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NIELS W. FRENZEN
PUBLIC COUNSEL
3535 West Sixth Street, Suite 100
Los Angeles, California 90020
(213) 385-2977

Richard B. ...

LEE A. O'CONNOR
BRADEN CANCELLA
SAN FERNANDO VALLEY NEIGHBORHOOD
LEGAL SERVICES
13327 Van Nuys Boulevard
Pacoima, California 91331
(818) 896-5211

FILED
NOV 29 1993

CARLOS DANIEL LEVY
LINTON JOAQUIN
NATIONAL IMMIGRATION LAW CENTER
1636 West Eighth Street, Suite 205
Los Angeles, California 90017
(213) 487-2531

Attorneys for Plaintiffs
(For additional attorneys see next page)

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

EL RESCATE LEGAL SERVICES,)
INC., et al.,)
)
 Plaintiffs,)
)
 vs.)
)
 EXECUTIVE OFFICE FOR)
 IMMIGRATION REVIEW, et al.,)
)
 Defendants.)

No. CV 88-1201 KN
PLAINTIFFS' MOTION FOR
VOLUNTARY DISMISSAL OF ACTION;
MEMORANDUM OF POINTS AND
AUTHORITIES
Date: November 29, 1993
Time: 9:30 a.m.
Judge: Judge David Kenyon

1 Attorneys for Plaintiffs (continued)

2 VIBIANA ANDRADE
3 MEXICAN AMERICAN LEGAL DEFENSE AND EDUCATIONAL FUND
4 634 South Spring Street, 11th Floor
Los Angeles, California 90014
(213) 629-2512

5 CARLA WOEHRLE
6 TALCOTT, LIGHTFOOT, VANDEVELDE, WOEHRLE & SADOWSKY
7 655 South Hope Street, 13th Floor
Los Angeles, California 90017
(213) 622-4750

8 SHEILA K. NEVILLE
9 IMMIGRANTS' RIGHTS OFFICE
LEGAL AID FOUNDATION OF LOS ANGELES
10 1636 West Eighth Street, Suite 215
Los Angeles, California 90017
(213) 487-6551

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TO DEFENDANTS AND THEIR ATTORNEYS OF RECORD:

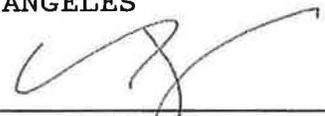
PLEASE TAKE NOTICE that on November 29, 1993 at 9:30 a.m., or as soon thereafter as counsel may be heard, plaintiffs will and do hereby move the Court for an Order dismissing this class action without prejudice pursuant to Rules 41(a)(2) and 23(e) of the Federal Rules of Civil Procedure.

This motion is based on the accompanying memorandum of law and upon all pleadings and factual materials on file in this action.

DATED: October 20, 1993

Respectfully submitted,

PUBLIC COUNSEL
SAN FERNANDO NEIGHBORHOOD
LEGAL SERVICES
NATIONAL IMMIGRATION LAW CENTER
MEXICAN AMERICAN LEGAL DEFENSE
AND EDUCATIONAL FUND
TALCOTT, LIGHTFOOT, VANDELDELDE,
WOEHRLE & SADOWSKY
CENTRAL AMERICAN REFUGEE CENTER
IMMIGRANTS' RIGHTS OFFICE OF THE
LEGAL AID FOUNDATION OF
LOS ANGELES

BY: 

NIELS W. FRENZEN
Attorneys for Plaintiffs

1 MEMORANDUM OF POINTS AND AUTHORITIES

2
3 I. Dismissal of Action Without Prejudice

4 Plaintiffs commenced this action in 1988. Two broad forms
5 of relief were sought on behalf of the plaintiff class and the
6 two organizational plaintiffs: competent interpretation of
7 immigration court proceedings and complete interpretation of
8 immigration court proceedings.

9 Plaintiffs sought partial summary judgment on the issue of
10 complete interpretation and conducted extensive discovery on the
11 interpreter competency issue. In 1989 the district court granted
12 plaintiffs partial summary judgment and affirmatively enjoined
13 defendants to provide complete interpretation. The Court of
14 Appeals reversed the district court's injunction on March 10,
15 1992 and remanded the case for the district court to determine
16 whether defendants' policy relating to the completeness of
17 interpretation, as applied, systematically violated plaintiffs'
18 rights to due process.

19 On May 1, 1992, two months after the Court of Appeals'
20 decision, defendants implemented a policy restricted to those
21 immigration courts covered by the injunction which provided for
22 the complete interpretation of immigration court proceedings.
23 This policy remains in effect today.

24 On March 19, 1991, the district court, on its own motion,
25 stayed all further proceedings to give defendants the opportunity
26 to develop and implement various remedial measures they had

1 begun, as a result of the lawsuit, to improve the quality of
2 interpretation. These remedial measures, including preparatory
3 work for the development of a Spanish language interpreter
4 certification examination, have now been ongoing for over two and
5 one-half years.

6 In light of the remedial measures undertaken by defendants
7 to improve the competency of interpretation in the immigration
8 courts and in light of defendant EOIR's existing policy of
9 providing complete interpretation, plaintiffs have obtained the
10 sought after relief and believe a dismissal of this litigation,
11 without prejudice, pursuant to Federal Rule of Civil Procedure
12 41(a)(2) is in plaintiffs' best interests.

13 With the exception of the issue of attorneys' fees and
14 costs, there are no issues which need to be tried before the
15 Court. Should defendants seek to undo any of their completed or
16 ongoing remedial efforts, including the existing policy requiring
17 complete interpretation, plaintiffs' rights would be protected
18 through the commencement of a new action.

19 20 **II. Notice To Class Members**

21 Plaintiffs propose that Rule 23(e) notice to class members
22 consist of the following:

23 (1) Posting, for a period of thirty days, the notice
24 set forth at Exhibit 1, in the English and Spanish languages, on
25 the official Immigration Court bulletin boards in the El Centro,
26 San Diego, San Pedro, and Los Angeles Immigration Courts;

1 (2) Delivery of the notice set forth at Exhibit 1 to
2 local bar associations and, where appropriate their immigration
3 sections, in Los Angeles, San Diego, and Imperial counties and to
4 the Los Angeles, San Diego, and national offices of the American
5 Immigration Lawyers Association; and

6 (3) Delivery of the notice set forth at Exhibit 1 to
7 the membership and mailing list of the Coalition for Humane
8 Immigrants' Rights of Los Angeles (approximately 525 organiza-
9 tions or persons).

10
11 **III. Conclusion**

12 For the foregoing reasons, plaintiffs respectfully seek
13 approval of the form of proposed class-member notice and,
14 subsequent to the giving of such approved notice, plaintiffs seek
15 an Order dismissing this action without prejudice.

16 DATED: October 20, 1993

Respectfully submitted,

17 PUBLIC COUNSEL
18 SAN FERNANDO NEIGHBORHOOD
19 LEGAL SERVICES
20 NATIONAL IMMIGRATION LAW CENTER
21 MEXICAN AMERICAN LEGAL DEFENSE
22 AND EDUCATIONAL FUND
23 TALCOTT, LIGHTFOOT, VANDELDELDE,
24 WOEHRLE & SADOWSKY
25 CENTRAL AMERICAN REFUGEE CENTER
26 IMMIGRANTS' RIGHTS OFFICE OF THE
27 LEGAL AID FOUNDATION OF
28 LOS ANGELES

BY: 

NIELS W. FRENZEN
Attorneys for Plaintiffs

1 UNITED STATES DISTRICT COURT FOR THE
2 CENTRAL DISTRICT OF CALIFORNIA

3 El Rescate Legal Services, Inc., et al.
4 vs. Executive Office for Immigration
5 Review, et al., Case No. CV-88-1201-KN

6 NOTICE TO ALL PERSONS
7 UNDER IMMIGRATION COURT PROCEEDINGS
8 AND TO THEIR ATTORNEYS

9 NOTICE OF PROPOSED DISMISSAL OF A LAWSUIT
10 WHICH AFFECTS YOUR RIGHTS IN
11 IMMIGRATION COURT

12 A Lawsuit Was Filed to Seek Changes in
13 the Way Interpretation Is Provided
14 In Immigration Court

15 If you are under immigration court proceedings and do not
16 speak English or speak English in a limited way, a lawsuit was
17 filed on your behalf in U.S. District Court in 1988.

18 The class-action lawsuit, El Rescate Legal Services v.
19 Executive Office for Immigration Review, charged that the failure
20 of the Immigration Courts in Los Angeles, San Diego, and El
21 Centro to provide for complete interpretation of immigration
22 court proceedings and the failure to use competent court
23 interpreters resulted in the denial of your rights under the
24 immigration laws and the Constitution.

25 Complete Interpretation Is Required

26 In 1992 the Immigration Courts in Los Angeles, San Diego,
27 and El Centro adopted a policy which requires complete interpre-
28 tation, in most circumstances, of everything that is said during
your immigration court hearing. You presently have the right to
complete interpretation in immigration court pursuant to this
official policy.

Competent Interpretation Is Required

Since 1990 the immigration courts have been providing
training and additional resources to their staff interpreters.

1 Non-staff interpreters have also been required to meet certain
2 additional minimum requirements before being permitted to
interpret in immigration court. These improvements will continue
in the future.

3 A Dismissal of the Lawsuit is Proposed

4 In 1991, in light of the steps being taken to improve the
5 quality of interpretation, the U.S. District Court temporarily
halted the lawsuit. The attorneys for the plaintiff class-
6 members are now proposing that the lawsuit pending before the
U.S. District Court be dismissed without prejudice. A dismissal
7 would permanently end this particular challenge and would require
that a new lawsuit be filed if a class-member wanted to challenge
8 problems with the overall system by which the immigration courts
provide interpretation.

9 A Dismissal Does Not Affect Your Immigration Court Case

10 The dismissal of this lawsuit does not in any way affect
11 your immigration court case or your ability to raise objections
to interpretation as they affect your case. You or your attorney
12 are free to make objections to the quality or type of interpreta-
tion you receive during your individual immigration court case.
13 You or your attorney may pursue any such objections on appeal as
well.

14 Procedure for Objecting to Dismissal

15 If you do not object to a dismissal of the lawsuit, you do
16 not need to do anything.

17 If you object to the dismissal of the lawsuit and believe
that your rights will be harmed if this lawsuit is dismissed, you
18 must follow the following steps:

19 1) Your objection must be in writing. It may be written
in any language. Your objection must be sent by U.S. Mail to the
20 Clerk of the U.S. District Court for the Central District Of
California:

21 Office of the Clerk
22 Re: El Rescate v. EOIR, Case No. CV-1201-KN
U.S. District Court
23 312 N. Spring Street
Los Angeles, CA 90012

24 2) Your objection must include the following information:

25 a) Name, address and telephone number of the person
26 filing the objection;

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b) A statement of the reasons for objecting to the dismissal of the lawsuit;

c) A statement confirming that copies of your objection are being sent to the two lawyers listed below.

3) You must send your objections to the Clerk of the Court and to:

Niels W. Frenzen
Public Counsel
3535 W. 6th St., Ste. 100
Los Angeles, CA 90020

Allen Hausman
U.S Department of Justice
P.O. Box 878
Ben Franklin Station
Washington, DC 20044

4) The deadline for filing your objection and mailing them to the Court and to the lawyers is _____. In order to be considered timely, your objection must be postmarked on or before _____. Objections filed after this date will not be considered.

