMMITTEE FOR
CIVIL RIGHTS OF THE SAN FRANCISCO BAY AREA

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Pursuant to California Rule of Court 8.520(f), the Legal Services for Children, Immigration Center for Women and Children, Law Foundation of Silicon Valley, and Lawyers' Committee for Civil Rights of the San Francisco Bay Area (collectively, "*amici*") respectfully request permission to file the accompanying brief as *amici curiae* in support of Petitioner, Bianka M.¹

STATEMENT OF INTEREST AND PROPOSED *AMICI* BRIEF

Legal Services for Children (LSC) was founded in 1975 as a nonprofit organization dedicated to advancing the rights of youth. LSC's mission is to ensure that all children in the San Francisco Bay Area have an opportunity to be raised in a safe and stable environment with equal access to the services they need to become healthy and productive adults.

The Immigration Center for Women and Children (ICWC) was founded in 2004 as a nonprofit organization committed to providing affordable immigration services to underrepresented immigrants in California.

Legal Advocates for Children and Youth (LACY) is a program of the Law Foundation of Silicon Valley. The Law Foundation is a nonprofit organization dedicated to using the law to address problems linked to social issues like poverty, discrimination, and child abuse and neglect.

The Lawyers' Committee for Civil Rights (LCCR) of the San Francisco Bay Area has been working to advance, protect, and promote the

¹ No party or counsel for any party authored this brief, participated in its drafting, or made any monetary contributions intended to fund the preparation or submission of the proposed brief. *See* Cal. Rules of Court, rule 8.520(f)(4)(A). The Legal Services for Children, Immigration Center for Women and Children, Law Foundation of Silicon Valley, and Lawyers' Committee for Civil Rights of the San Francisco Bay Area certify that no person or entity other than *amici* and their counsel authored or made any monetary contribution intended to fund the preparation or submission of the proposed brief.

rights of individuals of color, low-income persons, and immigrants since 1968.

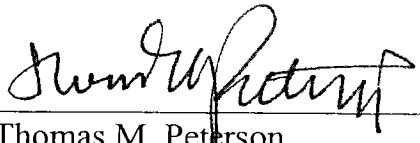
Amici are deeply committed to serving children. *Amici* routinely represent youth in probate and family court proceedings who have endured horrific experiences in their home countries and are eligible for Special Immigrant Juvenile Status (“SIJS”) because they have been abused, abandoned, or neglected. Importantly, in *amici*’s experience, a proceeding in family court under the Uniform Parentage Act (“UPA”) is the only procedural vehicle by which children who are residing with one parent can seek SIJS findings in California courts.

Amici have a strong interest in the Court’s reversal of the Court of Appeal’s decision because that decision effectively, and incorrectly, slams the doors of the family court (and, thus, *all* California courts) on an entire class of SIJS eligible children. It creates daunting barriers to SIJS that are irreconcilable with the path to legal residency laid out by Congress and the California Legislature. *Amici* are united in the belief that all children have the right to be protected by our legal system, regardless of their immigration status. Accordingly, *amici* submit this brief to offer context to the Court of the real detrimental effect the Court of Appeal’s decision has had on otherwise eligible children and to join in the call for reversal of the Court of Appeal’s faulty legal analysis.

Dated: April 6, 2017

Respectfully submitted,

MORGAN, LEWIS & BOCKIUS LLP

By: 
Thomas M. Peterson

Attorneys for *Amici Curiae* Legal
Services for Children, Immigration
Center for Women and Children,
Law Foundation of Silicon Valley,
and Lawyers' Committee for Civil
Rights of the San Francisco Bay
Area

AMICI CURIAE BRIEF

INTRODUCTION

The Court of Appeal's decision in *Bianka M.* effectively allows California family courts to refuse to make SIJS findings under Code of Civil Procedure section 155 because the parentage of the child's non-custodial alleged parent has not been adjudicated. The Court of Appeal's decision in *Bianka M.* erects nearly impossible hurdles for Bianka and similarly situated children who seek to reunify with one parent legally residing in California through a custody proceeding in the family court – which, for children like Bianka seeking to reunify with a parent, is the *only* avenue to obtain SIJS findings.²

Initially, in order to secure SIJ status, a child must provide an order from a state court finding that she “cannot reunify with one or both parents due to abuse, neglect, [or] abandonment” 8 U.S.C. § 1101(a)(27)(J); 8 C.F.R. § 204.11(d) (2014). *Bianka M.* holds that these findings cannot be made in a Uniform Parentage Act proceeding before a determination of parentage is made. According to *Bianka M.*, this means that the absent parent – the one who “abuse[d], neglected, [or] abandoned” the child – should be joined as a party. But, of course, a California court will often be unable to assert personal jurisdiction over an absent parent who may be in a foreign country. The effect is to slam the doors of the family court (and, thus, *all* California courts) on the child seeking relief.

Amici respectfully submit that the Kafkaesque circularity of the

² Because Bianka currently resides with her mother in a loving and safe home, she cannot obtain SIJS findings by seeking appointment of a guardian. Prob. Code § 1514, subd. (b)(1)-(2). In theory, Bianka and similarly situated children could obtain SIJS findings in delinquency proceedings but (i) that would require misconduct by the child, and (ii) it is the State, not the child, that would initiate such proceedings. Welf. & Inst. Code §§ 325, 601, 650.

result prescribed by *Bianka M.* cannot be squared with the intent of either Congress in making children eligible for Special Immigrant Juvenile Status or of the California Legislature in enacting, and recently clarifying, Code of Civil Procedure section 155. The purpose of these laws is to offer protection to the most vulnerable among us: children who have been abused, abandoned or neglected by the very people who are supposed to care for them. Many of these children are unaccompanied immigrant children who have fled abuse, abandonment and other horrors in their home countries for the promise of something better here. In California, most such children are from Mexico and Central America where “childhood has become synonymous with witnessing or suffering violence.” University of California Hastings Center for Gender & Refugee Studies, *Childhood and Migration in Central and North America: Causes, Policies, Practices and Challenges* (February 2015) at ii.³

The *Bianka M.* decision is already causing California family courts to withhold SIJS findings and expose many children to expulsion without the benefit of the SIJ procedures that Congress and the California Legislature intended them to have. Family courts should limit their role to the fact-finding procedure codified in Code of Civil Procedure section 155 and designed to protect abandoned, neglected, and abused immigrant children throughout our State.

³ Available at:
http://cgrs.uchastings.edu/sites/default/files/Childhood_Migration_HumanRights_English_1.pdf.

ARGUMENT

I. STATUTORY BACKGROUND

Congress created Special Immigrant Juvenile Status in 1990 to provide a path to lawful permanent residency for vulnerable children as to whom it would not be in their best interest to return to their home country. *See* 8 U.S.C. § 1153(b)(4) (allocating a percentage of immigrant visas to special immigrants); 8 U.S.C. § 1101(a)(27)(J) (defining Special Immigrant Juvenile Status). “[T]he purpose of SIJ status [is] to ‘protect the applicant from further abuse or maltreatment by preventing him or her from being returned to a place where he or she is likely to suffer further abuse or neglect’ [citation.]” *In re Israel O.* (2015) 233 Cal.App.4th 279, 291, quoting *Marcelina M.-G. v. Israel S.* (N.Y. App. Div. 2013) 112 A.D.3d 100, 113. In 2008, Congress amended the SIJ provisions to broaden their applicability; those amendments clearly indicate Congress intended to “expand eligibility” for children seeking SIJS relief. *See* Specialized Immigrant Juvenile Petitions, 76 Fed. Reg. at 54979; *Leslie H. v. Super. Ct.* (2014) 224 Cal.App.4th 340, 351.

Congress directed states to first make the SIJS findings necessary for the child to apply to United States Citizenship and Immigration Services for SIJS. 8 U.S.C. 1101(a)(27)(J)(iii); 8 C.F.R. § 204.11(d) (2014). A child petitioning for SIJ status under federal law must provide a state court order containing findings that he or she is: (1) in the custody of a court-appointed agency, guardian or other individual; (2) cannot reunify with one or both parents due to abuse, neglect, abandonment or other similar basis under state law; and (3) it is not in his or her best interest to return to the home country of the child or the parents. *Id.* In accordance with this framework, California’s Legislature enacted Code of Civil Procedure section 155 in 2014, instructing courts that “[i]f an order is requested from the superior court making the [SIJS] findings, and there is evidence to support those

findings, which may consist of, but is not limited to, a declaration by the child who is the subject of the petition, the court *shall* issue the order . . . of the [SIJS] findings” Code Civ. Proc., § 155, subd. (b)(1) (emphasis added).⁴

While *amici* submit that the Legislative intent behind Code of Civil Procedure section 155 was abundantly clear when *Bianka M.* was decided, the Legislature removed any doubt last year when it clarified the statute to provide:

The asserted, purported, or perceived motivation of the child seeking classification as a special immigrant juvenile shall not be admissible in making the findings under this section. The court shall not include nor reference the asserted, purported, or perceived motivation of the child seeking classification as a special immigrant juvenile in the court’s findings under this section.

Code Civ. Proc., § 155, subd. (c). Of course, as a “clarification” of existing law, the express directive of subdivision (c) applies retroactively to the Court of Appeal’s decision and compels the conclusion that the Court of Appeal and trial court each erred in speculating as to the *bona fides* of Bianka’s application for SIJ Status. *See, e.g., Bowen v. Board of Retirement* (1986) 42 Cal.3d 572, 588 n.3 (“An exception to the general

⁴ As suggested by the statute’s use of the mandatory “shall,” the legislative history of section 155 makes clear that a trial court *must* issue a SIJS order if there is evidence to support the requested findings. *See* Legislative Counsel’s Digest, SB 873 (September 27, 2014) (“This bill would provide that the superior court . . . has jurisdiction to make judicial determinations regarding the custody and care of juveniles The bill would ***require the superior court to make an order containing the necessary findings regarding special immigrant juvenile status pursuant to federal law, if there is evidence to support those findings.***”) (emphasis added). As this Court has observed, “[i]t is reasonable to presume” that the Legislature’s enactment of a statute is made “with the intent and meaning expressed in the Legislative Counsel’s digest.” *People v. Super. Ct.* (1979) 24 Cal.3d 428, 434.

rule that statutes are not construed to apply retroactively arises when the legislation merely clarifies existing law.”) (internal quotations and citations omitted).

In short, both Congress and the California Legislature have recognized that SIJ status is designed to protect some of the most vulnerable children in our society – immigrant children who have faced parental abandonment, abuse, or neglect and who are threatened with deportation to a country where they may previously have faced extreme trauma and where they may be subject to future harm if repatriated. Reflecting the profound public interest in the welfare of such children, the Legislature has declined to afford California trial courts with discretion to deny SIJ status when there is evidence supporting the requested findings.

II. SIJS APPLICANTS ARE A VULNERABLE POPULATION OF “ABUSED, NEGLECTED, AND ABANDONED CHILDREN”

The Central America–Mexico–United States migration corridor has seen a near tenfold growth in child migration in recent years. *Childhood and Migration* at i. According to the Office of Refugee Resettlement, since October 2013, more than 12,000 children apprehended by U.S. Customs and Border Protection (CBP) have been released to a sponsor in California. Office of Refugee Resettlement, *Unaccompanied Children Released to Sponsors by State* (March 25, 2016).⁵

In large part, this surge of immigrant children is due to the fact that, in Mexico and Central America, “childhood has become synonymous with witnessing or suffering violence.” *Childhood and Migration* at ii. In all of these countries, both societal and household violence are primary reasons for migration. Dennis Stinchcomb & Eric Hershberg, *Unaccompanied*

⁵ Available at <http://www.acf.hhs.gov/programs/orr/programs/ucs/state-by-state-uc-placed-sponsors>.

Migrant Children from Central America: Contexts, Causes and Responses (2014), at 16.⁶ See also *Childhood and Migration* at 3 (“Children and adolescents primarily flee two types of violence: violence perpetrated by organized criminal syndicates and violence experienced in the home.”). In a recent study, sixty-five percent of the 200 Honduran children interviewed said that violence was the main reason they decided to migrate. *Id.* at iii.

Household violence is pervasive. In El Salvador, “7 out of 10 Salvadoran children and adolescents suffer[] physical violence in the home,” which is one of the “leading reasons Salvadoran children and adolescents leave home.” *Childhood and Migration*, at v. “Severe physical punishment, including the use of blunt objects, is a common and accepted practice [and] [t]he majority of sexual violence against girls (and boys) occurs in their own homes at the hands of fathers or stepfathers There is also a high level of psychological abuse in households and schools.” *Id.* at 179. In Guatemala, between 2003 and 2012, intrafamilial violence grew by more than 500 percent. *Id.* at viii. In addition, many cases go unreported.

In interviews conducted by the United Nations High Commissioner for Refugees (UNHCR) with unaccompanied children from El Salvador, Guatemala, and Honduras, nearly one-fourth (23 percent) of children reported some form of abuse in the home, including physical abuse, emotional abuse, sexual abuse, sibling violence, intimate partner violence and abandonment. United Nations High Commissioner for Refugees, *Children on the Run: Unaccompanied Children Leaving Central America and Mexico and the Need for International Protection* (March 12, 2014), at

⁶ Available at <http://www.peacepalacelibrary.nl/ebooks/files/388113561.pdf>.

28.⁷ Twenty-one percent of the children reported that they had suffered abuse and violence in their homes by their caretakers. *Id.* at 6.

Young girls particularly face a high risk of abuse and violence. In the UNHCR study, high percentages of the Salvadoran, Honduran, and Guatemalan girls reported abuse in the home. *Children on the Run* at 28-29. Sexual abuse in the home is a rampant problem. In El Salvador, “the vast majority of the sexual aggressors (90% . . .) are close male relatives of the youth – uncles, godparents, stepfathers, fathers, and grandfathers [and so] sexual abuse of children regularly goes unreported to keep family members from facing any prospect – however unlikely – of prosecution.” *Childhood and Migration* at 180. In El Salvador in 2012, 12 percent of first pregnancies of girls between the ages of 10 and 19 resulted from sexual abuse by a family member. U.S. Department of State, *El Salvador 2014 Human Rights Report* (2014), at 18-19.⁸

Abandonment is also on the rise. Thousands of children and adolescents have been left by parents. Typically, other family members provide informal care for children in this situation, but no one has legal responsibility for them. In turn, these “caregivers” themselves may also abuse or neglect them. *Childhood and Migration* at iii-iv. Indeed, parental loss – especially separation from a mother – increases a child’s vulnerability to different forms of abuse in the home. *Unaccompanied Migrant Children*, at 22. *See also* William A. Kandel et al., *Unaccompanied Alien Children: Potential Factors Contributing to Recent Immigration* (July 3, 2014), at 9 (“[C]hildren who are left behind as a result of one or both parents migrating abroad are more vulnerable to abuse. This

⁷ Available at http://www.unhcrwashington.org/sites/default/files/1_UAC_Children%20on%20the%20Run_Full%20Report.pdf.

⁸ Available at <http://www.state.gov/documents/organization/236900.pdf>.

is especially true of children whose mothers have migrated.”).⁹

To escape this violence, many children take to the streets. *Childhood and Migration* at iii. In the Honduran city of San Pedro Sula, for instance, 5,000 children under the age of 18 sleep on the streets. Marguerite Cawley, *Youth in LatAm Increasingly Perpetrators, Victims of Violent Crime*, InSight Crime (January 24, 2014).¹⁰ A 2013 study found that more than half of the homeless children and adolescents living in the Honduran cities of Tegucigalpa and San Pedro Sula had suffered different forms of mistreatment in their homes that led to their homelessness. *Childhood and Migration* at 81.

Unfortunately, these countries also lack the institutional capacity to help vulnerable children. Although several of these countries have enacted laws regarding children’s rights and protection from harm, in practice these laws are not enforced. *Childhood and Migration* at iv. Moreover, welfare agencies in these countries often fail to respond due to weak infrastructures and enforcement powers. *Id.* at iv. “El Salvador, Guatemala, and Honduras profoundly and systematically fail to carry out essential duties required of them as States parties to the Convention on the Rights of the Child.” *Id.* at 12. In addition, crimes against children result in very few convictions. *Unaccompanied Migrant Children* at 24. An estimated 93 percent of crimes against youth in Honduras end without arrest of the perpetrators. *Id.* Between January 1, 2013 and August 28, 2013, the Salvadoran Attorney General’s Office reported that out of 1,445 cases of alleged rape of minors, only 37 resulted in convictions. *Id.* During roughly the same period, the Public Ministry of Guatemala reported 2,639 complaints of sexual assault or rape against minors, with only 11

⁹ Available at <https://fas.org/sgp/crs/homesec/R43628.pdf>.

¹⁰ Available at <http://www.insightcrime.org/news-analysis/rise-in-colombia-mexico-youth-crime-highlights-regional-trend>.

convictions. *Id.* Resource-deprived police forces and courts are simply unable – and often unwilling by the nature of their complicity with organized crime groups – to provide protection to children and families. *Id.*

Faced with this violence and abuse, and having no other place to turn, many children immigrate to the United States rather than remain under intolerable circumstances. They must successfully seek and obtain some form of immigration status to prevent deportation. *See* American Immigration Council, *A Guide to Children Arriving at the Border: Laws, Policies and Responses* (Jun 26, 2015).¹¹ Congress created SIJS precisely for this purpose – to provide immigration status to vulnerable populations of children confronted with abuse, abandonment or neglect at home. Consequently, the number of SIJS applications that the federal government has received reflects the increasing violence in these countries. In 2010, USCIS received 1,646 SIJS petitions; that number grew to 5,776 in 2014, and grew again to 11,500 in 2015. U.S. Citizenship and Immigration Services, USCIS Special Immigrant Juveniles Form I-360 Performance Data (Fiscal Year 2015, 3rd Qtr).¹² In the first quarter of fiscal year 2016 alone, USCIS has received more than 4,000 petitions. *Id.* Without SIJS or some other relief, these children face deportation back to their countries, where they face threats, extortion, violence, and execution. United Nations High Commissioner for Refugees, *Deported Children Face Deadly New Dangers on Return to Honduras* (Jan. 29, 2015).¹³

Accordingly, SIJS is a critical mechanism in protecting this vulnerable population.

¹¹ Available at <http://immigrationpolicy.org/special-reports/guide-children-arriving-border-laws-policies-and-responses>.

¹² Available at <https://www.uscis.gov/tools/reports-studies/immigration-forms-data/data-set-form-i-360-petition-special-immigrant-juveniles>.

¹³ Available at <http://www.unhcr.org/54ca32d89.html>.

A. **The Court Of Appeal's *Bianka M.* Decision Has Directly And Injuriouly Impacted The Population Of Vulnerable Immigrant Children Congress Intended To Protect**

By definition, those eligible for SIJS are a vulnerable population of “abused, neglected, and abandoned” children. *In re Y.M.* (2012) 207 Cal.App.4th 892, 915; *see* 8 U.S.C. § 1427(a). The following stories, drawn from the clients of *amici* and their sister agencies, illustrate how the Court of Appeal's *Bianka M.* decision, if it stands, will harm children in the class Congress intended to protect.

In the first example, an abused, abandoned boy (“Rene”) successfully petitioned the superior court for SIJS findings before *Bianka M.* was decided. If this deserving petitioner had sought relief after *Bianka M.* was decided, he almost certainly would have been unsuccessful. In the second, third, and fourth examples, a boy (Fabricio), a girl (Jaqueline), and a boy (Santos) were denied SIJS findings because of *Bianka M.*, even though they presented evidence as compelling as that submitted by Rene. Although the court has now made the requisite SIJS findings in Santos's case, children like Santos will not be safe until the *Bianka M.* decision is reversed.

- **Rene**

Rene was born in El Salvador where he lived with his mother and father, who were never married. Rene's mother was physically and emotionally abusive to, and neglectful of, both Rene and his older brother. When Rene was three, his parents separated and his mother gave Rene to his father to raise. Rene does not remember his mother calling or visiting as he was growing up. When Rene was five, his father went to the United States to work and Rene remained behind with his paternal grandmother. Rene was fifteen when his older brother died and his grandmother could no longer care for him. Rene came to the United States

to rejoin his father. Because Rene had been abused, neglected, and abandoned by his mother, he petitioned the superior court for a finding of paternity and SIJS findings. Rene's mother was located and served personally in El Salvador but she refused to accept the paperwork, stating that Rene was his father's responsibility. In 2015, the family court made findings of paternity and custody as well as the requisite SIJS findings as to Rene's mother's abuse, neglect and abandonment. Rene is now able to remain with his father, who has been his sole provider for most of his life.

- **Fabricio**

Fabricio was born in El Salvador where he lived with his mother and sister. Fabricio's father is a stranger, who never supported Fabricio financially or emotionally and who has had no communication with Fabricio outside a few phone calls. When Fabricio was seven, his mother went to the United States, leaving Fabricio in the care of his paternal aunt. His aunt physically abused Fabricio on a regular basis, hitting him with belts, cables, and sticks. When Fabricio was about fifteen, gang members began to harass and threaten him on his way to school and several months later about ten men stormed into his aunt's home and held the family at gunpoint, ransacked the home, beat and kidnapped his uncle, and warned the family not to call the police. Under the continual threat of violence both in and out of his home, Fabricio escaped to the United States in the hope of reuniting with his mother. Fabricio filed a parentage petition and a request for SIJS findings. The court declined to make the SIJS findings "because there has not been a judicial determination of parentage of other parent [JC]." (citing *Bianka M.*)¹⁴ Fabricio is happy in the United States with his mother, and he likes going to school. He wants to continue studying to become an engineer so he can have a good life. Unfortunately,

¹⁴ Motion of *Amici Curiae* in Support of Petitioner Bianka M. Requesting Judicial Notice ("RJN"), Ex. A, ¶ 9.

without the predicate factual findings necessary for SIJS relief, Fabricio could be deported to El Salvador, where he has nowhere to go and no one to care for him.

- **Jaqueline**

Jaqueline was born in Guatemala where she lived with her mother. When Jaqueline was two, her mother came to the United States, leaving Jaqueline in the care of her maternal grandmother and grandfather. Jaqueline has never had a relationship with her alleged father, whom she only has met once, briefly, when she was eight. She has not seen or spoken to him since that fleeting encounter and he has never supported Jaqueline financially or emotionally. When Jaqueline was thirteen, she became pregnant. Her son's father was abusive to her. Her grandmother became ill and there were no other family members to care for Jaqueline or her son, so she came to the United States to live with her mother. Jaqueline filed a parentage petition requesting a maternity finding, sole custody to her mother and a request for SIJS findings. Jaqueline did not know where her alleged father was living, but her attorneys were able to locate him in Guatemala and serve him with notice of the proceedings in California. Although her alleged father expressed no interest in the proceedings when he was provided notice, the trial court declined to make the SIJS findings because her "alleged biological father is an indispensable party who should be joined as a respondent in this case, pursuant to the *Bianka M.* case."¹⁵ Jaqueline is happy in the United States and feels safe here. Jaqueline is able to attend high school and hopes to graduate, go on to college, and become a doctor. Unfortunately, without the SIJS factual findings, Jaqueline cannot avail herself of SIJS relief and could be forced to return to Guatemala, where she has no one to support and care for her and her young

¹⁵ RJN, Ex. B, ¶ 2.

son.

- **Santos**

Santos was born in El Salvador where he lived with his mother. Santos has never met or communicated with his father, who immediately abandoned him upon learning that Santos's mother was pregnant. Santos does not even know his father's last name. When Santos was one year old, his mother moved to the United States, leaving Santos in the care of his grandparents in El Salvador. There, Santos grew up in a town where gangs held more power than the police. To escape the constant threat of gang violence, Santos came to the United States and reunited with his mother. He filed a parentage petition and a request for SIJS findings. The court declined to make them because "[t]he child's father is not a party to this action."¹⁶ Santos is happy living in the United States with his mother, his stepfather, and his four younger half-siblings. Santos is also able to attend high school with his friends, and he particularly enjoys his English class. Unfortunately, without the SIJS factual findings, Santos could not obtain SIJS relief and could be deported back to El Salvador, where gang violence is rampant and his grandparents are too old to protect him. Although the court eventually made the requisite SIJS findings, it did so only after pro bono counsel petitioned the Court of Appeal, seeking a writ of mandamus directing the trial court to change its ruling. Unfortunately, not all children will have the benefit of such extensive pro bono resources. Without the advantage of this costly assistance, *Bianka M.* will foreclose SIJS to these children—even if they present evidence as compelling as that submitted by Santos.

* * * * *

As these few of many available examples illustrate, the *Bianka M.*

¹⁶ RJN, Ex. C, ¶ 7.

decision will continue to seriously affect the lives of children in California that Congress sought to protect.

B. **A Requirement That Documents Be Translated into the Foreign Language of the Absent Parent Would Be Burdensome**

Respondent's brief proposes a new, additional requirement for SIJS applicants: that documents should be translated into the foreign language of the absent parent. Specifically, Respondent's brief advocates that the Court "should require Bianka to serve [Jorge] with copies of the relevant documents, including the requested SIJ status findings, translated into Spanish." Respondent's Brief at 26. This stems from the Court of Appeal's observation that "[t]here is no indication in the record these legal documents were translated from English into Spanish." *Bianka M. v. Super. Ct.* (2016) 245 Cal.App.4th 406, 418.

The Court should decline to impose such an onerous requirement. To impose such a broad rule would be incredibly burdensome for unaccompanied minors, particularly if the cost of the translation should fall on the applicant, and particularly if all of the documents attached to the notice should also need to be translated. Most SIJS applicants are indigent and cannot afford certified translations. Some speak rare dialects like Kanjobal and K'iche', making the burden even greater. The Court should decline to impose a rule requiring that the notice and related documents must be translated into the language of the absent parent.

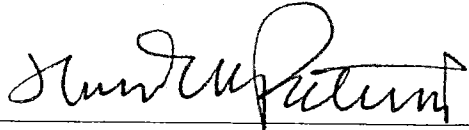
CONCLUSION

As petitioner and other *amici* have ably demonstrated, there are substantial reasons to conclude that the Court of Appeal erred in *Bianka M.* Reversal is urgently needed and important. The lives and futures of many children are at stake.

Dated: April 6, 2017

Respectfully submitted,

MORGAN, LEWIS & BOCKIUS LLP

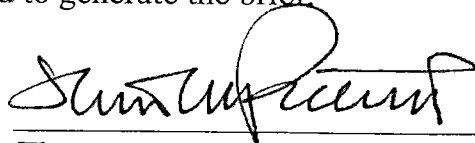
By: 
Thomas M. Peterson

Attorneys for *Amici Curiae* Legal
Services for Children, Immigration
Center for Women and Children,
Law Foundation of Silicon Valley,
and Lawyers' Committee for Civil
Rights of the San Francisco Bay
Area

CERTIFICATE OF WORD COUNT
(CAL. RULES OF COURT, RULE 8.204(C)(1))

I hereby certify that pursuant to California Rules of Court, Rule 8.204(c)(1), the attached brief, including footnotes, but excluding the caption page and this certification, contains 4,661 words, as counted by the Word 2010 word-processing program used to generate the brief

By:



Thomas M. Peterson

Attorneys for *Amici Curiae* Legal
Services for Children, Immigration
Center for Women and Children,
Law Foundation of Silicon Valley,
and Lawyers' Committee for Civil
Rights of the San Francisco Bay
Area

CERTIFICATE OF SERVICE

I, Davace Chin, declare that I am a resident of the State of California, County of San Francisco. I am over the age of eighteen years and not a party to the within action; my business address is Morgan, Lewis & Bockius LLP, One Market Street, Spear Tower, San Francisco, California 94105.

On April 6, 2017, I caused the following document to be served:

APPLICATION FOR LEAVE TO FILE *AMICI CURIAE* BRIEF AND BRIEF OF THE LEGAL SERVICES FOR CHILDREN, IMMIGRATION CENTER FOR WOMEN AND CHILDREN, LAW FOUNDATION OF SILICON VALLEY, AND LAWYERS' COMMITTEE FOR CIVIL RIGHTS OF THE SAN FRANCISCO BAY AREA AS *AMICI CURIAE* IN SUPPORT OF PETITIONER BIANKA M.

via U.S. Postal Service – by placing the document listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at San Francisco, California addressed as set forth below:

Joshua C. Lee
Miller Barondess, LLP
1999 Avenue of the Stars, Suite 1000
Los Angeles, CA 90067

Lisa R. Jaskol and Judith London
Public Counsel
610 South Ardmore Avenue
Los Angeles, CA 90005

Nickole Gretta Miller
Immigrant Defense Law Center
634 South Spring Street, 3rd Floor
Los Angeles, CA 90014

Eric Westlund and Julian Poon
Gibson Dunn & Crutcher, LLP
333 South Grand Avenue
Los Angeles, CA 90071

Allison W. Meredith
Vedder Price
1925 Century Park East, Suite 1900
Los Angeles, CA 90067

L. Rachel Lerman
Barnes & Thornburg LLP
2029 Century Park East, Suite 300
Los Angeles, CA 90067

Hon. Holly Fujie
Los Angeles Superior Court
111 North Hill Street, Dept. 87
Los Angeles, CA 90012

California Court of Appeal
Second Appellate District, Division 3
300 S. Spring Street
North Tower – Second Floor
Los Angeles, CA 90013

I declare under penalty of perjury, under the laws of the United States of America and the State of California, that the above is true and correct. Executed on April 6, 2017, at San Francisco, California.

By: 
Dayace Chin