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28E-FILED on 7/16/07

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

MARK HAWKE,

Petitioner,

v.

UNITED STATES DEPARTMENT OF
HOMELAND SECURITY, CITIZENSHIP
AND IMMIGRATION SERVICES,

Defendants.

No. C-07-03456 RMW

ORDER TO SHOW CAUSE

[Re Docket No. 1]

Petitioner Mark Hawke seeks an order requiring the United States Department of Homeland Security, Immigration and Citizenship Services, to produce records pertaining to the application of his wife Lucia Herrera Hawke (aka Lucia Herrera Marquez) to obtain permanent resident status under the Violence Against Women Act (file # A97879961). Petitioner is a defendant in a state criminal complaint in which it is alleged that he committed spousal abuse on September 25, 2006. The District Attorney has given notice that it may offer acts of domestic violence other than the alleged September 25, 2006 act, and defendant believes that the records sought may contain information pertinent to his defense. Petitioner seeks to have the records produced for *in camera* review by the Honorable Raymond Davilla of the Superior Court of Santa Clara, the judge presiding over the criminal complaint, so that he can make a determination whether petitioner is entitled to

ORDER TO SHOW CAUSE—No. C-07-03456 RMW

United States District Court
For the Northern District of California

United States District Court
For the Northern District of California

1 inspect such records under California Penal Code § 1326. Petitioner has been unable to get his wife
2 to consent to production of the records, and the U.S. Citizenship and Immigration Services has
3 advised that a federal court order is required for production of the type of records sought.

4 Good cause appearing, the court issues an Order to Show Cause to the Director of Homeland
5 Security, U.S. Citizenship and Immigration Services, to show cause before this court on August 10,
6 2007 at 9:00 a.m. in courtroom 6 as to why the documents described in Exhibit A attached hereto
7 should not be produced to this court for *in camera* review and determination as to whether they
8 should be produced to the Honorable Raymond Davilla for his *in camera* review for possible
9 production in the state criminal proceedings.

10 The petition, memorandum of points and authorities in support thereof and this order shall be
11 served on the Office of the Chief Counsel, U.S. Department of Homeland Security, all parties to the
12 state court proceedings and Lucia Herrera Hawke (aka Lucia Herrera Marquez) by July 20, 2007.

13 Any response must be filed by August 3, 2007.

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DATED: 7/16/07

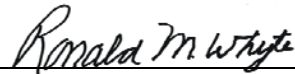

RONALD M. WHYTE
United States District Judge

EXHIBIT A

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1. Any and all letters, statements, applications, declarations, records or documents of any kind related to LUCIA HERRERA HAWKE's (aka LUCIA HERRERA MARQUEZ) petition for a "K1 visa" in the United States of America from January 1, 2004 to the date of production under case number A97879961.

2. Any and all letters, statements, applications, declarations, records or documents of any kind related to LUCIA HERRERA HAWKE's (aka LUCIA HERRERA MARQUEZ) application for permanent residency pursuant to section 245 of the Immigration and Nationality Act in the United States of America from January 1, 2004 to the date of production under case number A97879961.

3. Any and all letters, statements, applications, declarations, records or documents of any kind related to LUCIA HERRERA HAWKE's (aka LUCIA HERRERA MARQUEZ) allegations of domestic violence by MARK HAWKE against her lodged with the United States of America, or any governmental entity operating on its behalf, from January 1, 2004 to the date of production under case number A97879961.

4. Any and all correspondence sent from the U.S. Department of Homeland Security, Immigration and Citizenship Services to LUCIA HERRERA HAWKE (aka LUCIA HERRERA MARQUEZ), or an authorized agent on her behalf, from January 1, 2004 to the date of production under case number A97879961.

5. Any and all correspondence sent from LUCIA HERRERA HAWKE (aka LUCIA HERRERA MARQUEZ), or an authorized agent on her behalf, to U.S. Department of Homeland Security, Immigration and Citizenship Services from January 1, 2004 to the date of production under case number A97879961.

United States District Court
For the Northern District of California

1 **Notice of this document has been electronically sent to:**

2 **Counsel for Plaintiff:**

3 David John Luca david@lucalaw.com

4 **Counsel for Defendant:**

5 No appearance

6
7 Counsel are responsible for distributing copies of this document to co-counsel that have not
8 registered for e-filing under the court's CM/ECF program.

9
10 **Dated:** 7/16/07

11 /s/ MAG
12 **Chambers of Judge Whyte**

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