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9

10 Attorneys for Plaintiffs,  
THE PEOPLE OF THE STATE OF CALIFORNIA,  
11 and Real Party in Interest,  
THE CITY AND COUNTY OF SAN FRANCISCO  
12

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA

14 COUNTY OF SAN FRANCISCO

15 UNLIMITED JURISDICTION

16 THE PEOPLE OF THE STATE OF  
CALIFORNIA, acting by and through San  
17 Francisco City Attorney Dennis J. Herrera,

18 Plaintiff,

19 vs.

20 MARTIN R. GUAJARDO; CHRISTOPHER  
STENDER; IMMIGRATION PRACTICE  
21 GROUP, P.C.; and DOES 1 through 20,  
inclusive,  
22

23 Defendants.

Case No.

**DECLARATION OF MARIA ORBELINA  
ORELLANA HERNANDEZ IN SUPPORT OF  
PLAINTIFF'S APPLICATION FOR  
PRELIMINARY INJUNCTION**

24 I, MARIA ORBELINA ORELLANA HERNANDEZ, declare as follows:  
25

26 1. I have personal knowledge of the contents of this declaration, except where indicated  
27 otherwise, and I could and would testify competently thereto if called upon to do so.  
28

1 2. My primary language is Spanish. I am not proficient in English. This declaration was  
2 translated from English into Spanish for me by Lucia Tome.

3 I Have Asylum in the United States

4 3. I was born in Chalatenango, El Salvador in 1965. I came to the United States in 1999. My  
5 asylum application was granted on August 3, 2010.

6 4. I came to the United States and applied for asylum because the man who I had been living with  
7 since I was nineteen years old was, for many years, abusing me verbally and physically. The man who  
8 was abusing me is also the father of my children. I have four children – three girls and one boy. They  
9 were all born in El Salvador.

10 5. When I came to the United States, I wanted to bring my kids with me, but I did not have  
11 enough money. I began to work as a babysitter, which I have now done for ten years.

12 6. After working for three years, I had saved up enough money to bring two of my children to the  
13 United States. They now live in the United States. I tried to save up more money to bring the rest of  
14 my kids to the United States, but it was hard because one of my daughters, Brenda Elizabeth Lopez-  
15 Hernandez ("Brenda"), was having medical problems in El Salvador, and I sent her money to pay her  
16 medical bills.

17 Brenda and My Other Daughter Come to the United States in June 2010

18 7. When I left El Salvador in 1999, my children had no choice but to continue living with the man  
19 who was abusing me. When I was living in the United States, I learned that he and his girlfriend were  
20 abusing my children. The abuse continued for years.

21 8. In June 2010, the abuse had become so bad that Brenda and my other daughter fled El Salvador  
22 and came to the United States. At the time, Brenda was twenty-one years old, and my other daughter  
23 was under eighteen.

24 9. They were stopped at the border by immigration agents and placed in detention in Texas.

25 10. Once I learned that my daughters were detained, I tried to help them. The East Bay Sanctuary  
26 Covenant was already helping me to get asylum. The East Bay Sanctuary Covenant is a nonprofit  
27 organization that provides free legal representation to people in the area of immigration law.

1 11. I told the people at the East Bay Sanctuary Covenant about my children. They told me that  
2 they could help my younger daughter get out of detention and get asylum. Her application is now  
3 pending. However, they told me that they did not have the resources to help my older daughter  
4 Brenda because she was over eighteen. I began to look for a lawyer to help her.

5 I Hired Guajardo to Get Brenda Out of Detention

6 12. I heard about Martin Guajardo from my brother-in-law Lucas Abrego, who had hired  
7 Guajardo to represent his nephew. Mr. Abrego told me that Guajardo was an attorney. I called  
8 Guajardo's law firm but was not able to get through to him.

9 13. A family friend used to work as a babysitter for one of Guajardo's children. I told her that I  
10 urgently needed to get in touch with Guajardo to help Brenda. The friend gave me Guajardo's cell  
11 phone number. I spoke with him and he told me to come into his office the following day at 6:00 a.m.  
12 His office is a 555 Clay Street in San Francisco.

13 14. My first meeting with Guajardo was on June 9, 2010 at his office. Mr. Abrego, my brother-in-  
14 law, went with me. The whole meeting, like every other meeting I had with Guajardo, was all in  
15 Spanish.

16 15. Guajardo took us to a conference room. Initially, the only people at the meeting were myself,  
17 Mr. Abrego, and Guajardo. I told Guajardo that I wanted him to help me get Brenda out of detention  
18 and into the United States. Guajardo promised that he could help me and that he could get Brenda out  
19 of detention within fifteen days. Guajardo also told me that once he got Brenda out of jail, he would  
20 get her legal status in the United States.

21 16. I believed Guajardo was a lawyer. He never told me that he was not a lawyer. No one at his  
22 law firm told me that he was not a lawyer. In fact, at that first meeting with Guajardo, he told me that  
23 he was the head of his law firm. He told me that although he did not go to court, he gave orders to the  
24 lawyers and they followed his orders. Guajardo said that he directed the lawyers and supervised them.

25 17. Guajardo said that he had people in Texas who could help Brenda. He said that one of them  
26 was named Elizabeth. During the first meeting, Guajardo got on the phone and I heard him having a  
27 conversation with someone he referred to as Elizabeth. He told her to go check on the status of  
28

1 Brenda's case. There were other meetings with Guajardo where he would appear to call Elizabeth and  
2 ask about the status of Brenda's case.

3 18. Mr. Abrego and I spoke with Guajardo alone for about thirty minutes at that first meeting.  
4 After that thirty minutes, two other people came into the room. One of them was a tall and thin man  
5 with blond hair. The other person was a woman. I do not recall either of their names. Guajardo  
6 introduced them as two people who worked with him. Guajardo did not introduce them as attorneys,  
7 and I do not know if they were attorneys. Guajardo said they were going to be working on Brenda's  
8 case. Neither of them said anything to me. The only thing they did was review some legal documents,  
9 like tax returns, that I had brought with me. Guajardo spoke to these two people in English, and told  
10 me that he was translating for them what Guajardo and I discussed in Spanish.

11 19. Guajardo told me that it would cost me \$5,000 to get Brenda out of detention. At the first  
12 meeting, I personally gave Guajardo \$2,000 in cash. Later that day, Guajardo called me and told me  
13 to bring the remaining \$3,000 as soon as possible. Mr. Abrego, who works near Guajardo's office,  
14 went back the same day and gave Guajardo \$3,000 more in cash.

15 20. Attached to this declaration as Exhibit A are true and correct copies of receipts for both of  
16 these payments. I did not see Guajardo sign the receipts. I do not know who signed them.

17 21. At some point during that meeting, Guajardo handed me a document, a true and correct copy of  
18 which is attached hereto as Exhibit B. It is all in English, and I do not read English. Guajardo did not  
19 explain what it was. He just handed it to me and told me to sign it, which I did.

20 No one from Immigration Practice Group, including Guajardo, Ever Spoke with Brenda

21 22. During the approximately two months that Brenda was in detention in Texas, she spoke with  
22 me almost every day. She told me that neither Guajardo nor anyone from his law firm ever spoke with  
23 her.

24 23. After I hired Guajardo to represent Brenda, Brenda had a "credible fear interview." This was  
25 an interview with I.C.E. to find out whether Brenda had a reason to fear persecution if she was sent  
26 back to El Salvador. Guajardo was not present for it. He never spoke with Brenda before it. No one  
27 from Guajardo's law firm spoke with Brenda before this interview or attended the interview.

1 24. Brenda did not have anyone to help her prepare for the interview.

2 25. The interviewer made a ruling against Brenda.

3 I went back to 555 Clay Street About 15 Days After My First Meeting with Guajardo

4 26. At the first interview, Guajardo told me that Brenda would be out of detention within fifteen  
5 days. Fifteen days later, Brenda was still not out of detention. No one from Guajardo's law firm,  
6 including Guajardo, had even spoken with her. During this time, Brenda had her "credible fear  
7 interview."

8 27. Because Guajardo had not kept his promise to me, I went back to his office. This visit was a  
9 little more than 15 days after the first visit, in later June 2010. I met with Guajardo. No one else was  
10 present. We spoke only in Spanish.

11 28. Guajardo told me that he was working on my daughter's case, and that I should not worry.  
12 When I told Guajardo that Brenda had her "credible fear interview" but no one was there to help her,  
13 Guajardo said that the interview was not a real court date, and that the interview didn't matter.

14 29. When I asked Guajardo why he had not even spoken with Brenda, he told me that it was  
15 because she did not have a court date yet.

16 An Immigration Judge Ruled Against Brenda

17 30. On July 13, 2010, Brenda had a hearing in front of an immigration judge. The judge ruled that  
18 my daughter did not have a credible fear of returning to El Salvador. Attached as Exhibit C to this  
19 declaration is a true and correct copy of the ruling, which came from Brenda's file at Guajardo's law  
20 firm.

21 31. Brenda told me that Guajardo did not go to the hearing, and did not even speak with Brenda  
22 beforehand. No one from Guajardo's law firm went to the hearing, or spoke with Brenda before the  
23 hearing. I know this because I was speaking with Brenda every day, and she told me that it was very  
24 frustrating for her not to have a lawyer representing her at the hearing. Brenda even told me that  
25 during the hearing, the judge asked her, "where's your lawyer?"

26 32. When Brenda told me this, it made me very angry and upset.

27

28

1 I Tried to Get an Explanation from Guajardo About Why No One Helped Brenda at Her Hearing

2 33. After my conversation with Brenda following the hearing, I called Guajardo's law firm and  
3 demanded to speak with him. He refused to take my calls.

4 34. Every time I called Guajardo's law office, I called the main number on the business cards –  
5 (415) 398-3852. Every time I called that number, someone would answer, "Mr. Guajardo's office."

6 35. Attached to this declaration as Exhibit D are true and correct copies of business cards I  
7 received from employees at Guajardo's law firm. I do not recall the dates when I received them.

8 36. I also called my brother-in-law, Mr. Abrego, who works near Guajardo's office. Mr. Abrego  
9 met with Guajardo and asked for an explanation of why no one went to the hearing. Mr. Abrego told  
10 me that Guajardo stated not to worry, that everything with the case was fine, and that Brenda still did  
11 not have a court date.

12 37. I did not think this was a good explanation. Because Guajardo refused to take my calls, I  
13 decided to go see him. We did not make an appointment.

14 I Went Back To Guajardo's Office on July 19, 2010

15 38. I had my own asylum interview on July 19, 2010. Christine Ness came with me. She is a law  
16 student at Hastings College of the Law, and she works at the East Bay Sanctuary Covenant. She had  
17 been helping me with my asylum case.

18 39. After my interview, Ms. Ness and I went to Guajardo's office. At first, the only people in the  
19 meeting were Guajardo, Ms. Ness, and I. I told Guajardo that I wanted my money back because he  
20 had not helped Brenda like he had promised to do.

21 40. Guajardo told a few other people to come into the room, including Marie Kayal and some other  
22 people. Guajardo said that these people would know more about my case.

23 41. While Ms. Kayal spoke with Ms. Ness in English, Guajardo spoke to me in Spanish. I told  
24 Guajardo that I was very frustrated with him because no one from his firm ever spoke with Brenda, no  
25 one helped prepare Brenda for her hearing, and no one ever represented her in court. He responded  
26 that the reason no one went to Brenda's hearing was that no one at his firm knew about it until 2:00  
27 p.m. the day before, and that this did not allow them enough time to go represent her.

1 42. When I asked why no one from his firm ever spoke with Brenda the entire time she was in  
2 detention, Guajardo stated that it was because they didn't know she had a hearing, and they don't speak  
3 with people unless they have a hearing. He said that's the way we work, and that we look on the  
4 computer to see when someone has a court date.

5 43. Guajardo told me that in the next three days, he would do everything he possibly could to get  
6 Brenda out of custody. He told me that they would send a psychologist and a doctor to visit Brenda in  
7 detention. He told me that if a psychologist saw Brenda, it might help establish that she was afraid to  
8 go back to El Salvador.

9 44. I decided to give Guajardo another chance, and Ms. Ness and I left Guajardo's office.

#### 10 I Learned Guajardo Was Not a Lawyer

11 45. Minutes after Ms. Ness and I left, Ms. Ness spoke on her cell phone with her supervisor at the  
12 East Bay Sanctuary. Ms. Ness told me that during her conversation, she learned that Guajardo was no  
13 longer an attorney and that he was not eligible to practice law.

14 46. I was shocked when I learned that Guajardo was not a lawyer. I was also very concerned  
15 because I had paid him \$5,000 to help get my daughter out of detention.

16 47. As soon as I learned Guajardo was not a lawyer, Ms. Ness and I went back to Guajardo's  
17 office. I fired Guajardo. I demanded a full refund of the \$5,000. Kayal handed me \$5,000 in cash.  
18 Attached as Exhibit E is a copy of the receipt for that \$5,000.

19 48. Ms. Ness asked for my file, but they did not give it to her on July 19, 2010. She had to go back  
20 the next day and get the file. I do not know if she was given the complete file.

#### 21 Brenda Is Sent Back to El Salvador

22 49. I was not able to help my daughter Brenda get out of detention. Brenda was sent back to El  
23 Salvador after being in detention for about two months. She still lives in El Salvador. She has very  
24 little money, and she has no choice but to live with her father, the same man that abused her and me.  
25 He has continued to abuse her.

1 Other Details About Guajardo's Office

2 50. I do not recall ever signing an attorney/client agreement with Guajardo or with anyone else at  
3 his office.

4 51. I believe Guajardo recorded some of our conversations. He had a little machine that he would  
5 sometimes turn on while we were speaking.

6 52. Guajardo never told me that there was an investigation against him. He also never told me,  
7 orally or in writing, that he resigned from the practice of law. I never received anything in the mail  
8 that said that Guajardo could no longer practice law.

9 53. The one time I met Kayal, she never told me that Guajardo was no longer a lawyer. In fact, the  
10 way that she acted around him caused me to think that he was a lawyer. This is because he gave her  
11 orders and she followed them immediately. Also, when Guajardo called her into the room, she came  
12 quickly.

13 54. No one else at Mr. Guajardo's office ever told me, orally or in writing, that Guajardo resigned  
14 from the practice of law or that he was no longer eligible to practice law.

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1 Translation of Declaration

2 55. I am not fluent in the English language. My native language is Spanish. I am signing this  
3 declaration and attesting to the truth and accuracy of the statements in it on the basis of an oral  
4 translation of this document into my native language provided to me by Lucia Tome.

5 56. Ms. Tome has stated to me that she has translated this document to me accurately and  
6 completely, word for word. As translated to me by Ms. Tome, this document contains a true and  
7 correct statement of the facts.

8  
9 I declare under penalty of perjury that the foregoing is true and correct and was executed in  
10 San Francisco, California on October \_\_\_\_, 2010.

11 \_\_\_\_\_  
12 Maria Orbelina Orellana Hernandez

13  
14 Declaration of Translator

15 I, Lucia Tome, hereby state that I am fluent in the Spanish language. I speak Spanish fluently  
16 because it is my first language. I was born in Argentina and lived there until I was five years old. I  
17 continue to speak in Spanish with my parents. I work as an English-Spanish translator at the East Bay  
18 Covenant Sanctuary. On this date I provided a correct and complete oral translation, word for word,  
19 of the entire contents of this document into the Spanish language to Maria Orbelina Orellana  
20 Hernandez. In response to my inquiry, the declarant, Maria Orbelina Orellana Hernandez, stated that  
21 she had no difficulty understanding me and that the document as translated by me contains a true and  
22 correct statement of the facts.

23 Signed and sworn to in San Francisco on October \_\_\_\_, 2010 under penalty of perjury under the  
24 law of the State of California.

25  
26 \_\_\_\_\_  
27 Lucia Tome

# **EXHIBIT A**

Immigration Practice Group  
A Professional Corporation  
555 Clay Street  
San Francisco, CA 94111  
415-398-3852

Maria Orellana  
4200 Portrero Ave Apt B  
Richmond, CA 94804

Date: June 9, 2010

File Number: 90083

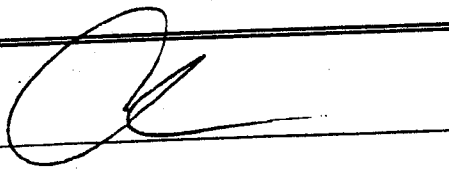
### Receipt of Payment

Received fee payment in the amount of  
\$2,000. CASH

CASH  
CHECK  
MONEY ORDER  
VISA  
MASTERCARD  
AMERICAN EXPRESS  
DISCOVER

Present Balance:

\$3,000.00

Received by: 

Immigration Practice Group  
A Professional Corporation  
555 Clay Street  
San Francisco, CA 94111  
415-398-3852

Maria Orellana  
4200 Portrero Ave Apt B  
Richmond, CA 94804

Date: June 9, 2010

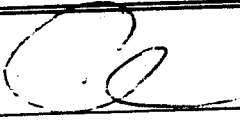
File Number: 90083

### Receipt of Payment

Received fee payment in the amount of  
\$3,000.

CASH  
CHECK  
MONEY ORDER  
VISA  
MASTERCARD  
AMERICAN EXPRESS  
DISCOVER

Present Balance:  
\$0.00

Received by: 

# **EXHIBIT B**

# Immigration Practice Group

A Professional Corporation  
555 Clay Street  
San Francisco, CA 94111

## Flat Fee Agreement Payment Schedule & Legal Services Detail

### Flat Fee Agreement Payment Schedule

File Number 90083      ARN / SS: \_\_\_\_\_      Date 6/9/2010  
 Fee Amount \$ 5000      Initial Payment \$ 2000      Forward Balance \$ 3000

	Amount	Due Date		Amount	Due Date
Payment A:	<u>2000</u>	<u>6/9/2010</u>	Payment D:	_____	_____
Payment B:	<u>3000</u>	_____	Payment E:	_____	_____
Payment C:	_____	_____	Payment F:	_____	_____

### Legal Services Detail

- Item(s) marked indicate(s) service(s) selected
- Investigation Only
  - Representation in Pending Immigration Court Matter
  - Representation in Pending Criminal Matter
  - Analysis and Strategy for defense in Removal Proceedings
  - Analysis and Strategy for defense at the Board of Immigration Appeals
  - Analysis and Strategy for defense at Circuit Court of Appeals
  - Representation for Custody / Bond
  - Representation in Asylum Matter
  - OTHER: Board Hearing / (Elizabeth only)

- Item(s) marked indicate(s) whom services are to be rendered for
- For CLIENT
  - For CLIENT's spouse
  - For CLIENT's children \_\_\_\_\_
  - For CLIENT's other family members \_\_\_\_\_

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State, Zip

Amelia O. Hernandez 6/9/2010  
Client Signature      Date

Maria Lopez 6/9/2010  
Corporation Attorney      Date

# **EXHIBIT C**

IMMIGRATION COURT  
800 DOLOROSA STREET-SUITE 300  
SAN ANTONIO, TX 78207

In the Matter of:

Case No: A200-812-463

LOPEZ-HERNANDEZ, BRENDA ELIZABETH

Respondent

IN: CREDIBLE FEAR REVIEW PROCEEDINGS

ORDER OF THE IMMIGRATION JUDGE

On Jul 13, 2010 at 10:00 A.M. a review of the DHS Credible Fear Determination was held in the matter noted above. Testimony  was  was not taken regarding the background of the Applicant and the Applicant's fear of returning to his/her country of origin or last habitual residence.

After consideration of the evidence, the Court finds that the Applicant  has  has not established a significant possibility that he/she would be persecuted on the basis of his/her race, religion, nationality, membership in a particular social group, or because of his/her political opinion.


ORDER: It is hereby ordered that the decision of the immigration officer is:

Affirmed, and the case is returned to the DHS for removal of the alien.

Vacated.

This is a final order. There is no appeal available.

DONE and ORDERED this 13<sup>th</sup> day of July, 20 10.

  
JOHN D. CARTE  
Immigration Judge

CERTIFICATE OF SERVICE

THIS DOCUMENT WAS SERVED BY: MAIL  PERSONAL SERVICE   
TO:  ALIEN  ALIEN c/o Custodial Officer,  ALIEN's ATT/REP  DHS  
DATE: 7-13-10 BY: COURT STAFF JOE  
Attachments:  EOIR-33  EOIR-28  Legal Services List  Other

U2

Hearing was conducted by teleconferencing (audio or video). The Immigration Judge was located in San Antonio, TX. The location of the hearing was  GEO  Karnes  Pearsall  Hutto  Laredo, TX.  
All filings related to the matter should be filed with:  
San Antonio Immigration Court  
800 Dolorosa Street, Suite 300  
San Antonio, TX 78207



# **EXHIBIT D**

IPG

IMMIGRATION PRACTICE GROUP, APC

TERESA SALAZAR-COSMOS  
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T 415.398.3852  
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IPG

IMMIGRATION PRACTICE GROUP, APC

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IPG #90083

IMMIGRATION PRACTICE GROUP, APC

MARIE LOUISE KAYAL  
ATTORNEY AT LAW

# **EXHIBIT E**

Immigration Practice Group  
A Professional Corporation  
555 Clay Street  
San Francisco, CA 94111  
415-398-3852

Maria Orbelina Orellana Hernandez  
4200 Portrero Avenue Apt B  
Richmond, CA 94804

Date: July 19, 2010

File Number: 90083

### Receipt of Payment

Yo, Maria Orbelina Orellana Hernandez, acepta un reembolso de \$5,000,00 en la satisfacción repleta y completa de honorarios pagados para Brenda Elizabeth Lopez Hernandez.

(I, Maria Orbelina Orellana Hernandez, accept a refund of \$5,000.00 in full and complete satisfaction of fees paid for Brenda Elizabeth Lopez Hernandez.)

MARIA ORBELINA ORELLANA HERNANDEZ

CASH  
CHECK  
MONEY ORDER  
VISA  
MASTERCARD  
AMERICAN EXPRESS  
DISCOVER

Present Balance:

\$0.00

Received by: \_\_\_\_\_