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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

NORTHWEST IMMIGRANT RIGHTS
PROJECT; Yuk Man Maggie CHENG,

Plaintiffs,

v.

Jefferson B. SESSIONS III, in his official capacity
as U.S. Attorney General; U.S. DEPARTMENT
OF JUSTICE; EXECUTIVE OFFICE FOR
IMMIGRATION REVIEW; Juan P. OSUNA, in
his official capacity as Director of the Executive
Office for Immigration Review; and Jennifer J.
BARNES, in her official capacity as Disciplinary
Counsel for the Executive Office for Immigration
Review,

Defendants.

Case No. 2:17-cv-00716

DECLARATION OF ELIZABETH BENKI

I, Elizabeth Benki, declare as follows:

1. I am over the age of eighteen, am competent to testify as to the matters below, and make this declaration based on personal knowledge. I submit this declaration to provide information about the Motion to Reopen Proceedings filed in F.G.B.'s case before the Tacoma Immigration Court. This motion, along with another filing before the Seattle Immigration Court, is the subject of the April 5, 2017 cease-and-desist letter at issue in this lawsuit.

1 2. I am a Senior Staff Attorney at the Tacoma Office of the Northwest Immigrant Rights
2 Project (“NWIRP”). I have worked at NWIRP’s Tacoma Office since March 2013. I currently
3 supervise two attorneys, two legal advocates, and one law graduate.

4 3. My work primarily consists of providing direct representation, pro se assistance,
5 orientations, and workshops to individuals who are detained at the Northwest Detention Center
6 (“NWDC”). Someone from our Tacoma office is at the NWDC almost every day to provide a range
7 of legal services.

8 4. Another attorney from our office, Meghan Casey, first met with F.G.B. on February
9 18, 2016 to conduct a basic intake and screen his case for any potential relief. At that time, we stated
10 that our office was unable to represent him in his deportation proceedings, but he consented to
11 speaking with us to obtain general information about his case. During this initial meeting, Meghan
12 let him know that he was likely eligible for cancellation of removal under 8 U.S.C. § 1229b(a) and
13 that our office would be referring his case for pro bono representation. When asked for his full name,
14 he stated that it is Felipe G.B., but that he also uses the alias and nickname “Phillip,” an English
15 translation of his given name.
16

17 5. After our initial meeting on February 18, 2016, F.G.B. sent two letters to our office
18 requesting additional information. In one of these letters, he noted that he was scheduled for a final
19 merits hearing before the immigration judge on June 23, 2016.

20 6. On May 16, 2016, I met with F.G.B. at the NWDC. During this meeting, F.G.B. told
21 me that the immigration court held an intervening hearing in his case on May 11, 2016. It appeared
22 that Immigration Customs and Enforcement had amended F.G.B.’s charges of removability to argue
23 that he was in fact removable for an aggravated felony conviction, which bars an individual from
24 applying for cancellation of removal and many other forms of relief. The immigration judge issued
25 an order of removal against F.G.B. on May 11, 2016. F.G.B. had requested to speak with our office
26 in order to ask whether he had any options for continuing to fight his case. Based on these facts, I
27 informed F.G.B. that he could attempt to file a motion to reopen his proceedings.
28

1 7. F.G.B. responded that he did not know how to file a motion to reopen before the
2 Immigration Court. I thus provided him with a blank motion template, which states in its footer,
3 “This pro se brief/motion has been prepared with the assistance of the Northwest Immigrant Rights
4 Project.” I helped him fill out the form by writing down why he sought to reopen to his proceedings.
5 However, F.G.B. was still uncertain whether he wanted to submit the motion because doing so
6 would prolong his detention. I told him that he would have to make a decision soon because of his
7 impending deportation. I reviewed the contents of the motion by reading it aloud to F.G.B., and after
8 confirming that it was accurate, he signed and dated the motion in front me. I left the signed motion
9 with him so that he could mail it to the immigration court if he decided to fight his case.

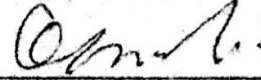
10 8. I was not even aware that F.G.B. filed this pro se motion until I read EOIR’s cease-
11 and-desist letter, which alleges that a NWIRP staff member “clearly represented” F.G.B. in the
12 above-described motion to reopen proceedings. Further, the cease-and-desist letter noted that
13 F.G.B.’s signature on the motion did not match his signature on a previous filing, citing this
14 discrepancy as an indication that someone other than F.G.B. may have drafted this document for
15 him.

16 9. While I filled out by hand the motion to reopen during my meeting with F.G.B. at the
17 NWDC, F.G.B. signed the motion himself, with a full understanding of its content, and he later
18 submitted it on his own to the immigration court. Over the course of our interaction with F.G.B., he
19 had provided our office with several documents for further review of his case, in addition to signing
20 consent forms and handwritten letters. His signatures on these documents illustrate that he, like
21 many others, sometimes signs documents using the English translation of his name, while other
22 times using his given name in Spanish.

23 I declare under penalty of perjury of the laws of the State of Washington and the United
24 States that the foregoing is true and correct to the best of my knowledge and belief.
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Executed this 29th day of June, 2017 in Coral Gables, Florida.



ELIZABETH BENKI, ESQ.

DECLARATION OF ELIZABETH BENKI IN SUPPORT OF
NWIRP'S MOTION FOR PRELIMINARY INJUNCTION
(No. 2:17-cv-00716-RAJ) - Page 4

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CERTIFICATE OF SERVICE

I hereby certify that on June 30, 2017, I caused the following to be filed using CM/ECF which will cause a copy to be sent to the following:

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DATED: June 30, 2017

By s/ James Harlan Corning
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