

**U.S. District Court**  
**United States District Court for the Southern District of New York (Foley Square)**  
**CIVIL DOCKET FOR CASE #: 1:08-cv-04056-DC**

Families for Freedom et al v. Chertoff  
Assigned to: Judge Denny Chin  
Cause: 28:1331 Fed. Question: Other

Date Filed: 04/30/2008  
Date Terminated: 06/26/2009  
Jury Demand: None  
Nature of Suit: 890 Other Statutory Actions  
Jurisdiction: Federal Question

**Plaintiff****Families for Freedom**

represented by **Michael Joel Wishnie**  
Jermoe N. Frank Legal Services  
Organization  
Yale Law School  
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**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Plaintiff****National Immigration Project of the National Lawyers' Guild**

represented by **Michael Joel Wishnie**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Plaintiff****Rafiu Abimbola**

represented by **Michael Joel Wishnie**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Plaintiff****Camal Marchabeyoglu**

represented by **Michael Joel Wishnie**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

V.

**Defendant****Michael Chertoff**  
*Secretary of Homeland Security*

represented by **David Vincent Bober**  
U.S. Attorney's Office, SDNY  
86 Chambers Street  
New York , NY 10004  
212 637-2718  
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**ATTORNEY TO BE NOTICED**

Date Filed	#	Docket Text
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04/30/2008	<u>1</u>	COMPLAINT against Michael Chertoff. (Filing Fee \$ 350.00, Receipt Number 649428)Document filed by Families for Freedom, National Immergration Project of the National Lawyers' Guild, Rafiu Abimbola, Camal Marchabeyoglu.(jfe) (Additional attachment(s) added on 6/6/2008: # <u>1</u> complaint pt 2) (mbe). (Entered: 05/01/2008)
04/30/2008		SUMMONS ISSUED as to Michael Chertoff. (jfe) (Entered: 05/01/2008)
04/30/2008		Magistrate Judge Andrew J. Peck is so designated. (jfe) (Entered: 05/01/2008)
04/30/2008		Case Designated ECF. (jfe) (Entered: 05/01/2008)
04/30/2008	<u>2</u>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by National Immergration Project of the National Lawyers' Guild.(jfe) (mbe). (Entered: 05/01/2008)
04/30/2008	<u>3</u>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by Families for Freedom.(jfe) (mbe). (Entered: 05/01/2008)
05/22/2008	<u>4</u>	NOTICE OF APPEARANCE by David Vincent Bober on behalf of Michael Chertoff (Bober, David) (Entered: 05/22/2008)
06/09/2008	<u>5</u>	CERTIFICATE OF SERVICE of Summons and Complaint,. Michael Chertoff served on 5/20/2008, answer due 7/21/2008. Service was accepted by A. Charles. Service was made by Mail. Document filed by Families for Freedom. (Attachments: # <u>1</u> Affidavit Service on Attorney General, # <u>2</u> Affidavit Service on Secretary of DHS, # <u>3</u> Affidavit Service on US Attorney)(Wishnie, Michael) (Entered: 06/09/2008)
08/11/2008	<u>6</u>	NOTICE of Hearing: Pretrial Conference set for 8/26/2008 at 11:00 AM in Courtroom 11A, 500 Pearl Street, New York, NY 10007 before Judge Denny Chin. (tve) (Entered: 08/11/2008)
08/14/2008	<u>7</u>	ENDORSED LETTER addressed to Judge Denny Chin from Mike Wishnie dated 8/14/08 re: Request for an adjournment of the 8/26/08 pre-motion conference. ENDORSEMENT: Adjourned to 9/12/08 at 10:00 a.m. SO ORDERED. (Pre-Motion Conference set for 9/12/2008 at 10:00 AM before Judge Denny Chin.) (Signed by Judge Denny Chin on 8/14/08) (db) (Entered: 08/14/2008)
10/09/2008	<u>8</u>	ENDORSED LETTER addressed to Judge Denny Chin from David Bober dated 10/9/08 re: Request that defendant's motion to dismiss would be now due 10/15/08, plaintiffs; opposition would be now due 11/17/08; and defendant's reply would be due 11/26/08. The argument date remains 12/4/08. ENDORSEMENT: Approved. ( Motion due by 10/15/2008. Reply due by 11/26/2008. Response due by 11/17/2008) (Signed by Judge Denny Chin on 10/9/08) (cd) (Entered: 10/09/2008)
10/15/2008	<u>9</u>	MOTION to Dismiss for Lack of Jurisdiction. Document filed by Michael Chertoff.(Bober, David) (Entered: 10/15/2008)
10/15/2008	<u>10</u>	MEMORANDUM OF LAW in Support re: <u>9</u> MOTION to Dismiss for Lack of Jurisdiction.. Document filed by Michael Chertoff. (Bober, David) (Entered: 10/15/2008)
10/15/2008	<u>11</u>	DECLARATION of David Bober in Support re: <u>9</u> MOTION to Dismiss for Lack of Jurisdiction.. Document filed by Michael Chertoff. (Attachments: # <u>1</u> Exhibit A part 1, # <u>2</u> Exhibit A part 2, # <u>3</u> Exhibit B, # <u>4</u> Exhibit C, # <u>5</u> Exhibit D)(Bober, David) (Entered: 10/15/2008)
11/25/2008	<u>12</u>	RESPONSE in Opposition re: <u>9</u> MOTION to Dismiss for Lack of Jurisdiction.. Document filed by Families for Freedom, National Immergration Project of the National Lawyers' Guild, Rafiu

		Abimbola, Camal Marchabeyoglu. (Attachments: # <u>1</u> Affidavit Kahn Declaration, # <u>2</u> Exhibit Ex. A, # <u>3</u> Exhibit Ex. B, # <u>4</u> Exhibit Ex C, # <u>5</u> Exhibit Ex D, # <u>6</u> Exhibit Ex E, # <u>7</u> Exhibit Ex F, # <u>8</u> Exhibit Ex G, # <u>9</u> Exhibit Ex H, # <u>10</u> Exhibit Ex I, # <u>11</u> Exhibit Ex J, # <u>12</u> Exhibit Ex K, # <u>13</u> Exhibit Ex L, # <u>14</u> Exhibit Ex M, # <u>15</u> Exhibit Ex N, # <u>16</u> Exhibit Ex O, # <u>17</u> Exhibit Ex P, # <u>18</u> Exhibit Ex Q, # <u>19</u> Exhibit Ex R, # <u>20</u> Exhibit Ex S, # <u>21</u> Exhibit Ex. T, # <u>22</u> Exhibit Ex U, # <u>23</u> Exhibit Ex V, # <u>24</u> Exhibit Ex W, # <u>25</u> Exhibit Ex X, # <u>26</u> Exhibit Ex Y, # <u>27</u> Exhibit Ex Z, # <u>28</u> Exhibit Ex AA, # <u>29</u> Exhibit Ex BB, # <u>30</u> Exhibit Ex CC, # <u>31</u> Exhibit Ex DD, # <u>32</u> Exhibit Ex EE, # <u>33</u> Exhibit Ex FF)(Wishnie, Michael) (Entered: 11/25/2008)
11/25/2008	<u>13</u>	FIRST MOTION for Leave to File Excess Pages for <i>Plaintiffs' Opp to Defendant's Motion to Dismiss</i> . Document filed by Families for Freedom, National Immergration Project of the National Lawyers' Guild, Rafiu Abimbola, Camal Marchabeyoglu.(Wishnie, Michael) (Entered: 11/25/2008)
11/25/2008	<u>14</u>	MOTION for Extension of Time to File Response/Reply as to <u>12</u> Response in Opposition to Motion,,, <u>13</u> FIRST MOTION for Leave to File Excess Pages for <i>Plaintiffs' Opp to Defendant's Motion to Dismiss</i> .. Document filed by Families for Freedom, National Immergration Project of the National Lawyers' Guild, Rafiu Abimbola, Camal Marchabeyoglu.(Wishnie, Michael) (Entered: 11/25/2008)
12/03/2008	<u>15</u>	ENDORSED LETTER addressed to Judge Denny Chin from David Bober dated 12/3/08 re: Counsel request a five day extension of time, from 12/5/08 to 12/10/08 to file defendant's reply papers in this action. In addition, counsel also requests permission to file a reply brief in excess of ten pages. ENDORSEMENT: Approved, in both respects. Defendant may have 20 pages for his reply brief. (Signed by Judge Denny Chin on 12/3/08) (tro) (Entered: 12/04/2008)
12/10/2008	<u>16</u>	REPLY MEMORANDUM OF LAW in Support re: <u>9</u> MOTION to Dismiss for Lack of Jurisdiction.. Document filed by Michael Chertoff. (Bober, David) (Entered: 12/10/2008)
12/17/2008	<u>17</u>	MEMO ENDORSEMENT on LAW STUDENT INTERN APPEARANCE FORM of Lindsay Nash. I authorize this student: (a) to appear in court or other proceedings on behalf of the above–entitled client, and (b) to prepare documents on behalf of the above client. (Signed by Judge Denny Chin on 12/16/08) (tro) (Entered: 12/17/2008)
12/17/2008	<u>18</u>	MEMO ENDORSEMENT on LAW STUDENT INTERN APPEARANCE FORM of Jeffrey Kahn and Anand Balakrishnan. I authorize this student: (a) to appear in court or other proceedings on behalf of the above–entitled client, and (b) to prepare documents on behalf of the above client. (Signed by Judge Denny Chin on 12/16/08) (tro) (Entered: 12/17/2008)
01/09/2009	20	TRANSCRIPT of proceedings held on 12/18/2008 before Judge Denny Chin. (D'Avanzo, Daniel) (Entered: 01/21/2009)
01/20/2009	<u>19</u>	ENDORSED LETTER addressed to Judge Denny Chin from David Bober dated 1/16/09 re: Request that the time for Government defendant to issue its decision be extended to 1/21/09. ENDORSEMENT: So Ordered. (Signed by Judge Alvin K. Hellerstein, part I on 1/20/09) (db) (Entered: 01/20/2009)
04/03/2009	<u>21</u>	RULE 26(f) DISCOVERY PLAN REPORT.Document filed by Families for Freedom.(Wishnie, Michael) (Entered: 04/03/2009)
05/15/2009	<u>22</u>	LAW STUDENT INTERN APPEARANCE FORM Anjali Dalal (jmi) (Entered: 05/18/2009)

05/15/2009	<u>23</u>	LAW STUDENT INTERN APPEARANCE FORM Rafiu Abimbola. (jmi) (Entered: 05/18/2009)
05/15/2009	<u>24</u>	LAW STUDENT INTERN APPEARANCE FORM Dan Kesselbrennes. (jmi) (Entered: 05/18/2009)
05/15/2009	<u>25</u>	LAW STUDENT INTERN APPEARANCE FORM Janis Rosheuvel. (jmi) (Entered: 05/18/2009)
05/15/2009	<u>26</u>	LAW STUDENT INTERN APPEARANCE FORM Paromita Shah. (jmi) (Entered: 05/18/2009)
05/15/2009	<u>27</u>	LAW STUDENT INTERN APPEARANCE FORM Camal Marchabeyoglu. (jmi) (Entered: 05/18/2009)
05/15/2009	<u>28</u>	LAW STUDENT INTERN APPEARANCE FORM Ohad Barkean. (jmi) (Entered: 05/18/2009)
06/25/2009	<u>29</u>	MEMORANDUM DECISION denying <u>9</u> Motion to Dismiss for Lack of Jurisdiction. For the foregoing reasons, DHS's motion to dismiss is denied. DHS is hereby ordered to respond to plaintiffs' petition within thirty days. Plaintiffs' second claim is dismissed, without prejudice, as moot. The Clerk of Court is directed to enter judgment accordingly and to close the case. SO ORDERED. (Signed by Judge Denny Chin on 6/25/2009) (tve) (Entered: 06/25/2009)
06/25/2009		Transmission to Judgments and Orders Clerk. Transmitted re: <u>29</u> Order on Motion to Dismiss/Lack of Jurisdiction, to the Judgments and Orders Clerk. (tve) (Entered: 06/25/2009)
06/26/2009	<u>30</u>	CLERK'S JUDGMENT That for the reasons stated in the Court's Memorandum Decision dated June 25, 2009, DHS's motion to dismiss is denied; the Court orders DHS to respond to plaintiff's petition within 30 days; and plaintiffs' second claim is dismissed, without prejudice, as moot; accordingly, the case is closed. (Signed by J. Michael McMahon, clerk on 6/26/09) (Attachments: # <u>1</u> notice of right to appeal)(ml) (Entered: 06/26/2009)
06/26/2009	<u>31</u>	ORDER: On 6/25/09, I issued a Memorandum Decision denying the motion to dismiss by defendant Department of Homeland Security, granting judgment in favor of plaintiffs on their first claim, dismissing their second claim, and ordering DHS to grant or deny plaintiffs' petition within 30 days. To the extent that DHS wishes to be heard further on the issue of reasonableness of the delay, it may move for reconsideration of the Decision within ten days. (Signed by Judge Denny Chin on 6/26/09) (tro) (Entered: 06/29/2009)
08/19/2009	<u>32</u>	ENDORSED LETTER addressed to Judge Denny Chin from Michael Wishnie dated 8/18/2009 re: Plaintiffs respectfully request that the deadline for the filing of the application for attorneys' fees be rescheduled to 9/7/2009 to allow parties to explore the possibility of settlement with regard to compensation under the EAJA. ENDORSEMENT: APPLICATION GRANTED. SO ORDERED. (Signed by Judge Denny Chin on 8/18/2009) (tve) (Entered: 08/19/2009)
08/19/2009		Set/Reset Deadlines: Motions due by 9/7/2009. (tve) (Entered: 08/21/2009)
09/09/2009	<u>33</u>	ENDORSED LETTER addressed to Judge Denny Chin from David Bober dated 9/2/2009 re: Counsel respectfully on behalf of the parties request a two-week extension of time from 9/7/09 to 9/21/09 for plaintiffs to submit their application for attorney's fees under the Equal Access to Justice Act. ENDORSEMENT: Approved. So Ordered. (Signed by Judge Denny Chin on 9/9/2009) (jfe) (Entered: 09/10/2009)

09/09/2009	<u>34</u>	ENDORSED LETTER addressed to Judge Denny Chin from David Bober dated 9/2/09 re: Request for an extension of time to 9/21/09 for plaintiff to submit their application for attorneys' fees. ENDORSEMENT: Approved. ( Motion due by 9/21/2009.) (Signed by Judge Denny Chin on 9/9/09) (cd) (Entered: 09/10/2009)
09/22/2009	<u>35</u>	ENDORSED LETTER addressed to Judge Denny Chin from Michael Wishnie dated 9/21/2009 re: Counsel request a two week extension of the EAJA statutory deadline so that a final Stipulation of Settlement can be executed by the parties and submitted to the Court. ENDORSEMENT: Approved. So Ordered. (Signed by Judge Denny Chin on 9/22/2009) (jfe) (Entered: 09/22/2009)
10/01/2009	<u>36</u>	STIPULATION AND ORDER OF SETTLEMENT OF ATTORNEY'S FEES: The U.S. shall pay to the Jerome N. Frank Legal Services Organization the sum of \$46,000 in attorneys' fees and litigation costs, pursuant to 28 U.S.C. 2412(d), which sum plaintiffs and their counsel agree in full satisfaction of any attorneys' fees and costs plaintiffs have incurred or will incur for services performed in connection with this action. (Signed by Judge Denny Chin on 10/1/09) (tro) (Entered: 10/02/2009)