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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CATHOLIC SOCIAL SERVICES,
INC., - IMMIGRATION PROGRAM,
et al.,

NO. CIV.S-86-1343 LKK/JFM

Plaintiffs,

v.

O R D E R

JANET NAPOLITANO, SECRETARY
U.S. DEPARTMENT OF HOMELAND
SECURITY, et al.,

Defendants.

_____ /

Pending before the court are the defendants' and plaintiffs' conflicting proposals concerning "abandonment" and "foreign filers." Two conflicting values are at stake. On the one hand, is the imperative of due process which strongly suggests that applicants not be deprived of the opportunity to apply for the benefits acquired in the settlement agreement in the instant case by virtue of the government's conduct, which the court previously determined was inconsistent with the decree. On the other hand, in the real world in which cases

1 must, at some point, end and allow the government and the people
2 to get on to other matters. The court must be frank, in some
3 ways there simply is no "right" answer. Nonetheless, some order
4 must be issued.


5 Accordingly, the court ORDERS that the government's
6 proposal, Dkt. No. 693, shall be adopted, save and except as
7 follows:

- 8 (1) Class members will have ninety (90) days from the date
9 notice is mailed of the amended notice of denial to
10 appeal to the AAO;
- 11 (2) The agency, where possible, shall refund the required
12 \$585.00 for unnecessary motions to reopen by virtue of
13 declared abandonment, or credit such fees towards the
14 fee for filing an administrative appeal at the class
15 members' option;
- 16 (3) Review of appeals shall be on the merits; and
- 17 (4) The CIS shall accept a filing fee as it existed in
18 2004-2005 (i.e. \$240.00).

19 IT IS SO ORDERED.

20 DATED: May 18, 2010.

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LAWRENCE K. KARLTON
SENIOR JUDGE
UNITED STATES DISTRICT COURT