

Copy

FILED

2014 FEB 21 PM 1:46
CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

1 Brian C. Schmitt, *pro hac vice*
2 brian@hake.com
3 Hake & Schmitt
4 P.O. Box 540 (419 Main St.)
5 New Windsor, Maryland 21776
6 Tel: (410) 635-3337
7 Fax: (410) 635-3133

8
9 On behalf of: Fahad Khan, Noorulain Qureshi,
10 and Parishey Khan
11
12

13
14 **UNITED STATES DISTRICT COURT**
15 **CENTRAL DISTRICT OF CALIFORNIA**
16

17
18
19
20
21 FAHAD KHAN, M.D. and NOORULAIN)
22 QURESHI, M.D., a married couple, and)
23 PARISHEY KHAN, their daughter)

24)
25)
26)
27)
28)
29)
30)
31)
32)
33)
34)
35)
36)
37)
38)
39)
40)
41)
42)
43)
44)

v.

JOHN KERRY, U.S. Secretary of State;
MARCIA PRYCE, Chief, Waiver Review
Division, U.S. Department of State; JEH
JOHNSON, U.S. Secretary of Homeland
Security; LORI SCIALABBA, Acting Director,
U.S. Citizenship and Immigration Services;
KATHY A. BARAN, Director, California
Service Center, U.S. Citizenship and Immigration
Services; the UNITED STATES; and ERIC
HOLDER, Attorney General of the United States

Defendants.

Civil Action No:

CV14-1338 DMG PJWx

COMPLAINT FOR
DECLARATORY,
INJUNCTIVE, AND
MANDAMUS RELIEF

1 Plaintiffs by their undersigned lawyer allege as follows:

2 **I. Parties**

3 1. Plaintiff Fahad Khan, M.D. (“Dr. Khan”) is a citizen of Pakistan. He is currently
4 a resident of Los Angeles County, California. His address is 3427 Fletcher Drive, Apt. 107, Los
5 Angeles, California 90065.

6 2. Plaintiff Noorulain Qureshi, M.D. (“Dr. Qureshi”) is a citizen of Pakistan. She is
7 a resident of Los Angeles County, California. She is married to Dr. Khan and resides with him.

8 3. Plaintiff Parishey Khan (“Parishey”) is a U.S. citizen and the three-year-old
9 daughter of Drs. Khan and Qureshi.

10 4. Defendant John Kerry is the United States Secretary of State, the head of the
11 United States Department of State, an agency of the United States. He is named in his official
12 capacity. His address is: U.S. Department of State, 2201 C Street N.W., Washington, D.C.
13 20520.

14 5. Defendant Marcia Pryce is the Chief of the Waiver Review Division (“WRD”) of
15 the Bureau of Consular Affairs of the United States Department of State, an agency of the United
16 States. This office is responsible for making recommendations on waivers pursuant to 8 U.S.C. §
17 1182(e). She is named in her official capacity. Her address is: Waiver Review Division,
18 CA/VO/L/W, U.S. Department of State, 2401 E. Street, N.W. (SA-1, L-603A), Washington,
19 D.C. 20520.

20 6. Defendant Jeh Johnson is the United States Secretary of Homeland Security, the
21 head of the United States Department of Homeland Security, an agency of the United States. He

1 is named in his official capacity. His address is: U.S. Department of Homeland Security,
2 Washington, D.C. 20528.

3 7. Defendant Lori Scialabba is the Acting Director of the United States Citizenship
4 and Immigration Services (“USCIS”), which is part of the Department of Homeland Security and
5 is an agency of the United States. She is named in her official capacity. Her address is: Office
6 of the Director MS 2000, U.S. Citizenship and Immigration Services, 20 Massachusetts Ave.
7 N.W., Washington, D.C. 20529-2000.

8 8. Defendant Kathy Baran is the Director of the USCIS California Service Center, an
9 agency of the United States. She is named in her official capacity. Her address is: USCIS
10 California Service Center, P.O. Box 10129, Laguna Niguel, California 92607-1012.

11 9. Defendant Eric Holder is the Attorney General of the United States. He is named
12 in his official capacity. His address is: U.S. Department of Justice, 950 Pennsylvania Avenue,
13 N.W., Washington, D.C. 20530-0001.

14 **II. Jurisdiction and Venue**

15 10. This is an action to review administrative agency action of the U.S. State
16 Department. The action arises under the Immigration and Nationality Act of 1952, as amended
17 (the “Act”), 8 U.S.C. § 1101 et seq., and the Administrative Procedure Act (“APA”), 5 U.S.C. §
18 551 et seq. Subject matter jurisdiction is based on 28 U.S.C. §§ 1331 and 1361 (mandamus).
19 This Court may grant relief pursuant to the Act, the APA, the Declaratory Judgment Act, 28
20 U.S.C. §§ 2201 et seq., 28 U.S.C. §§ 1361, and 28 U.S.C. § 1651 (the All Writs Act).
21

1 a U.S. citizen. If a waiver is not granted, she would constantly face an exceptional risk of harm
2 from crime and random violence.

3 16. The entire family would be singled out because they are from the Muhajir
4 minority, descendants of people who migrated from India to Sindh Province, where Karachi is
5 located, after the partition of India and Pakistan in 1947. The Muhajirs are frequently the victims
6 of target killings from Pashtun and Taliban extremists. The Muhajirs are also discriminated
7 against with respect to healthcare, employment, education, and government employment.

8 17. In addition to the exceptional risk of harm to Dr. Khan's U.S. citizen daughter due
9 to the extremely dangerous conditions in Pakistan, she will also face exceptional medical and
10 psychological hardships if the waiver is not granted. She will also experience exceptional
11 educational disruption and sociocultural hardships. The chief claim of this action is that the State
12 Department must have abused its discretion, because it could not have come to its negative
13 conclusion through a correct process of reasoned decision-making.

14 18. Many foreigners come to the United States as "J-1" exchange visitors ("J-1s").
15 This is a kind of nonimmigrant (temporary) classification, as set forth in 8 U.S.C. §
16 1101(a)(15)(J).

17 19. Under 8 U.S.C. § 1182(e), there are three ways that a J-1 can become subject to
18 the two-year foreign residence requirement: (1) the J-1 program is funded by the U.S.
19 Government or the J-1's Government; (2) the J-1 is engaged in training that is on the "Skills
20 List" for the home country; or (3) the J-1 is coming to the United States for graduate medical
21 education. The foreign residence requirement prohibits a J-1 from doing certain things, such as

1 applying for permanent resident status (green card), until he has either fulfilled the requirement
2 by spending two years in his home country, or until he has obtained a waiver of the requirement.

3 20. Dr. Khan and his wife could only fulfill the requirement in Pakistan. In particular,
4 8 U.S.C. § 1182(e) provides that a J-1 subject to the requirement may fulfill it only in his country
5 of “nationality or last residence,” and “last residence” has consistently been interpreted by both
6 the USCIS and the State Department to mean a country where the person had the equivalent of
7 permanent resident status as of the time of first admission to the United States in J-1 status.

8 21. As described with more specificity below, Dr. Khan became subject to the foreign
9 residence requirement because he came to the United States in J-1 status for graduate medical
10 education. In particular, his program was sponsored by the Educational Commission for Foreign
11 Medical Graduates (“ECFMG”).

12 22. Dr. Khan’s wife, Dr. Noor Qureshi, accompanied him in J-2 status as a derivative.
13 The USCIS and State Department policy is that if a J-1 is subject to the two-year foreign
14 residence requirement, the J-2 is also deemed to be subject to the requirement. This
15 interpretation by the USCIS and the State Department has no basis in the statute or the legislative
16 history. This unlawful interpretation is being challenged in this action.

17 23. Under 8 U.S.C. § 1182(e), there are four ways that a J-1 can pursue a waiver of
18 the foreign residence requirement (these are specified below). The instant action concerns Dr.
19 Khan’s application for a waiver based on the risk of “exceptional hardships” to his U.S. citizen
20 child. This kind of waiver application commences with the filing of a DS-3035 data sheet form
21 with the State Department. This is followed by the main application, which is submitted on
22 Form I-612, with accompanying evidence, to the USCIS California Service Center.

1 **V. J-1 Waiver History (Exceptional Hardship Waiver)**

2 31. All applicants for a J-1 exceptional hardship waiver must fill out an electronic
3 Form DS-3035 on the State Department's website.

4 32. After completing the electronic Form DS-3035, the State Department's website
5 generates (1) a "Waiver Review Division Case Number," (2) a "Waiver Review Division
6 Barcode Page," (3) a "Third Party Barcode Page," (4) an electronic DS-3035 in "pdf" format
7 with the applicant's answers, (5) Supplementary Applicant Information Pages (if necessary), and
8 (6) a "Packet Assembly Checklist" and "Instruction Sheet."

9 33. All applicants for a J-1 waiver must receive a WRD Case Number from the State
10 Department, which arrives when the DS-3035 is first submitted online.

11 34. All applicants for a J-1 waiver must pay a \$215.00 filing fee to the State
12 Department for the DS-3035. After filing the DS-3035 online, the applicant must send a
13 hardcopy of the form, plus fee, to a State Department lockbox in St. Louis, Missouri.

14 35. For exceptional hardship and persecution waiver applications, the main waiver
15 application is filed with the USCIS California Service Center. The application is filed on Form
16 I-612 with accompanying evidence.

17 36. All applicants for a J-1 waiver must also pay a filing fee to the USCIS. For Dr.
18 Khan, this fee was \$585.00.

19 37. On February 12, 2013, Dr. Khan, though counsel, filled out Form DS-3035 on the
20 State Department's website to initiate the application process for a J-1 waiver.

21 38. The State Department assigned to Dr. Khan's case WRD Case Number 1008901.
22

1 39. The State Department generated a “Waiver Review Division Barcode Page” and a
2 “Third Party Barcode Page” for submission with Dr. Khan’s waiver application. Dr. Khan,
3 through counsel, paid \$215.00 to the State Department via cashier’s check dated June 27, 2013.
4 The State Department Waiver Review Division received Dr. Khan’s signed DS-3035 on July 24,
5 2013.

6 40. On August 29, 2013, Dr. Khan, through counsel, filed his Form I-612 exceptional
7 hardship waiver application with the USCIS California Service Center. The applicant was
8 assigned USCIS Case Number WAC-13-236-50960.

9 41. Dr. Khan’s I-612 materials included the WRD Case Number as well as his Form
10 DS-3035 and the barcode sheet generated by the State Department.

11 42. Dr. Khan is statutorily eligible to seek an exceptional hardship waiver because he
12 has one qualifying relative, who is a co-plaintiff in this action: his U.S. citizen daughter,
13 Parishey Khan.

14 43. As documented in the application, Dr. Khan’s U.S. citizen child would suffer
15 many exceptional hardships if Drs. Khan and Qureshi are required to return to Pakistan for the
16 fulfillment of the two-year foreign residence requirement. In this case, as explained in the
17 application, given the USCIS and State Department policy that J-2 derivatives are subject if the
18 J-1 is subject, there is only one possible travel option in which Dr. Khan and the entire family
19 would relocate to Pakistan. Therefore, if a waiver is not granted, a U.S. citizen child, Parishey,
20 will definitely suffer all of the hardships documented in the waiver application.

21 44. Dr. Khan’s exceptional hardship waiver application complied with all statutory
22 and regulatory requirements specified by the defendants.

1 45. On October 30, 2013, Dr. Khan's Form I-612 waiver application was reviewed by
2 the Director of the California Service Center, Kathy A. Baran. Ms. Baran made the legal
3 determination that Dr. Khan's qualifying relative would suffer exceptional hardships if a waiver
4 was not granted. This finding is evidenced on a Form I-613 prepared by the USCIS. This is a
5 special, one-page transmittal form, a companion to the I-612, that is endorsed on the top by the
6 USCIS, then placed on top of the application when it is transmitted to the State Department. The
7 USCIS never creates an I-613 in an I-612 case unless it has determined that the case should be
8 approved. As indicated on the I-613, prior to Ms. Baran's review, an Adjudications Officer and a
9 Supervisory Adjudications Officer all made the same finding that Dr. Khan's qualifying relative
10 would suffer exceptional hardships without the grant of a waiver. Thus, the USCIS supported
11 the approval of a waiver for Dr. Khan.

12 46. The State Department regulation at 22 C.F.R. § 41.63(b)(2)(i) states that the
13 Department of Homeland Security "shall transmit a copy of his [sic] determination together with
14 a summary of the details of the expected hardship . . ." to the State Department. This is
15 obviously necessary to effectuate the adjudication procedure set forth by 8 U.S.C. § 1182(e).

16 47. Without discovery, it is impossible to know whether defendant Jeh Johnson
17 violated his duty under the statute and regulations by not transmitting a sufficient summary of the
18 details of the expected hardship to the State Department.

19 48. Without discovery, it is impossible to know whether defendant Jeh Johnson
20 violated his duty under the statute and regulations because the summary of hardship was
21 incomplete, lacking in detail, and otherwise insufficient to convey the depth of the hardship that
22 will be suffered absent a waiver.

1 49. Without discovery, it is impossible to know whether defendants Jeh Johnson and
2 Lori Scialabba failed to transmit a complete copy of the I-612 waiver application and all
3 supporting materials to defendants John Kerry and Marcia Pryce.

4 50. On or about October 30, 2013, Dr. Khan's waiver application was transmitted in
5 unknown form from the USCIS California Service Center to the WRD, with the USCIS seeking
6 the recommendation of the State Department on the waiver application.

7 51. On November 20, 2013, the WRD received the Form I-612 waiver application
8 from the USCIS California Service Center. It is not clear if the entire waiver application was
9 received by the WRD.

10 52. On information and belief, defendants John Kerry and Marcia Pryce failed to
11 receive and/or review the entire I-612 waiver application and all supporting materials prior to
12 issuing their recommendation.

13 53. On December 3, 2013, the WRD received something called a Letter of Need. On
14 information and belief, the WRD requested this document from ECFMG. This is believed to be
15 a document required by regulation for "ECFMG certification," which is necessary for ECFMG
16 sponsorship, which is necessary for admission to the United States in J-1 status for graduate
17 medical education. See 22 C.F.R. § 62.27(b)(6).

18 54. The substance of the Letter of Need is unknown.

19 55. On information and belief, prior to approximately 2010 the State Department did
20 not seek and review Letters of Need in ECFMG-sponsored J-1 hardship waiver cases.

1 56. The WRD uses the bottom portion of Form I-613 to state its position on waiver
2 applications for transmission to the Department of Homeland Security. The Form I-613 contains
3 a box that allows the State Department to explain the basis for a Not Favorable recommendation.

4 57. On January 6, 2014, defendants John Kerry and Marcia Pryce issued a Not
5 Favorable recommendation and transmitted said recommendation on Form I-613 to defendant
6 Kathy A. Baran, Director of the California Service Center.

7 58. The State Department did not use the allotted space on the I-613 and instead
8 attached a separate sheet, which states: “Pursuant to 22 CFR [sic] 41.63 (b)(2)(ii), the Waiver
9 Review Division has reviewed the program, policy, and foreign relations aspects of this case and
10 has determined that these considerations outbalance the Exceptional Hardship claims presented.
11 Therefore, it is the recommendation of the Department of State that the foreign residence
12 requirement of INA 212(e) not be waived.”

13 59. The WRD is required by regulation to review the (1) program, (2) policy, and (3)
14 foreign relations aspects of an I-612 case, make a recommendation, and forward it to the
15 appropriate office at the USCIS.

16 60. The basis of the denial, set forth above, is a facially insufficient reason to issue a
17 Not Favorable recommendation on a Form-I-612 waiver case under State Department
18 regulations.

19 61. The WRD’s Not Favorable recommendation does not provide any explanation
20 regarding the basis for the denial other than the attached piece of paper.
21

1 62. The WRD's Not Favorable recommendation does not provide any evidence that
2 the WRD balanced the program, policy, and foreign relations considerations against the
3 exceptional hardships in the case.

4 63. Out of all ECFMG-sponsored J-1 hardship waiver applications filed by this law
5 firm between approximately 2000 and 2011, not one received a Not Favorable recommendation
6 from the State Department.

7 64. On information and belief, the State Department changed its internal policies and
8 standards in the adjudication of ECFMG-sponsored J-1 hardship waiver cases on or about 2011.
9 But the statute has not changed. The regulations have not changed. And there has been no
10 public announcement of any such change.

11 65. In the instant case, the State Department did not provide a reasoned analysis
12 indicating that prior policies and standards of adjudication are being deliberately changed, as it is
13 required to do under general principles of administrative agency law. See, e.g., Northwest Envtl.
14 Def. Ctr. v. Bonneville Power Admin., 477 F.3d 668, 687-88 (9th Cir. 2007).

15 66. The WRD maintains a website outlining the processes and procedures for seeking
16 a J-visa waiver. Its address is: [http://travel.state.gov/content/visas/english/study-exchange/
17 student/residency-waiver.html](http://travel.state.gov/content/visas/english/study-exchange/student/residency-waiver.html).

18 67. The WRD website has a Frequently Asked Questions page that answers the
19 question "Why would a recommendation application be denied by the Waiver Review Division?"
20 The answer states: "Recommendation applications are denied when the reasons given for
21 requesting the waiver do not outweigh the program and foreign policy considerations of the

1 exchange visitor program. For this reason, waiver recommendation applications from exchange
2 visitors who received U.S. government funding are generally denied.”

3 68. The basis of such a denial is facially invalid because the WRD is required to
4 assess the program, policy, and foreign relations aspects of a case under 22 C.F.R. § 41.63.
5 Additionally, Dr. Khan’s case did not involve U.S. government funding. His residency program
6 was sponsored by the ECFMG.

7 69. The WRD maintains a website where one can track the progress of a J-1 waiver
8 case. Its address is: <http://j1visawaiverstatus.state.gov/>.

9 70. Reviewing the case status history for Dr. Khan’s case, the State Department
10 reports that it received the I-613 in the case after it had already issued its Not Favorable
11 recommendation. It is unclear whether the State Department received a summary of expected
12 hardships from the Department of Homeland Security prior to the issuance of the Not Favorable
13 recommendation, as required under the State Department regulation at 22 C.F.R. § 41.63(b)(2)(i).

14 71. The WRD sometimes issues requests for evidence in J-1 waiver cases. The
15 requests for evidence issued by the WRD include, for example, requests that the applicant
16 complete the preliminary filing requirements as well as requests for substantive information
17 regarding the application, such as obtaining updated medical information.

18 72. The procedures utilized by the WRD for adjudication of J-1 waiver applications
19 have changed over the past several decades. In particular:

20 73. The Form DS-3035 did not exist prior to the late 1990s.

21 74. Most J-1 program and waiver matters used to be handled by an agency called the
22 U.S. Information Agency (USIA). The USIA was abolished in 1999. At that time, its “program”

1 functions were transferred to the State Department's Office of Academic Exchange Programs,
2 and its "waiver" functions were transferred to the new WRD within the State Department's
3 Bureau of Consular Affairs. The USIA started charging a filing fee for the Data Sheet form
4 (which later became the DS-3035) in approximately 1998.

5 75. J-1 waiver applicants were not required to submit any materials directly to the
6 USIA or State Department prior to some time in the 1990s. In earlier times, in cases where the
7 Immigration and Naturalization Service (INS, the predecessor to the USCIS) made a finding of
8 exceptional hardship, the District Director would submit a complete copy of the application
9 materials to the USIA or State Department to obtain that agency's recommendation. This
10 required no independent action on the part of the applicant.

11 76. On January 27, 2014, defendant Kathy A. Baran, who earlier had recommended
12 that the waiver be approved, denied the waiver application for two main reasons. The first basis
13 of the denial is that the State Department had issued a Not Favorable recommendation. Kathy A.
14 Baran denied the case on this basis even though the explanation from the State Department
15 comprised a facially invalid explanation for its recommendation, nor had it provided any
16 evidence that its officials had actually balanced the exceptional hardships presented against the
17 program, policy, and foreign relations aspects of the case.

18 77. The second reason given by Kathy A. Baran states:

19 In reaching this conclusion, the Waiver Review Division considered a range of
20 facts relevant to assessing program, policy, and foreign relations interests in your
21 case: . . . a) The citizens of Pakistan would greatly benefit from your extensive
22 training. Your failure to return to fulfill the two-year foreign residence

1 requirement would deny the citizens of Pakistan the opportunity from your
2 acquired training and expertise.

3 This is a facially invalid rationale for the denial because it does not show that the State
4 Department adhered to its own regulations, in addition to other law that applies to this case, such
5 as 8 U.S.C. § 1182(e), the legislative history, the U.S. Constitution, treaty law, and customary
6 international law norms. This is also unlawful for the State Department to give more weight to
7 the needs of citizens of Pakistan than it did to the interests of U.S. citizen Parishey Khan. This is
8 especially true considering the fact that the U.S. government has a statutory duty to protect U.S.
9 citizen qualifying relatives if such citizens would face exceptional hardship.

10 78. There is no administrative appeal from the January 27, 2014, decision.

11 79. The plaintiffs have exhausted their administrative remedies.

12 80. The January 6, 2014, recommendation by the State Department is irrational and
13 contrary to the statutory standards of the APA and the Immigration and Nationality Act, the
14 Department of Homeland Security and State Department regulations, the intent of Congress in
15 enacting the J-1 visa waiver, and to the due process of law—in that it fails to state any basis for
16 the denial, or discuss any facts relevant to the decision, or demonstrate that it balanced the
17 exceptional hardships with the program, policy, and foreign relations aspects of this case.

18 81. Dr. Khan's waiver application is meritorious and should be approved.

19 **VI. J-2 Derivative**

20 82. The USCIS and State Department have long held that a J-2 derivative is subject to
21 the two-year foreign residence requirement if the J-1 is subject. The policy and position of the

1 USCIS and the State Department that J-2 derivatives are subject if the J-1 is subject is being
2 challenged in this action.

3 83. Dr. Noorulain Qureshi is considered subject to the two-year foreign residence
4 requirement under the State Department and USCIS interpretation that if a J-1 is subject, all J-2
5 derivatives are also subject.

6 84. The plain language of 8 U.S.C. 1182(e) does not make J-2 derivatives subject in
7 the context of the J-1 admission or acquisition of J-1 status to pursue graduate medical education.
8 Specifically, the statute provides as follows:

9 No person admitted under section 101(a)(15)(J) or acquiring such status after
10 admission . . . who came to the United States or acquired such status in order to
11 receive graduate medical education or training, shall be eligible to apply for an
12 immigrant visa, or for permanent residence, or for a nonimmigrant visa under
13 section 101(a)(15)(H) or section 101(a)(15)(L) until it is established that such
14 person has resided and been physically present in the country of his nationality or
15 his last residence for an aggregate of at least two years following departure from
16 the United States

17 85. Dr. Qureshi was admitted as a J-2 dependent to her husband's J-1 program, and
18 thus she is not subject to the two-year foreign residence requirement under the plain language of
19 8 U.S.C. 1182(e), which is quoted above, notwithstanding contrary interpretations by the State
20 Department and the USCIS.

21 86. The legislative history of 8 U.S.C. § 1182(e) contains no indication that Congress
22 intended J-2 derivatives to become subject to the two-year foreign residence requirement.

1 There is ongoing political violence. There is ongoing warfare between the Pakistani government
2 and the Taliban extremists. There is regular terrorism. There is a very high risk of violent crime,
3 especially kidnapping.

4 93. Drs. Khan and Qureshi are from the large southern port city of Karachi. Karachi
5 is in a state of near-anarchy, with constant gang wars and sectarian violence.

6 94. Parishey Khan would be singled out for mistreatment or kidnapping for ransom,
7 because she is a U.S. citizen. She would constantly face the risk of harm from crime and random
8 violence.

9 95. All plaintiffs would be singled out because they are from the Muhajir minority,
10 descendants of people who migrated from India to Sindh Province, where Karachi is located,
11 after the partition of India and Pakistan in 1947. The Muhajirs are frequently the victims of
12 target killings from Pashtun and Taliban extremists. And they are systematically discriminated
13 against with respect to healthcare, education, and government employment.

14 96. Drs. Khan and Qureshi would be singled out because of their close ties to the
15 United States and their status as physicians. While hardship to the Drs. Khan and Qureshi does
16 not directly count in this kind of waiver application, death or serious injury to a parent would
17 have a lifetime of negative consequences for their U.S. citizen child Parishey.

18 97. Parishey Khan would face exceptional medical hardships if her parents are
19 compelled to return to Pakistan to fulfill the two-year foreign residence requirement. Compared
20 to life in the United States, in Pakistan Parishey Khan would face an exceptionally high risk of
21 medical hardships due to adverse environmental factors, the risk of infectious disease, and the
22 inferior medical system. Health conditions are especially poor throughout most of Pakistan in

1 the wake of last year's record floods. On a brief trip to Pakistan in 2012, Parishey developed
2 typhoid fever.

3 98. Parishey Khan would face exceptional psychological hardships if her parents are
4 compelled to return to Pakistan to fulfill the two-year foreign residence requirement, because the
5 family would be living in a constant state of great fear and distress.

6 99. Parishey Khan would face exceptional educational disruption if her parents are
7 compelled to return to Pakistan to fulfill the two-year foreign residence requirement. Her early
8 education in Karachi would be vastly inferior to the education she would receive if her parents
9 were permitted to remain in the United States.

10 100. Parishey Khan would face exceptional sociocultural hardships if her parents are
11 compelled to return to Pakistan to fulfill the two-year foreign residence requirement. It would be
12 an extreme case of culture shock for her to be suddenly relocated from a stable life in California
13 to the chaos of Karachi.

14 101. It would be an exceptional hardship to the public interest of the United States if
15 Drs. Khan and Qureshi are compelled to return to Pakistan to fulfill the two-year foreign
16 residence requirement. Dr. Khan's specialty area of nephrology is in short supply in the United
17 States. In addition, he and his wife have been active in volunteering with Doctors Without
18 Borders. Denial of a waiver would cause harm to many U.S. citizens and would harm the U.S.
19 public interest.

20 102. The above hardships would all exist under the only possible travel option, in
21 which Dr. Khan and his whole family would relocate to Pakistan.

22

1 **COUNT ONE: ABUSE OF DISCRETION**

2 **AND VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT**

3 103. Paragraphs 1 through 102 above are repeated and realleged as though fully set
4 forth herein.

5 104. The defendants's denial of Dr. Khan's I-612 waiver application is contrary to the
6 statutory standards, the regulations, the legislative history, and the intent of Congress, and it is
7 therefore arbitrary and capricious, because the defendants failed to consider all the evidence in
8 the record before rendering a decision, ignored substantial evidence in the record without any
9 rational basis, failed to weigh the evidence presented against the program, policy, and foreign
10 relations aspects, and/or failed to state a valid reason for the denial.

11 105. The defendants's adjudication of the I-612 waiver application is contrary to the
12 statutory standards, the regulations, the legislative history, and the intent of Congress because
13 there is no evidence that the defendants reviewed the program, policy, and foreign relations
14 aspects of this case, and the defendants routinely fail to provide any valid explanation for their
15 recommendations in such cases.

16 106. On information and belief, the State Department intentionally does not provide the
17 basis for its decisions in J-1 waiver cases so that it can evade judicial review.

18 107. The defendants acted outside the scope of discretion granted by Congress.

19 108. The defendants's denial of the application therefore violates the Administrative
20 Procedure Act, 5 U.S.C. §§ 555(b), 702, and 706(1), and otherwise constitutes abuse of
21 discretion.

1 **COUNT TWO: RULE-MAKING**

2 **AND VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT**

3 109. Paragraphs 1 through 108 above are repeated and realleged as though fully set
4 forth herein.

5 110. The State Department's amendment to its regulations in 37 Fed. Reg. 7156 (Apr.
6 11, 1972) (amending 22 C.F.R. § 41.65(b) by adding subsection (b)(3) to state: "If an alien is
7 subject to the 2-year foreign residence requirement of section 212(e) of the Act, the spouse or
8 child of such alien shall also be subject to such a requirement if such spouse or child is admitted
9 to the United States pursuant to section 101(a)(15)(J) of the Act for the purpose of accompanying
10 or following to join such alien.") is a substantive rule that creates law and imposes extra statutory
11 obligations inconsistent with its authority delegated by Congress. The regulation is currently
12 published as 22 C.F.R. § 41.62(c)(4).

13 111. The State Department regulation at 22 C.F.R. § 41.62(c)(4) is inconsistent with
14 the plain language of 8 U.S.C. § 1182(e).

15 112. The State Department's amendment and 22 C.F.R. § 41.62(c)(4) therefore violates
16 the Administrative Procedure Act, 5 U.S.C. § 553.

17 **COUNT THREE: DUE PROCESS VIOLATION (RIGHT TO LIFE)**

18 113. Paragraphs 1 through 112 above are repeated and realleged as though fully set
19 forth herein.

20 114. The plaintiffs have a fundamental right to life.

21 115. The defendants's denial of Dr. Khan's waiver application threatens his life and the
22 life of his family because if he is forced to return to Pakistan, he and/or his family may be killed

1 or severely injured by the ongoing violence in that country. A forced return of Parishey to
2 Pakistan would also subject her to exceptional medical and psychological hardships.

3 116. The defendants's denial of Dr. Khan's waiver application violates his family's
4 right to due process of law under the Fifth Amendment to the United States Constitution.

5 **COUNT FOUR: DUE PROCESS VIOLATION (RIGHT TO FAMILY UNITY)**

6 117. Paragraphs 1 through 116 above are repeated and realleged as though fully set
7 forth herein.

8 118. Parishey Khan has a fundamental right to family unity with her parents.

9 119. Parishey Khan has a fundamental right to reside in the United States because she
10 is a U.S. citizen.

11 120. In J-1 exceptional hardship waiver application cases, the USCIS and the WRD
12 apply a multi-pronged hardship waiver analysis that examines whether sufficient hardship exists
13 under all travel alternatives.

14 121. Reviewing the hardships in all travel alternatives ignores the fundamental rights
15 of U.S. citizens to remain in the United States and the fundamental right to family unity.

16 122. The defendants's actions in this case violated Parishey Khan's fundamental rights
17 under the United States Constitution.

18 **COUNT FIVE: DUE PROCESS VIOLATION (PROPERTY INTEREST)**

19 123. Paragraphs 1 through 122 above are repeated and realleged as though fully set
20 forth herein.

21 124. Dr. Khan has a property interest in the application fee that he paid to the State
22 Department.

1 125. The defendants's denial of Dr. Khan's waiver application without any rational
2 basis violates the plaintiffs's right to due process of law under the Fifth Amendment to the
3 United States Constitution.

4 **COUNT SIX: FAILURE TO FOLLOW MORE RELAXED ADJUDICATION**

5 **STANDARD INTENDED BY CONGRESS**

6 126. Paragraphs 1 through 125 above are repeated and realleged as though fully set
7 forth herein.

8 127. Congress has suggested that a more relaxed attitude should be taken in
9 determining whether a waiver should be granted in a case like Dr. Khan's. See House Report
10 721, Subcommittee of the House Committee on the Judiciary, 87 Cong., 1st Sess. (1961), at 122.
11 See also Matter of Duchneski, 11 I. & N. Dec. 583 (Dist. Dir. 1966) (waiver recommended for
12 approval by State Department) and Matter of Coffman, 13 I. & N. Dec. 206 (Dep. Assoc.
13 Comm'r 1969) (waiver recommended by State Department).

14 128. Based on congressional intent, and program, policy, and foreign relations
15 considerations, Dr. Khan's case should have been reviewed under the relaxed standard, because
16 the applicant came to the United States in J-1 status not only to gain but also to impart his already
17 acquired knowledge, heritage and culture, a duty which he faithfully and successfully performed.

18 129. The defendants' denial of Dr. Khan's I-612 waiver application is contrary to the
19 law and an abuse of discretion because the defendants failed to apply the more relaxed standard
20 of review to his case.

1 **COUNT SEVEN: FAILURE TO PROVIDE REASONED ANALYSIS**

2 **DESCRIBING A MARKED CHANGE IN POLICY IN THE ADJUDICATION OF**
3 **ECFMG-SPONSORED I-612 HARDSHIP WAIVER CASES**

4 130. Paragraphs 1 through 129 above are repeated and realleged as though fully set
5 forth herein.

6 131. Courts have held that an agency changing its course must supply a reasoned
7 analysis indicating that prior policies and standards are being deliberately changed. See
8 Northwest Env'tl. Def. Ctr. v. Bonneville Power Admin., 477 F.3d 668, 687-88 (9th Cir. 2007).

9 132. Out of all ECFMG-sponsored cases filed by this law firm, where the USCIS
10 recommended the case for approval, not one case received a Not Favorable recommendation
11 from the State Department between approximately 2000 and 2012.

12 133. The defendants's denial of Dr. Khan's waiver application without explaining the
13 change in policy and standards violates federal decisional law that mandates such explanations.

14 **COUNT EIGHT: VIOLATION OF TREATY**

15 134. Paragraphs 1 through 133 above are repeated and realleged as though fully set
16 forth herein.

17 135. Ratified treaties constitute the supreme law of the land under Article VI of the
18 United States Constitution.

19 136. President Jimmy Carter signed the International Covenant on Civil and Political
20 Rights ("I.C.C.P.R.") on October 5, 1977. On June 8, 1992, the I.C.C.P.R. was ratified by the
21 United States Senate pursuant to Article II, Section 2 of the United States Constitution. The
22 United States is therefore a party to the I.C.C.P.R.

1 137. The defendants have a duty to adhere to the I.C.C.P.R. when adjudicating waiver
2 applications.

3 138. The defendants's action in denying Dr. Khan's I-612 waiver application without
4 any rational basis violates the United States's obligations under various articles of the I.C.C.P.R.
5 In particular, it violates Articles 1, 12, 17, 18, 23, and 24, in addition to possible violations of
6 other articles.

7 **COUNT NINE: VIOLATION OF CUSTOMARY INTERNATIONAL LAW**

8 139. Paragraphs 1 through 138 above are repeated and realleged as though fully set
9 forth herein.

10 140. Customary norms of international law are incorporated into federal law.

11 141. The right to life, family life, and unity is a well-established norm of customary
12 international law.

13 142. The defendants's actions in denying the I-612 waiver in light of the evidence of
14 the numerous and overwhelming hardships presented in the hardship waiver application violates
15 the United States's obligations under customary international law.

16 **COUNT TEN: DECLARATORY JUDGMENT**

17 143. Paragraphs 1 through 142 above are repeated and realleged as though fully set
18 forth herein.

19 144. This Court has authority to issue a declaratory judgment regarding the rights,
20 privileges, and duties of the parties under 28 U.S.C. § 2201.

☰ ☱ ☲ ☳ ☴ ☵ ☶ ☷

1 145. This Court should issue a declaratory judgment establishing that Dr. Khan is
2 eligible for a J-1 waiver and that due to the exceptional hardships that will be suffered by his
3 U.S. citizen child, he is entitled to a waiver.

4 146. This Court should declare that the defendants's adjudication of waiver
5 applications without properly reviewing the program, policy, and foreign relations aspects of the
6 case, and without stating a valid reason for the Not Favorable recommendation, is contrary to the
7 statutory standards, regulations, legislative history, congressional intent, and due process of law.

8 147. This Court should declare that if the WRD issues a Favorable recommendation,
9 the USCIS is required by law, under 8 U.S.C. § 1182(e), to grant the waiver application.

10 148. This Court should declare that 22 C.F.R. § 41.62(c)(4) is a substantive rule that
11 creates law and imposes extra statutory obligations inconsistent with 8 U.S.C. § 1182(e).

12 149. This Court should declare that the State Department's amendment to its
13 regulations at 37 Fed. Reg. 7156 (Apr. 11, 1972) violates the Administrative Procedure Act, 5
14 U.S.C. § 553.

15 150. This Court should declare that 22 C.F.R. § 41.62(c)(4) is invalidated due to the
16 rule-making violations under the Administrative Procedure Act.

17 151. This Court should declare that plaintiff Noorulain Qureshi is not subject to the
18 two-year foreign residence requirement.

19 152. This Court should declare that the denial of Dr. Khan's waiver application
20 violates his family's right to due process of law under the Fifth Amendment to the United States
21 Constitution.

22

2 4 P 1

1 153. This Court should declare that Parishey Khan has a fundamental right to family
2 unity with her parents.

3 154. This Court should declare that Parishey Khan has a fundamental right to reside in
4 the United States because she is a U.S. citizen.

5 155. This Court should declare that the USCIS and WRD policy of examining all travel
6 alternatives violates the fundamental right to family unity and the fundamental right of U.S.
7 citizens to reside in the United States.

8 156. This Court should declare that the defendants's actions in this case violated
9 Parishey Khan's rights under the United States Constitution.

10 157. This Court should declare that Dr. Khan has a property interest in the application
11 fee that he paid to the State Department.

12 158. This Court should declare that the defendants's denial of Dr. Khan's waiver
13 application without any rational basis violates the plaintiffs's right to due process of law under
14 the Fifth Amendment to the United States Constitution.

15 159. This Court should declare that Congress suggested that a more relaxed standard be
16 applied in a waiver case like Dr. Khan's.

17 160. This Court should declare that Dr. Khan's case should be reviewed under the
18 relaxed standard suggested by Congress, which has historically been followed by the defendants.

19 161. This Court should declare that the State Department has a duty to explain its
20 change in policy and standards with respect to the adjudication of J-1 hardship cases where
21 ECFMG is the sponsor.

22

2 4 6

- 1 D. Declare that Dr. Khan's waiver application is meritorious and should be approved;
- 2 E. Order the defendants to approve the waiver;
- 3 F. Grant an award of attorneys' fees and costs; and
- 4 G. Grant such other relief as the Court may deem just and proper.

5 Dated: February 20, 2014



6 BRIAN C. SCHMITT
7 Hake & Schmitt
8 P.O. Box 540 (419 Main St.)
9 New Windsor, Maryland 21776
10 (410) 635-3337
11 Attorney for Plaintiffs
12 *Pro Hac Vice* application pending
13 Admitted in U.S. District Court for
14 the District of Maryland.
15 Bar No.: 30151
16
17

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

NOTICE OF ASSIGNMENT TO UNITED STATES JUDGES

This case has been assigned to District Judge Dolly M. Gee and the assigned Magistrate Judge is Patrick J. Walsh.

The case number on all documents filed with the Court should read as follows:

2:14-cv-01338 DMG-PJWx

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge.

Clerk, U. S. District Court

February 21, 2014

Date

By SBOURGEOIS

Deputy Clerk

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

- | | | |
|--|--|---|
| <input checked="" type="checkbox"/> Western Division
312 N. Spring Street, G-8
Los Angeles, CA 90012 | <input type="checkbox"/> Southern Division
411 West Fourth St., Ste 1053
Santa Ana, CA 92701 | <input type="checkbox"/> Eastern Division
3470 Twelfth Street, Room 134
Riverside, CA 92501 |
|--|--|---|

Failure to file at the proper location will result in your documents being returned to you.

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Central District of California

Fahad Khan, M.D., and Noorulain Qureshi, M.D., a married couple, and Parishey Khan, their daughter

Plaintiff(s)

v.

John Kerry, U.S. Secretary of State, et al.

See attached

Defendant(s)

Civil Action No. CV14-1338 DMG-PJW

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Brian C. Schmitt
Hake & Schmitt
P.O. Box 540 (419 Main St.)
New Windsor, Maryland 21776

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Date: FEB 21 2014

CLERK OF COURT
Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

I. (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/>) Fahad Khan, M.D., Noorulain Qureshi, M.D., and Parishey Khan	DEFENDANTS (Check box if you are representing yourself <input type="checkbox"/>) John Kerry, U.S. Secretary of State; Marcia Pryce, Chief, Waiver Review Division, U. S. Department of State ... (see attachment)
(b) County of Residence of First Listed Plaintiff <u>Los Angeles</u> <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i>	County of Residence of First Listed Defendant <u>N/A</u> <i>(IN U.S. PLAINTIFF CASES ONLY)</i>
(c) Attorneys (Firm Name, Address and Telephone Number) If you are representing yourself, provide the same information. Brian C. Schmitt, Hake & Schmitt, P.O. Box 540 (419 Main St), New Windsor, MD 21776, Tel: (410) 635-3337. (Pro hac vice application pending.) (See attachment)	Attorneys (Firm Name, Address and Telephone Number) If you are representing yourself, provide the same information.

II. BASIS OF JURISDICTION (Place an X in one box only.) <input type="checkbox"/> 1. U.S. Government Plaintiff <input checked="" type="checkbox"/> 2. U.S. Government Defendant <input type="checkbox"/> 3. Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 4. Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES-For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant) <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:30%;">Citizen of This State</td> <td style="width:5%;">PTF</td> <td style="width:5%;">DEF</td> <td style="width:40%;">Incorporated or Principal Place of Business in this State</td> <td style="width:5%;">PTF</td> <td style="width:5%;">DEF</td> </tr> <tr> <td></td> <td align="center"><input type="checkbox"/> 1</td> <td align="center"><input type="checkbox"/> 1</td> <td></td> <td align="center"><input type="checkbox"/> 4</td> <td align="center"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td align="center"><input type="checkbox"/> 2</td> <td align="center"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td align="center"><input type="checkbox"/> 5</td> <td align="center"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td align="center"><input type="checkbox"/> 3</td> <td align="center"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td align="center"><input type="checkbox"/> 6</td> <td align="center"><input type="checkbox"/> 6</td> </tr> </table>	Citizen of This State	PTF	DEF	Incorporated or Principal Place of Business in this State	PTF	DEF		<input type="checkbox"/> 1	<input type="checkbox"/> 1		<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
Citizen of This State	PTF	DEF	Incorporated or Principal Place of Business in this State	PTF	DEF																				
	<input type="checkbox"/> 1	<input type="checkbox"/> 1		<input type="checkbox"/> 4	<input type="checkbox"/> 4																				
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5																				
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

IV. ORIGIN (Place an X in one box only.)

1. Original Proceeding
 2. Removed from State Court
 3. Remanded from Appellate Court
 4. Reinstated or Reopened
 5. Transferred from Another District (Specify) _____
 6. Multi-District Litigation

V. REQUESTED IN COMPLAINT: JURY DEMAND: Yes No (Check "Yes" only if demanded in complaint.)

CLASS ACTION under F.R.Cv.P. 23: Yes No **MONEY DEMANDED IN COMPLAINT:** \$ _____

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

8 U.S.C. § 1101 et seq.; 5 U.S.C. § 551 et seq. Abuse of discretion and violation of the Immigration and Nationality Act and the Administrative Procedure Act.

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES	CONTRACT	REAL PROPERTY CONT.	IMMIGRATION	PRISONER PETITIONS	PROPERTY RIGHTS
<input type="checkbox"/> 375 False Claims Act	<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 462 Naturalization Application	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 245 Tort Product Liability	<input checked="" type="checkbox"/> 465 Other Immigration Actions		<input type="checkbox"/> 830 Patent
<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 290 All Other Real Property	TORTS	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 140 Negotiable Instrument	TORTS	PERSONAL PROPERTY	Other:	SOCIAL SECURITY
<input type="checkbox"/> 450 Commerce/ICC Rates/Etc.	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	PERSONAL INJURY	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 540 Mandamus/Other	<input type="checkbox"/> 861 HIA (1395ff)
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 470 Racketeer Influenced & Corrupt Org.	<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Vet.)	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 560 Civil Detainee Conditions of Confinement	<input type="checkbox"/> 863 DIWC/DIWW (405 (g))
<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 153 Recovery of Overpayment of Vet. Benefits	<input type="checkbox"/> 330 Fed. Employers' Liability	BANKRUPTCY	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 865 RSI (405 (g))
<input type="checkbox"/> 850 Securities/Commodities/Exchange	<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 422 Appeal 28 USC 158	FORFEITURE/PENALTY	FEDERAL TAX SUITS
<input type="checkbox"/> 890 Other Statutory Actions	<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 891 Agricultural Acts	<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 350 Motor Vehicle	CIVIL RIGHTS	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
<input type="checkbox"/> 893 Environmental Matters	REAL PROPERTY	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 440 Other Civil Rights	LABOR	
<input type="checkbox"/> 895 Freedom of Info. Act	<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 710 Fair Labor Standards Act	
<input type="checkbox"/> 896 Arbitration	<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 362 Personal Injury-Med Malpractice	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 720 Labor/Mgmt. Relations	
<input type="checkbox"/> 899 Admin. Procedures Act/Review of Appeal of Agency Decision	<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 365 Personal Injury-Product Liability	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 740 Railway Labor Act	
<input type="checkbox"/> 950 Constitutionality of State Statutes		<input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability	<input type="checkbox"/> 445 American with Disabilities-Employment	<input type="checkbox"/> 751 Family and Medical Leave Act	
		<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 446 American with Disabilities-Other	<input type="checkbox"/> 790 Other Labor Litigation	
			<input type="checkbox"/> 448 Education	<input type="checkbox"/> 791 Employee Ret. Inc. Security Act	

CV14-1338

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

VIII. VENUE: Your answers to the questions below will determine the division of the Court to which this case will most likely be initially assigned. This initial assignment is subject to change, in accordance with the Court's General Orders, upon review by the Court of your Complaint or Notice of Removal.

Question A: Was this case removed from state court? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "no," go to Question B. If "yes," check the box to the right that applies, enter the corresponding division in response to Question D, below, and skip to Section IX.	STATE CASE WAS PENDING IN THE COUNTY OF:		INITIAL DIVISION IN CACD IS:
	<input type="checkbox"/> Los Angeles		Western
	<input type="checkbox"/> Ventura, Santa Barbara, or San Luis Obispo		Western
	<input type="checkbox"/> Orange		Southern
	<input type="checkbox"/> Riverside or San Bernardino		Eastern

Question B: Is the United States, or one of its agencies or employees, a party to this action? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If "no," go to Question C. If "yes," check the box to the right that applies, enter the corresponding division in response to Question D, below, and skip to Section IX.	If the United States, or one of its agencies or employees, is a party, is it:		INITIAL DIVISION IN CACD IS:	
	A PLAINTIFF?	A DEFENDANT?		
	Then check the box below for the county in which the majority of DEFENDANTS reside.	Then check the box below for the county in which the majority of PLAINTIFFS reside.		
	<input type="checkbox"/> Los Angeles	<input checked="" type="checkbox"/> Los Angeles		Western
	<input type="checkbox"/> Ventura, Santa Barbara, or San Luis Obispo	<input type="checkbox"/> Ventura, Santa Barbara, or San Luis Obispo		Western
	<input type="checkbox"/> Orange	<input type="checkbox"/> Orange		Southern
<input type="checkbox"/> Riverside or San Bernardino	<input type="checkbox"/> Riverside or San Bernardino	Eastern		
<input type="checkbox"/> Other	<input type="checkbox"/> Other	Western		

Question C: Location of plaintiffs, defendants, and claims? (Make only one selection per row)	A. Los Angeles County	B. Ventura, Santa Barbara, or San Luis Obispo Counties	C. Orange County	D. Riverside or San Bernardino Counties	E. Outside the Central District of California	F. Other
Indicate the location in which a majority of plaintiffs reside:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Indicate the location in which a majority of defendants reside:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Indicate the location in which a majority of claims arose:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

C.1. Is either of the following true? If so, check the one that applies: <input type="checkbox"/> 2 or more answers in Column C <input type="checkbox"/> only 1 answer in Column C and no answers in Column D Your case will initially be assigned to the SOUTHERN DIVISION. Enter "Southern" in response to Question D, below. If none applies, answer question C2 to the right. →	C.2. Is either of the following true? If so, check the one that applies: <input type="checkbox"/> 2 or more answers in Column D <input type="checkbox"/> only 1 answer in Column D and no answers in Column C Your case will initially be assigned to the EASTERN DIVISION. Enter "Eastern" in response to Question D, below. If none applies, go to the box below. ↓
Your case will initially be assigned to the WESTERN DIVISION. Enter "Western" in response to Question D below.	

Question D: Initial Division?	INITIAL DIVISION IN CACD
Enter the initial division determined by Question A, B, or C above: →	Western

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

IX(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? NO YES

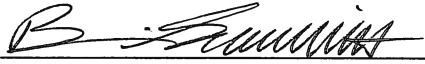
If yes, list case number(s): _____

IX(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? NO YES

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply)
- A. Arise from the same or closely related transactions, happenings, or events; or
 - B. Call for determination of the same or substantially related or similar questions of law and fact; or
 - C. For other reasons would entail substantial duplication of labor if heard by different judges; or
 - D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

X. SIGNATURE OF ATTORNEY (OR SELF-REPRESENTED LITIGANT):  DATE: 2-20-2014

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet).

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405 (g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))

Attachment to Civil Cover Sheet

Additional List of Defendants for Box 1(a): Jeh Johnson, U.S. Secretary of Homeland Security; Lori Scialabba, Acting Director, U.S. Citizenship and Immigration Services; Kathy A. Baran, Director, California Service Center, U.S. Citizenship and Immigration Services; the United States; and Eric Holder, Attorney General of the United States