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**\*E-FILED 11/14/06\***

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION**

MIKHAIL BENENSON,  
  
Plaintiff,  
  
v.  
  
MICHAEL CHERTOFF, et al.,  
  
Defendants.

Case Number C 06-06984 RS  
ORDER TO SHOW CAUSE

On November 8, 2006, plaintiff Mikhail Benenson, appearing through counsel, filed a “Petition for Hearing on Naturalization Application” against defendants Michael Chertoff, Secretary of the Department of Homeland Security; Alberto Gonzales, Attorney General of the United States; Emilio T. Gonzalez, Director of the United States Citizenship and Immigration Services (“CIS”); and David Still, Director of the San Francisco office of the CIS.

Plaintiff alleges defendants have failed to process his application for naturalization in a timely manner, apparently as a result of delays in obtaining a completed background check clearance from the Federal Bureau of Investigation. Plaintiff alleges that Defendants have

1 violated 8 U.S.C. § 1447(b), which provides:

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

9 Plaintiff requests that this Court adjudicate the naturalization application and declare that  
10 he is entitled to be naturalized.

11 Good cause therefore appearing, IT IS HEREBY ORDERED as follows:

12 (1) The Clerk of the Court shall serve a copy of the complaint and a copy of this  
13 Order upon counsel for Defendants, the Office of the United States Attorney. The Clerk of the  
14 Court also shall serve a copy of this Order upon Plaintiff's counsel of record.

15 (2) Defendants shall, within sixty (60) days after receiving service of the complaint,  
16 file 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.  
21 If Defendants waive or concede the issue of exhaustion, Defendants shall so state in their  
22 answer.

23 (3) Plaintiff may file a response to the matters raised in the answer within twenty (20)  
24 days after receiving the answer.

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

27 (5) No later than the time their respective responses hereunder are due, the parties  
28 shall make their determination regarding the issue of consent to the jurisdiction of the Magistrate  
29 Judge and file the appropriate form. In the event any party declines to consent to the jurisdiction  
30 of the Magistrate Judge, this action will be reassigned to a District Judge for further proceedings.

1 (6) The Order Setting Initial Case Management Conference and ADR deadlines entered  
2 on November 8, 2006 in this action is hereby VACATED.

3 IT IS SO ORDERED.

4 Dated: November 14, 2006

5   
6 RICHARD SEEBORG  
7 United States Magistrate Judge

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1 **THIS IS TO CERTIFY THAT NOTICE OF THIS ORDER WAS ELECTRONICALLY**  
2 **PROVIDED TO:**

3 Geri Nadine Kahn gerik@jfcs.org, gkahn@pacbell.net

4 Monica Kane monicak@jfcs.org

5  
6 Dated: November 14, 2006

7  
8 /s/ BAK  
9 Chambers of Magistrate Judge Richard Seeborg