COMPLAINT FOR WRIT OF MANDAMUS — TEMPLATE

I-130 unreasonable delay. Replace everything in [BRACKETS]. Delete anything that does not apply.

This is a federal court filing. Have it reviewed by a licensed immigration attorney before you file. A flat-fee document review is far cheaper than full representation and is worth it — the venue question and the defendant list are where pro se filers get into trouble.

UNITED STATES DISTRICT COURT
FOR THE [JUDICIAL DISTRICT]
[DIVISION, IF YOUR DISTRICT USES THEM]

[YOUR FULL NAME IN CAPS],
Plaintiff,

v. Civil Action No. _____

U.S. CITIZENSHIP AND IMMIGRATION SERVICES;
[USCIS DIRECTOR NAME], Director, U.S. Citizenship and Immigration Services, in [his/her] official capacity;
[DHS SECRETARY NAME], Secretary of Homeland Security, in [his/her] official capacity;
[ATTORNEY GENERAL NAME], Attorney General of the United States, in [his/her] official capacity; and
THE UNITED STATES ATTORNEY FOR THE [DISTRICT], in an official capacity,

Defendants.

[District name goes in the court's own format — check the court's website for the exact wording and whether it uses divisions. Look up every officeholder on the day you file — these change, sometimes mid-year, and some US Attorney seats sit vacant or in acting status. Ask your reviewer whether a service center director or field office director should also be named.]

COMPLAINT FOR WRIT OF MANDAMUS

Plaintiff [YOUR NAME], appearing pro se, brings this action to compel Defendants to adjudicate [his/her] Form I-130, Petition for Alien Relative, which has been pending without decision for [X] months, and alleges as follows:

INTRODUCTION

1. Plaintiff is a United States citizen who filed a Form I-130 petition on behalf of [his/her] [spouse/parent/child] on [FILING DATE]. More than [X] days have elapsed. USCIS has taken no adjudicative action, has issued no Request for Evidence, and has provided no explanation for the delay despite [SUMMARIZE YOUR INQUIRIES]. Plaintiff seeks an order compelling Defendants to adjudicate the petition.

[Keep the introduction to one paragraph. It is the judge's first impression and should state the whole case in five sentences.]

JURISDICTION AND VENUE

2. This Court has jurisdiction under 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1361 (mandamus), and the Administrative Procedure Act, 5 U.S.C. §§ 701–706. Relief is sought under 5 U.S.C. § 706(1), which authorizes a court to compel agency action unlawfully withheld or unreasonably delayed.

3. Venue is proper in this district under 28 U.S.C. § 1391(e), which provides that a civil action against an officer or agency of the United States may be brought in the judicial district where the plaintiff resides. [STATE YOUR CONNECTION TO THE DISTRICT.]

[Venue is the single most important thing to get reviewed. If you live outside the US, your claim to a district rests on something like voter registration or domicile and is genuinely arguable — a government attorney will test it. Do not guess.]

4. No administrative remedy remains available to Plaintiff. [IF THE GET INQUIRY DATE TOOL BARS YOU: USCIS's own Get Inquiry Date tool states that Plaintiff may not submit a case inquiry until (DATE).]

PARTIES

5. Plaintiff [YOUR NAME] is a citizen of the United States. [ONE OR TWO SENTENCES OF BACKGROUND.] [He/She] is the petitioner on Form I-130, receipt number [RECEIPT NUMBER].

6. Defendant U.S. Citizenship and Immigration Services is the federal agency responsible for adjudicating immigration benefit petitions, located at 5900 Capital Gateway Drive, Camp Springs, Maryland 20588.

7. Defendant [USCIS DIRECTOR] is the Director of USCIS and is sued in [his/her] official capacity. [He/She] is responsible for the administration of the agency and its adjudicative functions.

8. Defendant [DHS SECRETARY] is the Secretary of Homeland Security and is sued in [his/her] official capacity. USCIS is a component of the Department of Homeland Security.

9. Defendant [ATTORNEY GENERAL] is the Attorney General of the United States and is sued in [his/her] official capacity.

10. Defendant United States Attorney for the [DISTRICT] is sued in an official capacity.

FACTUAL BACKGROUND

A. The I-130 Petition

11. Plaintiff is a United States citizen. [BACKGROUND: where you have lived, how you came to be where you are, your marriage or relationship, children and their citizenship status, and any continuing US ties such as voter registration and tax filings.]

12. On [FILING DATE], Plaintiff filed Form I-130, Petition for Alien Relative, on behalf of [his/her] [spouse/parent/child]. The petition was filed [online/by mail] and receipted as [RECEIPT NUMBER]. The beneficiary resides in [COUNTRY] and the petition is designated for consular processing.

13. As the [spouse/parent/child] of a United States citizen, the beneficiary is an immediate relative under 8 U.S.C. § 1151(b)(2)(A)(i). No numerical visa limitation applies to this category. The sole impediment to the beneficiary proceeding toward an immigrant visa is USCIS's adjudication of the petition.

[The no-visa-cap point matters and is worth stating plainly. It is what makes TRAC factor three — competing agency priorities — fall your way. If you are in a preference category instead, say so honestly and argue that approval still starts the visa clock sooner.]

14. As of the filing of this Complaint, the publicly available case status remains "[STATUS TEXT]", unchanged since [DATE]. USCIS has issued no Request for Evidence, no Notice of Intent to Deny, and no interview notice. Plaintiff has been notified of no action required on [his/her] part. (Exhibit A; Exhibit B.)

B. The Congressional Benchmark and USCIS Processing Data

15. In 8 U.S.C. § 1571(b), Congress declared it the sense of Congress that the processing of an immigration benefit application should be completed not later than 180 days after the initial filing of the application.

16. In 8 U.S.C. § 1572, Congress defined "backlog" as the period of time in excess of 180 days that an application has been pending, and defined "immigration benefit application" to include petitions to confer status under the Immigration and Nationality Act. A Form I-130 is such a petition.

17. Plaintiff's petition passed the 180-day mark on approximately [FILING DATE + 180 DAYS]. As of the filing of this Complaint, the petition has been in a congressionally defined backlog for [X] days.

[These three paragraphs are the statutory anchor and can be used nearly verbatim; only your dates change. Do not overstate them — "sense of Congress" is not a binding deadline, and claiming USCIS violated a statutory time limit is an error a government attorney will open with.]

18. USCIS's published processing time for Form I-130 in this category has not been stable during the pendency of Plaintiff's petition. [RECITE THE FIGURES YOU CAPTURED, IN ORDER, WITH THE CURRENT ONE LAST.] (Exhibit C.)

19. USCIS's Get Inquiry Date tool has moved correspondingly. [EARLIER DATE AND WHEN YOU WERE GIVEN IT.] As of the filing of this Complaint, the same tool returns [CURRENT DATE] — [X] months after Plaintiff's filing date. (Exhibit C.)

20. Under USCIS's own methodology, the date on which Plaintiff becomes eligible merely to inquire about [his/her] petition has receded faster than time has passed. USCIS's concept of "normal processing time" therefore provides no fixed or ascertainable standard against which the reasonableness of the delay in Plaintiff's case can be measured.

[This is the heart of the complaint. The government's defense is "within normal processing times"; this paragraph is the answer. Only cite figures you have dated screenshots of, and capture them in the same week you file.]

C. Exhaustion of Administrative Remedies

21. [EACH INQUIRY GETS ITS OWN NUMBERED PARAGRAPH: who you contacted, the date, what you received, and the exhibit reference. Include the ones that produced nothing — a non-response is exhaustion evidence.]

22. [IF APPLICABLE: Plaintiff cannot submit a service request to USCIS regarding processing delay because USCIS's own Get Inquiry Date tool places the earliest permissible inquiry date at (DATE). (Exhibit C.)]

23. [IF APPLICABLE: Plaintiff sent a demand letter to the USCIS Office of the Chief Counsel on (DATE), enclosing a copy of this Complaint and demanding adjudication within thirty days. No adjudication or substantive response was received. (Exhibit __.)]

D. Harm Caused by the Delay

24. [WHERE EVERYONE CURRENTLY LIVES AND WHAT THE DELAY PREVENTS.]

25. [YOUR SPECIFIC, TIME-SENSITIVE HARDSHIP, IF YOU HAVE ONE — a job relocation, a school enrollment deadline, a lease, a medical issue. State what it forces you to choose between.]

26. The indefinite nature of the delay has prevented Plaintiff's family from establishing any reliable timeline for relocation and from making arrangements for [schooling, housing, employment — whichever apply].

27. The harm is compounded by the two-stage structure of the process. Adjudication of the petition by USCIS is only the first stage; upon approval, the petition proceeds to the National Visa Center and then to consular processing. The consular stage operates on published, ascertainable timelines. The stage at which Plaintiff is presently stalled offers no such measure. Plaintiff is therefore held at the one stage of the process whose duration [he/she] cannot ascertain, and every month the petition remains unadjudicated is a month that does not advance [him/her] toward a stage that can be measured.

[The harm section is where generic complaints fail. Specific and documentable beats sympathetic. If you have a dated consequence — an offer that expires, a school year that starts — it belongs here.]

LEGAL ARGUMENT

28. Defendants owe Plaintiff a clear, nondiscretionary duty to adjudicate [his/her] petition. The APA requires that, within a reasonable time, each agency shall proceed to conclude a matter presented to it. 5 U.S.C. § 555(b). Section 706(1) authorizes this Court to compel agency action unreasonably delayed.

29. Courts evaluate claims of unreasonable delay under the six factors of Telecommunications Research & Action Center v. FCC, 750 F.2d 70, 80 (D.C. Cir. 1984). Each factor favors Plaintiff.

30. First, the time an agency takes must be governed by a rule of reason. [APPLY YOUR PROCESSING-TIME FACTS HERE.]

31. Second, where Congress has supplied a timetable or other indication of speed, that provides the measure of reasonableness. Congress supplied 180 days in 8 U.S.C. § 1571(b) and defined anything beyond it as a backlog in 8 U.S.C. § 1572. Plaintiff's petition has exceeded that benchmark by [X] days.

32. Third, expediting this petition would not displace agency activity of higher or competing priority. The beneficiary is an immediate relative subject to no numerical visa limitation. Adjudication of a complete petition on which no Request for Evidence has issued requires minimal agency resources.

33. Fourth and fifth, the delay affects human welfare and prejudices substantial interests. [YOUR HARM, IN ONE OR TWO SENTENCES.] The interest in the society and companionship of one's spouse and children is among the most significant interests recognized in law.

34. Sixth, Plaintiff need not establish any impropriety on the part of Defendants. Unreasonable delay alone suffices.

35. Plaintiff has pursued every administrative avenue available to [him/her] [and is barred by USCIS's own rules from submitting a service request until (DATE)]. [He/She] has no adequate alternative remedy.

[The TRAC factors are the framework every court uses. Address all six, in order, even briefly. Skipping one invites the government to argue it cuts against you.]

RELIEF REQUESTED

WHEREFORE, Plaintiff respectfully requests that this Court:

a. Assume jurisdiction over this matter;

b. Issue a writ of mandamus and an order under 5 U.S.C. § 706(1) compelling Defendants to adjudicate Plaintiff's Form I-130, receipt number [RECEIPT NUMBER], within thirty (30) days of the Court's order;

c. Award Plaintiff costs and, to the extent available, fees under the Equal Access to Justice Act, 28 U.S.C. § 2412; and

d. Grant such other relief as the Court deems just and proper.

[Mandamus compels a decision, not an approval. Never ask the court to grant the petition — it cannot, and asking signals you don't understand the remedy. Note also that pro se litigants generally cannot recover attorney fees under EAJA, since there are none; costs are still worth requesting.]

Respectfully submitted,

_____

[YOUR NAME]
[ADDRESS]
[EMAIL] · [PHONE]
Plaintiff, Pro Se

VERIFICATION

I, [YOUR NAME], declare under penalty of perjury under the laws of the United States of America that I am the Plaintiff in this action, that I have read the foregoing Complaint, and that the factual statements contained in it are true and correct to the best of my knowledge and belief.

Executed on _____.

_____
[YOUR NAME]

[Pro se complaints are normally verified. Sign in ink.]

EXHIBIT LIST

Only list exhibits you actually have. Do not include merits documents — marriage certificates, photographs, relationship evidence. This case is about the delay, not whether the petition should be approved.

Exhibit A — Filing confirmation for Form I-130, receipt number [RECEIPT NUMBER]
Exhibit B — Printouts of USCIS online case status and case history
Exhibit C — Printouts of USCIS Case Processing Times and Get Inquiry Date results
Exhibit D — [Congressional correspondence, one exhibit per office]
Exhibit E — [Other inquiry confirmations]
Exhibit F — [Demand letter and proof of mailing, if sent]

FILING AND SERVICE — PRACTICAL NOTES

These are the mechanics, not legal advice. Confirm each step against your district's local rules and with your reviewing attorney.

Filing. File in the US District Court for the district where you reside. You will need the complaint with exhibits, a Civil Cover Sheet (JS-44), and a summons form (AO-440) for each defendant. Check the current civil filing fee on the court's own fee schedule; fee waivers exist. The clerk assigns a case number and stamps the summonses.

Service under FRCP 4(i) — this is where pro se filers most often fail. Suing federal officers in their official capacity requires service on all of the following: (1) the United States Attorney for your district; (2) the Attorney General of the United States in Washington, by registered or certified mail; and (3) each agency and officer named, by registered or certified mail. Miss any one and the government's 60-day response clock never starts, and your case sits while you believe it is running. File proof of service for all three.

Serving USCIS. USCIS does not accept personal service. Summonses and complaints against USCIS or its personnel in their official capacity go by registered or certified mail to the Office of the Chief Counsel, 5900 Capital Gateway Drive, Mail Stop 2120, Camp Springs, MD 20588-

0009. They also ask for a courtesy copy by email to uscis.serviceofprocess@uscis.dhs.gov — that is in addition to the mailing, not instead of it.

What happens next. The government has 60 days to answer or move to dismiss, and often requests an extension. In practice a large share of these cases resolve during that window because an Assistant US Attorney asks USCIS to decide the case rather than litigate it. The most common outcome is adjudication followed by dismissal as moot. Contested cases run longer.