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NOT FOR CITATION
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

ARTEM BELEVICH,
Plaintiff,
v.
MICHAEL CHERTOFF, et al.,
Defendants.

Case Number C 06-03983 JF
ORDER¹ TO SHOW CAUSE
[re: docket no. 1]

On June 27, 2006, Plaintiff Artem Belevich filed a "Petition for Hearing on Naturalization Application Under 8 U.S.C. §1447(b)" against Defendants Michael Chertoff, Secretary of the Department of Homeland Security; Emilio T. Gonzalez, Director of the United States Citizenship and Immigration Services ("CIS"); Francis D. Siciliano, Officer-in-Charge of the San Jose Sub Office of CIS; and Robert Mueller, Director of the Federal Bureau of Investigation ("FBI").

Plaintiff alleges the following. He is a lawful permanent resident of the United States.

¹ This disposition is not designated for publication and may not be cited.

1 On September 20, 2005, he applied for naturalization to the United States. He was interviewed
2 on February 13, 2006. He has been informed that he passed the test, but that no decision can be
3 made because his background check has not yet been completed.

4 Plaintiff alleges that Defendants have violated 8 U.S.C. § 1447(b), which provides:

5 If there is a failure to make a determination under section 1446 of this title before
6 the end of the 120-day period after the date on which the examination is
7 conducted under such section, the applicant may apply to the United States district
8 court for the district in which the applicant resides for a hearing on the matter.
Such court has jurisdiction over the matter and may either determine the matter or
remand the matter, with appropriate instructions, to the Service to determine the
matter.

9 Plaintiff requests that this Court adjudicate the naturalization application or issue an order
10 directing Defendants to adjudicate his application immediately. Good cause therefore appearing,
11 IT IS HEREBY ORDERED as follows:

12 (1) The Clerk of the Court shall serve by certified mail a copy of the petition and a
13 copy of this Order upon counsel for Defendants, the Office of the United States Attorney. The
14 Clerk of the Court also shall serve a copy of this Order upon Plaintiff.

15 (2) Defendants shall, within sixty (60) days after receiving service of the petition, file
16 and serve upon Plaintiff an answer, showing cause why the relief prayed for should not be
17 granted. At the time the answer is filed, Defendants shall lodge with the Court all records
18 relevant to a determination of the issues presented by the complaint. If Defendants contend that
19 Plaintiff has failed to exhaust administrative remedies as to any ground for relief asserted in the
20 complaint, Defendants shall specify what administrative remedy remains available to Plaintiff. If
21 Defendants waive or concede the issue of exhaustion, Defendants shall so state in their answer.

22 (3) Plaintiff may file a response to the matters raised in the answer within thirty (30)
23 days after receiving the answer.

24 (4) Unless otherwise ordered by the Court, the matter will be deemed submitted upon
25 the filing of the response or upon the expiration of time to file a response.

26 (5) The Order Setting Initial Case Management Conference and ADR deadlines
27 entered on June 27, 2006 in this action is hereby VACATED.

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1 DATED: June 29, 2006

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4 JEREMY FOGEL
United States District Judge

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1 This Order has been served upon the following persons:

2 Artem Belevich
3 1304 Antonio Ln
4 San Jose, CA 95117

5 Office of the United States Attorney
6 150 Almaden Blvd., Suite 900
7 San Jose, CA 95113

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