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May 1, 2017

UNACCOMPANIED ALIEN CHILD

USCIS
Asylum Office- San Francisco
75 Hawthorne Street, 7th Floor
San Francisco, CA 94105

Re: **NAME's Eligibility for Asylum**
****A NUMBER****

Dear Asylum Officer,

I write in regards to my client, asylum applicant **NAME** (“**NAME**”). When **NAME** entered the United States, she was identified as an Unaccompanied Alien Child (“UAC”) by the Office of Refugee Resettlement (“ORR”), and therefore the United States Citizenship and Immigration Services (“USCIS”) Asylum Office has jurisdiction over **NAME**'s application.

I am also writing to request a **female asylum officer** for the interview scheduled for May 11, 2017 at 10:15 a.m.

NAME's application for asylum was received by USCIS on April 29, 2016. Together with that application, **NAME** submitted various supporting exhibits, including her declaration. These preliminary exhibits were labeled A and B. **NAME** now submits a supplementary exhibit list. Those exhibits are labeled C through H.

As her Form I- 589 and supporting documentation demonstrate, **NAME** suffered past persecution in El Salvador on account of her membership in two particular social groups: the particular social group of Salvadoran girls and women viewed as property, and the particular social group of her family as defined by kinship ties.

Additionally, **NAME** faces serious harm if she is returned to El Salvador, and has a well-founded fear of future persecution there.

For the foregoing reasons, **NAME** merits a grant of asylum.

SUMMARY OF FACTS

The facts in this summary are drawn from the declaration of ****NAME**** in support of her application for asylum (Exhibit (“Exh.”) A), except where otherwise indicated.

****NAME**** was born on ***DATE*** in ****PLACE****, El Salvador. Exh. B (Birth Certificate of ****NAME****). When ****NAME**** was five years old, her father left El Salvador for the United States, and her mother soon joined him. ****NAME****, still a very young child, was left in the care of her paternal grandmother in ****PLACE****, El Salvador. ****NAME****'s great uncle ****PERSECUTOR****, an older man who lives next door to her grandmother, immediately began to sexually harass and intimidate her, and made ****NAME**** so terrified that she felt she had no choice but to leave for the United States.

****PERSECUTOR**** is known for harassing the women and girls in ****NAME****'s family who come to visit ****NAME****'s grandmother. When ****NAME**** was there, she remembers that he would walk behind ****NAME****'s aunts and female cousins and yell at them loudly that they were “his women.” However, ****PERSECUTOR**** became particularly obsessed with the young ****NAME**** and her then 17 year old aunt, ****AUNT****, who both lived with ****NAME****'s grandmother next door to him. He regularly stalked them, broke into their room, stole their belongings to use in shamanic rituals apparently intended to make them reciprocate his obsession, and exposed his penis to them.

****PERSECUTOR**** would routinely wait for ****NAME**** and ****AUNT**** to get out of school, follow them onto their bus home, and sit right behind them, staring at them. ****NAME**** was very afraid that he would grab her from behind and try to hurt her. He would tell ****NAME**** and ****AUNT**** that he “was going to fuck their pussies and suck their tits.” Exh. D. ****PERSECUTOR**** would also often climb a tree in the yard so he could watch ****NAME**** and ****AUNT**** inside their grandmother's house, especially when ****NAME****'s grandmother was out.

****NAME**** was most scared when her grandmother left the house, because whenever ****PERSECUTOR**** knew she was not home, he would stand where the girls could see him, pull down his pants, touch his penis, and stare at them. If ****NAME**** didn't look at him initially, he would make noises to try to get her to look. ****PERSECUTOR**** would also sit at his window and stare at ****NAME**** and ****AUNT****. Through the window, ****NAME**** could see nude dolls all over his bed.

To go to the bathroom, ****NAME**** would have to walk outside down a set of stairs. ****PERSECUTOR**** would routinely wait for her to come outside, watch her as she walked down to the bathroom, and enter her grandmother's yard once ****NAME**** was in the bathroom. ****NAME**** was terrified that he would hurt her when she was outside and that “nobody would be able to hear [her] scream for help.”

****PERSECUTOR**** apparently believes in witchcraft, and would often try to use powders and rituals from a passing brujo, or shaman, apparently believing that they would make ****NAME**** and ****AUNT**** reciprocate his obsession. The brujo would come to ****PERSECUTOR****'s house next door. ****NAME**** saw the brujo sell ****PERSECUTOR**** little 2-3 inch bags, and could hear ****PERSECUTOR**** talking to him about using the powders and rituals on ****NAME**** and ****AUNT****.

If **NAME** and **AUNT** left food on their kitchen table, they would sometimes come back to find that **PERSECUTOR** had snuck in to their house and sprinkled some sort of white powder all over their food. **PERSECUTOR** would also often sneak into **NAME**'s grandmother's yard and throw some sort of white powder on **NAME** and **AUNT**'s clothes while they were hanging on the clothesline. **NAME** personally saw him do it once, and would often find the powder on her clothes. **PERSECUTOR** also often stole **NAME** and **AUNT**'s clothes.

When they left the house, **NAME** and **AUNT** would often return to find that **PERSECUTOR** had been in their bedroom, and had left the little 2-3 inch bags they saw the brujo sell him on top of their beds. The bags were filled with burnt pieces of their clothes, some white powder, burnt sticks, and clippings of hair. **NAME** was terrified of **PERSECUTOR** constantly breaking into her home and her bedroom.

NAME's grandmother often argued with **PERSECUTOR**, trying to get him to stop harassing **NAME** and **AUNT**. **PERSECUTOR** told **NAME**'s grandmother that she was going to die. *See also* Exh. E. **PERSECUTOR** would often buy puppies, and during one argument, he grabbed three puppies, put them on a table in front of **NAME**'s grandmother, and sawed off their tails with a knife. **PERSECUTOR** also killed **NAME**'s grandmother's entire flock of 30 chickens by hitting them with rocks from a slingshot, saying that they were "dirty."

NAME's grandmother reported **PERSECUTOR**'s daily harassment of **NAME** and **AUNT** to the police multiple times, telling them that **PERSECUTOR** regularly broke into their home, stole the girls' clothes, exposed his penis to them, and followed them back and forth from school. The police refused to take any action to help **NAME**, stating that what **PERSECUTOR** was doing was "not a crime." They told **NAME**'s grandmother to "put up a big wall" between their houses "so there won't be any problems" and to just "let him live his life." **NAME**'s grandmother eventually built a wall to try to keep **PERSECUTOR** away, but it did nothing to deter him.

Out of numerous reports of harassment, the police took action against **PERSECUTOR** only once: they arrested him for trying to attack **NAME**'s grandmother's partner, a man, who would try to defend **NAME** and **AUNT** when he was around and whom **PERSECUTOR** regularly threatened to kill. The police told **NAME**'s grandmother that they would hold **PERSECUTOR** "only for one day," and released him. They continued to insist that what **PERSECUTOR** was doing to **NAME** was not a crime.

After years of worsening harassment and knowing that the police would not protect her, **NAME**'s family decided that the only way to keep her safe from **PERSECUTOR** was for her to flee El Salvador. **NAME**'s only other relatives who might have taken her in in El Salvador, her maternal grandparents, are regularly threatened, extorted, and robbed by gang members.

When **NAME** was 11 years old, she traveled though Guatemala and Mexico and reached the United States border near Hidalgo, Texas, where she was found by immigration officials. She was eventually reunited with her family in **PLACE**, where she goes to school, plays soccer, and plays with her younger brother and her younger sister. **NAME**'s regular night terrors about **PERSECUTOR** have slowly become less frequent. Exh. C.

****NAME**** is now # years old and is terrified of returning to El Salvador. If she is deported, she will have nowhere to go but her grandmother's house. Once there, ****NAME**** is sure that ****PERSECUTOR**** will harass her like he did before, and ****NAME**** is especially afraid that his behavior will escalate. ****PERSECUTOR**** has threatened to kill both ****NAME**** and her grandmother in the past. Exh. E.

****NAME**'s Eligibility for Asylum**

In order to be eligible for asylum, an applicant must have suffered past persecution or have a well-founded fear of persecution on account of one or more of the five grounds enumerated in INA § 101(a)(42)(A): race, religion, nationality, membership in a particular social group, or political opinion. See INA § 101(a)(42)(A); INS v. Elias-Zacarias, 502 U.S. 478, 481-82 (1992). The applicant's well-founded fear must be both subjectively genuine and objectively reasonable. Mgoian v. I.N.S., 184 F.3d 1029, 1035 (9th Cir. 1999). In addition, race, religion, nationality, membership in a particular social group, or political opinion must be at least one central reason for persecuting the applicant. INA § 208(b)(1)(B)(i). Furthermore, the source of the persecution must be the government, a quasi-official group, or persons or groups that the government is unwilling or unable to control. See Avetovo-Elisseva v. INS, 213 F.3d 1192, 1196 (9th Cir. 2000). Moreover, an applicant must demonstrate that she could not reasonably relocate within her country of origin to avoid persecution. 8 C.F.R. § 208.13(b)(2)(ii). ****NAME**** meets this standard.

The Harm **NAME**** Suffered Constitutes Persecution**

****NAME**** suffered harm in El Salvador rising to the level of persecution. This harm occurred when she was a child. Therefore special consideration should be given, as children may be more susceptible to harm than adults and may experience it differently. Hernandez-Ortiz v. Gonzalez, 496 F.3d 1042, 1046 (9th Cir. 2007). The United Nations High Commissioner for Refugees Guidelines for Child Asylum Claims under Articles 1(A)(2) and 1(F) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees ("UNHCR Child Asylum Guidelines") states:

Actions or threats that might not reach the threshold of persecution in the case of an adult may amount to persecution in the case of a child...Immaturity, vulnerability, undeveloped coping mechanisms and dependency as well as the differing stages of development and hindered capacities may be directly related to how a child experiences or fears harm.

UNHCR Child Asylum Guidelines, at ¶ 15, available at <http://www.unhcr.org/refworld/docid/4b2f4f6d2.html>.

In addition, memories of traumatic events can linger in a child's mind and may result in ongoing, long-term psychological harm. Id. at ¶ 16.

Because persecution encompasses emotional and psychological harm, evidence of physical harm is not required to establish persecution. Mashiri v. Ashcroft, 383 F.3d 1112, 1120 (9th

Cir. 2004); Kovac v. INS, 407 F.2d 102, 106-107 (9th Cir. 1969) (in amending section 243(h), Congress intended for persecution to include more than bodily harm: “tyranny over the mind and spirit of a person has been demonstrated as more fearsome than the ancient measures of torture”); Matter of O-Z- & I-Z, 22 I. & N. Dec. 23, 25 (BIA 1998) (holding that persecution “encompasses a variety of forms of adverse treatment, including non-life threatening violence and physical abuse or non-physical abuse forms of harm”). Death threats without any accompanying physical harm, for example, can rise to the level of persecution. Rios v. Ashcroft, 287 F.3d 895, 900 (9th Cir. 2002) (citing Ernesto Navas v. INS, 217 F.3d 646, 658 (9th Cir. 2000), to state that “death threats alone can constitute persecution”).

Rape and sexual assault are also well-established forms of persecution. See Boer-Sedano v. Gonzales, 418 F.3d 1082, 1088 (9th Cir. 2005) (forced sex is past persecution); Shoafera v. INS, 228 F.3d 1070, 1075 (9th Cir. 2000) (rape is persecution); Lopez-Galarza v. INS, 99 F.3d 954 (9th Cir. 1996) (rape and abuse constitute persecution); Lazo-Majano v. INS, 813 F.2d 1432 (9th Cir. 1987) (rape and other gender-based violence is persecution) (overruled in part by Fisher v. INS, 79 F.3d 954 (9th Cir. 1996)(en banc)). The threats of rape and sexual violence are also serious threats, and these specific forms of harms are often gender-specific and more often made towards women to degrade, control and/or terrorize. AOBTC Guidelines for Female Asylum Applicants and Gender-Related Claims, USCIS, Asylum Division, March 12, 2009, at 10-11.

Furthermore, “[i]n addition to the many forms of persecution adults may suffer, children may be particularly vulnerable to sexual assault.... and other forms of human rights violations.” AOBTC Guidelines for Children’s Asylum Claims at 39.

As a young child, **NAME** was subjected to persecution in the form of daily sexual harassment, indecent exposure, stalking, and intimidation by her uncle **PERSECUTOR**, who has now threatened to kill her if she returns to El Salvador. **PERSECUTOR** constantly followed **NAME** back and forth from school, told her he would “fuck her pussy and suck her tits,” watched her while she was inside her house and when she went to the bathroom, stole her clothes, snuck into her bedroom to perform rituals intended to make her reciprocate his obsession, and exposed his penis to her. **NAME** was terrified that **PERSECUTOR** would one day catch her alone and that “nobody would hear [her] scream for help.”

The fact that **NAME** was subjected to years of mental suffering from the constant sexual harassment and intimidation **PERSECUTOR** inflicted on her suffices to establish that she suffered harm rising to the level of persecution, especially in light of the fact that she experienced these forms of harm as a child. Country conditions also demonstrate that Salvadoran women and female children like **NAME** lack adequate protection from such sexual harassment, intimidation, and threats.

NAME Suffered Past Persecution on Account of her Membership in the Particular Social Group Salvadoran Girls Viewed as Property, Defined by Her Gender, Age, Ethnicity, and Status within Salvadoran Society.

Salvadoran Girls Viewed as Property are a Cognizable Social Group

The Board and the Ninth Circuit have provided a framework for determining what constitutes a particular social group. In Matter of Acosta, the Board held that a particular social group referred to individuals who hold a “common, immutable characteristic,” which may be “an innate one such as sex, color, kinship ties, or in some circumstances ... a shared past experience” 19 I. & N. Dec. 211, 233-234 (BIA 1985), *overruled in part on other grounds by* In re Mogharrabi, 19 I. & N. Dec. 439 (BIA 1987). The Board specified that the immutable characteristic must be one “that the group either cannot change, or should not be required to change because it is fundamental to their individual identities or consciences.” *Id.* The Board has further clarified that a particular social group must possess social distinction and particularity. See e.g., Matter of W-G-R-, 26 I. & N. DEC. 208 (BIA 2014); Matter of M-E-V-G-, 26 I. & N. Dec. 232 (BIA 2014); Matter of S-E-G-, 24 I. & N. Dec. 579, 588 (BIA 2008); Matter of C-A-, 23 I. & N. DEC. 951, 959-961 (BIA 2006). However, the particular social group does not require a ‘voluntary relationship,’ ‘cohesiveness,’ or strict ‘homogeneity among group members.’” In re A-M-E- & J-G-U-, 24 I. & N. Dec. 69, 75-76 (BIA 2007).

Though the Ninth Circuit formerly required a group’s members to be “united by a voluntary association or an innate characteristic that is so fundamental to the identities or consciences of its members that [they] either cannot or should not be required to change it,” Hernandez-Montiel v. INS, 225 F.3d 1084 (9th Cir. 2000), it has explicitly dropped the voluntariness requirement. See Perdomo v. Holder, 611 F.3d 662, 666 (9th Cir. 2010). The current Ninth Circuit definition of a “particular social group” tracks the Board’s construction as clarified in 2014’s Matter of W-G-R: the social group must be particular – sharing a “discrete,” rather than “amorphous,” immutable characteristic – and socially distinct – perceived by “society in general” to be defined by a shared characteristic. Reyes v. Lynch, 842 F.3d 1125, 1131-32 (9th Cir. 2016) (citing 26 I. & N. DEC. 208 at 214, 217).

The Ninth Circuit has noted that the size and breadth of a group alone is not a disqualifying factor, and that girls or women in a specific country can constitute a particular social group. In Perdomo v. Holder, the court stated that since 2005 it has “clearly acknowledged that women in a particular country, regardless of ethnicity or clan membership, could form a particular social group.” 611 F.3d 662, 667 (9th Cir. 2010) (referring to Mohammed v. Gonzales, 400 F.3d 785 (9th Cir. 2005) to hold that Guatemalan women may constitute a cognizable social group); see also Lopez-Gonzalez v. Lynch, 606 Fed.Appx. 342, 343 (9th Cir. 2015) (discussing Perdomo’s clarification of the Ninth Circuit cognizable social group standard).

In the instant case, ****NAME**** belongs to the particular social group of Salvadoran girls viewed as property.

Salvadoran Girls Viewed as Property Share Immutable Characteristics

Salvadoran girls viewed as property is a group that is united by gender, nationality, and status in society. These shared characteristics are immutable, as a person cannot change his or her gender, nationality, or how they are viewed in society. Hernandez-Montiel, *supra*. The Ninth Circuit and the Board have recognized similar groups as possessing an immutable characteristic. See Perdomo v. Holder, 611 F.3d 662, 668 (9th Cir. 2010) (holding that young women in Guatemala subject to femicide may be a social group and rejecting that a person is ineligible for social group consideration because the “persecuted group may simply represent

too large a portion of a population.”); Karouni v. Gonzales, 399 F.3d 1163, 1172 (9th Cir. 2005) (holding that “all alien homosexuals are members of a ‘particular social group’”); Mihalev v. Ashcroft, 388 F.3d 722, 726 (9th Cir. 2004) (holding that Gypsies are an identifiable ethnic group and that being a Gypsy is a protected ground for asylum); Matter of A-R-C-G-, 26 I. & N. Dec. 388 (BIA 2014) (finding “married women in Guatemala who are unable to leave their relationship” constitutes a cognizable social group); In re Fauziya Kasinga, 21 I. & N. Dec. 357, 366 (BIA 1996) (holding that women who belong to a particular tribe and who oppose female genital mutilation constitute a cognizable social group).

The Ninth Circuit and Board have held that gender is an immutable characteristic. In Mohammed v. Gonzales, the Ninth Circuit held that gender is an “innate characteristic” that is “fundamental to [one’s] identit[y].” 400 F.3d 785 (9th Cir. 2005). Moreover, in the seminal decision of Acosta, the Board expressly held that one’s sex is a prototypical example of an immutable characteristic. Matter of Acosta, 19 I. & N. Dec. at 233-34; see also Matter of A-R-C-G-, 26 I. & N. Dec. at 392 (“the group is composed of members who share the common immutable characteristic of gender”). USCIS guidance also states that gender is an immutable trait. USCIS AOBTC Female Asylum Applicants and Gender-related Claims, USCIS, RAI0, Asylum Division, March 12, 2009, at 30.

Furthermore, in the instant case, the status of “viewed as property” is an immutable trait. In the DHS L-R- Brief, DHS stated that an applicant’s status within a domestic relationship can be immutable. DHS L-R- Brief, at 16. In determining if a status is immutable, something that the applicant can or could not change, an adjudicator must consider the “context of the social, political, and historical conditions of the country.” Id. “[A]ll relevant evidence should be considered including the applicant’s individual circumstances and country conditions information about the applicant’s society.” Id. at 16-17. In the instant case, country conditions reports regarding El Salvador are replete with violence against children, demonstrating that children are viewed as property in Salvadoran society. Exh. F4 (Center for Gender and Refugee Studies, *Childhood and Migration in Central and North America: Causes, Policies, Practices and Challenges*, February 2015)(“El Salvador is a highly patriarchal society in which women are subordinate to men; within that context, children are viewed as having even fewer rights. Children are often treated as if they were simply the property of their parents.”); Exh. F5 at ¶ 19 (Roberto Rodriguez Melendez, *Declaration on the Situation of Violence Against Children in El Salvador*, November 2014)(“Underlying the violence and abuse children and adolescents experience in El Salvador are pervasive cultural norms and views of children that place them in the most vulnerable position in the Salvadoran social structure. Children and adolescents in El Salvador are seen as the property of their parents or other caretakers, who feel they can treat children any way they wish.”) Thus, there was nothing that ****NAME**** could have done to change her status of being viewed as property.

The Social Group of Salvadoran Girls Who Are Viewed as Property Possesses Social Distinction and Particularity

The Board has recently affirmed the importance of social distinction (previously referred to as “social visibility”) and particularity as a factor in the particular social group determination. See Matter of M-E-V-G-, 26 I. & N. Dec. 227 (BIA 2014); Matter of W-G-R-, 26 I. & N. Dec. 208 (BIA 2014). In addition to possessing the requisite immutable and fundamental characteristics, Salvadoran girls who are viewed as property have social distinction and particularity.

In Matter of M-E-V-G-, the Board reaffirmed that the “social visibility” element is required to establish a cognizable particular social group and upheld the progeny of cases laying out this requirement. See, e.g. Matter of S-E-G-, 24 I. & N. Dec. 579 (BIA 2008); In Re A-M-E- & J-G-U-, 24 I. & N. Dec. 69 (BIA 2007); Matter of C-A-, 23 I. & N. Dec. 951, 957 (BIA 2006). However, the Board clarified that “social visibility” does not mean literal or “ocular” visibility and renamed the element as “social distinction.” Matter of S-E-G- 26 I. & N. Dec. at 236. The Board held that “social distinction” is determined by the perception of the society in question. Id. The Board explained:

The particular social group analysis does not occur in isolation, but rather in the context of the society out of which the claim for asylum arises. Thus, the ‘social distinction’ requirement considers whether those with a common immutable characteristic are set apart, or distinct, from other persons with the society in some significant way. In other words, if the common immutable characteristic were known, those with the characteristic in the society in question would be meaningfully distinguished from those who do not have it. A viable particular social group should be perceived within the society as a sufficiently distinct group. The members of a particular social group will generally understand their own affiliation with the grouping, as will other people in the particular society.

Matter of M-E-V-G-, 26 I. & N. Dec. at 238.

In Matter of A-R-C-G-, the Board found that the social group “married women in Guatemala who are unable to leave their relationship” is socially distinct. 26 I. & N. Dec. at 393-94. The Board held that:

When evaluating the issue of social distinction, we look to the evidence to determine whether a society ... makes meaningful distinctions based on the common immutable characteristic of being a married woman in a domestic relationship that she cannot leave. Such evidence would include whether the society in question recognized the need to offer protection to victims of domestic violence, including whether the country has criminal laws designed to protect domestic abuse victims, whether those laws are effectively enforced, and other sociopolitical factors.

Id. at 394. The Board found that the “unrebutted evidence that Guatemala has a culture of ‘machismo and family violence’” supported the existence of social distinction. Id.

Country conditions reports demonstrate that Salvadoran girls are generally recognizable by others in the society. Exh. F - H. Moreover, the evidence in the instant case demonstrates that Salvadoran girls are much more likely than other Salvadorans to suffer sexual assault, be kidnapped, and be forced to perform labor. Exh. F5.

In the instant case, **NAME** asked her grandmother to protect her from **PERSECUTOR**'s constant sexual harassment and intimidation, and her grandmother reported **PERSECUTOR** to the police multiple times. Exh. A. However, the police constantly refused to take any action, stating that **PERSECUTOR**'s sneaking into **NAME**'s bedroom, stealing her clothes, exposing his penis to her, and stalking her every day when she left the house were not crimes. *Id.* The police took action to stop **PERSECUTOR** exactly once: after he tried to attack **NAME**'s grandmother's male partner. *See also* Exh. E. However, the police released **PERSECUTOR** after one day, and continued to tell **NAME**'s grandmother that **PERSECUTOR**'s harassment of **NAME** was not their problem. Moreover, country conditions clearly demonstrate that Salvadoran society perceives girls as property of their families. Exh. F5 (“El Salvador is among the most dangerous places in the world for a child or adolescent to live. El Salvador is known internationally for its very high levels of violence, and recently for having the highest rate of murder of children in the world. . . . [A]dolescents make up the vast majority (92%) of all homicide victims in the country, and female adolescents and female children are twice as likely to become victims of rape, as compared to adult women.”). This evidence reflects a societal view that Salvadoran girls’ status is such that they are a segment of society that will not be accorded protection from harm inflicted by virtue of their position in society.

NAME's social group has unifying characteristics of gender, nationality, and being viewed as property. Consequently, **NAME** has shown that she possesses the social distinction and particularity that Board precedent requires and that she is part of a cognizable social group.

NAME Was Persecuted on Account of Her Membership in This Particular Social Group

To demonstrate nexus, it is sufficient for the applicant to show that a protected ground was a “central reason” for the harm suffered. 8 U.S.C. § 1158(b)(1)(B)(i) (emphasis added). The applicant may make making this showing with either direct or circumstantial evidence. Parussimova v. Mukasey, 555 F.3d 734, 741 (9th Cir. 2009). **NAME** is thus not required to demonstrate that a protected ground was the dominant reason her persecutor **PERSECUTOR** harmed her; even if he had other motives, such as a desire to feel powerful, those mixed motives would not prevent a finding that **NAME** was persecuted on account of her membership in a particular social group. What matters is that **NAME** was threatened and harassed as a result of being a Salvadoran girl viewed as property.

DHS has held that in cases of domestic violence, evidence can demonstrate than an abuser targets the victim because of the “perception of the subordinate status she occupies within that domestic relationship.” DHS L-R- Brief, at 15. DHS argued that this nexus can be demonstrated by actions of the abuser and by general country conditions regarding the status of women in domestic relationships. *Id.* DHS states that these “factors would work in concert to create the trait which accounts for [the abuser’s] inclination to target her for abuse, whether that trait is interpreted as relating to her being perceived as property by virtue of her status in the domestic relationship, or as relating to her presence in a domestic relationship that she is unable to leave.” *Id.* at 15-16. In Matter of A-R-C-G-, DHS conceded that one central reason the respondent was subjected to beatings, rapes, and death threats was on account of her

membership in the particular social group of “married women in Guatemala who are unable to leave their relationship.” 26 I. & N. Dec. at 395.

In patriarchal societies, such as El Salvador ““women are seen as someone’s property; there is an idea that women can be ‘corrected’, and this legitimates violence against [them],’ Silvia Juárez, a lawyer with the Organization of Salvadoran Women for Peace (ORMUSA), told IPS.” Exh. E.

****PERSECUTOR**** was well aware that he could openly sexually harass, stalk, and threaten ****NAME**** without fear of reprisal because she was a Salvadoran girl viewed as the property of her male family members, such as himself. He personally viewed his female family members as his property, following them around and yelling that they were “his women.” The Salvadoran police legitimated ****PERSECUTOR****’s belief, refusing to intervene in any way and declining to even consider that continual sexual harassment and intimidation of ****NAME**** could possibly be a crime.

It can therefore be demonstrated that one central reason ****NAME**** was targeted for persecution was on account of her membership in the particular social group of Salvadoran girls who are viewed as property.

****NAME**** Suffered Past Persecution On Account of Her Membership in a Particular Social Group of ****NAME****’s Family Defined by Kinship Ties

*****NAME****’s Family Is a Cognizable Particular Social Group, and She Faces Persecution Because of Her Status As a Member of Her Family.*

The Ninth Circuit has held that the immediate members of a certain family would constitute “a prototypical example of a ‘particular social group’”. Sanchez-Trujillo v. INS, 801 F.2d 1571, 1576 (9th Cir. 1986). DHS has also acknowledged that a family could be a social group for purposes of asylum, where the evidence establishes that the victim was targeted because of membership in the family. DHS L-R- brief at 16. In Lin v. Ashcroft, the Ninth Circuit clarified that family qualifies as a social group “[w]here family membership is a sufficiently strong and discernible bond that it becomes the foreseeable basis for personal persecution.” Jie Lin v. Ashcroft, 377 F.3d 1014, 1029 (9th Cir. 2004).

In the recent decision of Rios v. Lynch, 807 F.3d 1123 (9th Cir. 2015), the Ninth Circuit applied the Board’s refined framework for establishing a particular social group and held that “the family remains the quintessential particular social group.” Id. at 1128. The Court held that “few groups are more readily identifiable than the family.” Id. at 1128 (internal quotations omitted) citing Crespín-Valladares v. Holder, 632 F.3d 117, 125 (4th Cir. 2011). The Court affirmed that “family” can be a cognizable social group on its own, without being intertwined with another protected ground. Id. In Rios v. Lynch, the respondent asserted that he feared harm in Guatemala because a gang had targeted his family after his cousin witnessed the gang murder the respondent’s father. Id. at 1126-1128. The Court held that the Board erred in not addressing the family aspect of the respondent’s claim. Id. at 1128.

In the instant case, ****NAME****’s family is a group that is defined by kinship ties, which are immutable traits. Furthermore, the social group of ****NAME****’s family possesses social

distinction and particularity. The evidence demonstrates that families in El Salvador are perceived as a unit and that members of ****NAME****'s family are recognizable by members of Salvadoran society. See Exh. F - H. ****NAME****'s uncle ****PERSECUTOR**** feels that he has the right to harass and abuse his female family members. He is known for singling out women and girls in their family for harassment, calling them "his women." He became fixated on ****NAME**** and ****AUNT**** and subjected them to intense sexual harassment in part because they were young, vulnerable female members of his family.

Because ****NAME**** Has Established that She Suffered Past Persecution On Account of Her Membership in Particular Social Groups, She is Entitled to a Presumption of a Well-Founded Fear of Future Persecution.

****NAME**** suffered past persecution on account of her membership in particular social groups, and is therefore entitled to a presumption of a well-founded fear of future persecution. 8 C.F.R. § 208.13(b)(1). To overcome this presumption, the government must prove by a preponderance of the evidence that circumstances in El Salvador have changed such that she no longer has such a fear, or that she can avoid future persecution through reasonable internal relocation. 8 C.F.R. § 208.13(b)(1)(i)(A)-(B).

There has been no fundamental change of circumstances to negate ****NAME****'s well-founded fear of returning to El Salvador. She remains a member of her family and a Salvadoran girl viewed as property, and there is no evidence that suggests any change in her persecutor ****PERSECUTOR****'s intention to harm her. Forcing ****NAME**** back to El Salvador still means forcing her to return to the house next door to her persecutor, who has threatened that he will kill her if she comes back. She is # years old, and cannot be expected to try to live on her own in El Salvador; USCIS guidelines for adjudicating children's asylum claims state that it is presumptively reasonable to expect a child to internally relocate. AOBTC Guidelines, supra, at 42.

Additionally, country conditions evidence clearly demonstrates that gang violence and violence against Salvadoran girls continues to be pervasive throughout El Salvador. Exh. F - H. ****NAME****'s paternal grandparents, the only other family members in El Salvador who could take her in, are regularly robbed and threatened by gang members. Exh. A. They fear for ****NAME****'s life if she is sent to live with them because they cannot protect her from the gang members, who regularly kidnap, rape, and physically abuse young girls there. Id.; see also Exh. E. Therefore, it is neither reasonable nor safe to expect ****NAME**** to relocate in El Salvador.

****NAME**** thus has an un rebutted presumption of a well-founded fear of future persecution.

****NAME**** Has an Independent Well-Founded Fear of Persecution on Account of Her Membership in Her Particular Social Groups.

To qualify for asylum, an applicant's well-founded fear of persecution must be subjectively genuine and objectively reasonable. See Mgoian v. INS, 184 F.3d 1029, 1035 (9th Cir. 1999); Korablina v. INS, 158 F.3d 1038, 1044 (9th Cir. 1998). An applicant satisfies the subjective component by credibly testifying that she genuinely fears persecution. Id. An applicant

generally satisfies the objective component by either establishing that she has suffered persecution in the past or by showing that she has a good reason to fear future persecution. *Id.* Even if there is only a one-in-ten possibility of an event occurring, such a possibility can give rise to a well-founded fear of persecution. See *INS v. Cardoza-Fonseca*, 480 U.S. 421, 431 (1987).

In the instant case, **NAME**'s fear of returning to El Salvador is subjectively genuine. Exh. A. In support of her case, **NAME** submits a declaration stating that she suffered constant daily sexual harassment and intimidation from her uncle **PERSECUTOR**, who remains in the house next to her grandmother's, and that she continues to fear returning to El Salvador. Exh. A. Since she left, **PERSECUTOR** has also said that he will kill her if she returns. **NAME** knows that the police will do nothing to protect her, as they have said many times that what she suffered was "not a crime" and refused to intervene in any way.

NAME's fear is objectively reasonable, as she has suffered past persecution on account of a protected ground (see discussion above). Its objective reasonability is also supported by country conditions documenting the fact that girls in El Salvador are frequently targeted for harassment and violence and are not provided with protection. Exh. C-D; Exh. G.

Therefore, **NAME** can establish that she has an independent well-founded fear of future persecution in El Salvador.

The Salvadoran Government is Unwilling or Unable to Control NAME's Persecutor

An asylum applicant must demonstrate that the persecution was or will be inflicted by either the government or by persons the government is unable or unwilling to control. *Avetova-Elisseva v. INS*, 213 F.3d 1192, 1196 (9th Cir. 2000). In DHS' Brief in *Matter of R-A-*, DHS took the position that evidence of a pattern of government unresponsiveness to the applicant or to individuals similarly situated to the applicant would satisfy this requirement. They stated that the applicant's attempts to seek protection were a relevant factor, but that evidence that it would have been futile and potentially dangerous to seek help would also suffice.

In this case, the Salvadoran government's unwillingness to control the persecutor is clear. **NAME**'s grandmother repeatedly reported **PERSECUTOR**'s abuse to the police and tried to convince them to protect **NAME**, and was repeatedly dismissed and told to let the abuser "live his life."

More generally, country conditions demonstrate that El Salvador's laws and customs effectively deprive children such as **NAME** of any meaningful governmental protection. Exh. G2 ("[W]eaknesses and corruption in the Salvadoran security forces and the judiciary reportedly contribute to creating a high level of impunity for crimes in El Salvador. ... The judicial system is reported to be particularly inefficient and subject to corruption, a practice that in turn contributes to high levels of impunity for crimes in El Salvador, where the criminal conviction rate reportedly is less than 5 per cent.")

NAME's grandmother reported **PERSECUTOR**'s sexual harassment and intimidation of **NAME** to the police multiple times, and the police not only declined to take any action against **PERSECUTOR** but refused to take the complaints seriously. They insisted that

****PERSECUTOR****'s harassment of ****NAME**** was "not a crime," and told her grandmother to "put up a big wall" between their houses to avoid "more problems."

Country conditions and ****NAME****'s own experience with the Salvadoran police thus clearly establish that the Salvadoran government would be unwilling to protect ****NAME**** from her persecutor.

****NAME**** Faces Other Serious Harm if Returned to Guatemala and is Entitled to Humanitarian Asylum.

****NAME**** is entitled to a grant of asylum even in the absence of a well-founded fear of persecution because her past persecution was constant and severe over several years, leaving her with lasting psychological trauma, and because she faces other serious harm should she be forced to return to El Salvador. 8 C.F.R. § 208.13(b)(1)(iii)(A); Matter of Chen, 20 I&N Dec.16, 21(BIA 1989).

As a child, ****NAME**** was targeted for daily sexual harassment and intimidation by ****PERSECUTOR****. Additionally, country conditions demonstrate that ****NAME****, still a child, would be in real danger of brutal and pervasive levels of rape and physical abuse if she tried to leave her grandmother's home next door to her persecutor to live elsewhere in El Salvador.

****NAME**** warrants a grant of asylum on a humanitarian basis due to the severity of her past persecution, the psychological harm she has suffered, and the extreme levels of brutality, sexual violence, and murder against young girls in El Salvador.

Conclusion

In El Salvador, ****NAME**** suffered past persecution on account of her membership in the particular social group of her family as defined by kinship ties. She fears future persecution on account of the same protected ground. She therefore meets the eligibility requirements for asylum. Additionally, due to the severity of the persecution she suffered and other serious harm she would face on return, she merits a grant of asylum on humanitarian grounds.

Dated:

Respectfully submitted,

Attorney for Applicant