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**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
ORLANDO, FLORIDA**

In the Matter of:)
)
Hang Lee,) File No.: A: 200-025-000
)
In Removal Proceedings.)
_____)

Honorable Victoria L. Gharthey

Next Hearing:
April 20, 2015 at 1pm
Vietnamese Translator Requested

**RESPONDENT'S FILING OF HER PRE-HEARING CASE
SUMMARY & SUPPORTING DOCUMENTS FOR HER I-485 AND I-
601 APPLICATIONS PENDING DE NOVO REVIEW FROM THIS
HONORABLE COURT**

RESPECTFULLY submitted on April 6, 2015.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing documents was mailed to the Office of the Chief Counsel, DHS/ICE, at 3535 Lawton Road, Orlando, Florida 32803 on April 6, 2015.

Arturo R. Rios, Esq.

Case Summary

Mrs. Hang Lee, the Respondent, a citizen of Vietnam, was lawfully admitted into the United States on December 20, 2006, but she did remain in the United States past her authorized period of stay. In late 2007, Mrs. Lee married a U.S. citizen, Mr. Bruce Nguyen, and she is the beneficiary of an approved I-130 Petition for Alien Relative filed by him. However, the U.S. Citizenship and Immigration Services (USCIS) holds that Mrs. Lee made a willful misrepresentation to the U.S. Consulate in Vietnam to obtain her visitor's visa, making her inadmissible for adjustment of status purposes.

To wit, the USCIS states that Mrs. Lee claimed to have been married at the time of her tourist visa application, when she was in fact already divorced from her first husband in Vietnam. Although there are questions of whether Mrs. Lee, who hired a "visa specialist" to fill out her application, was aware of the misrepresentations made on her visa applications at the time, she does accept responsibility for the fact, and begs Your Honor to grant her a waiver under § 212(i) of the Act, as her removal from the United States would result in extreme hardship to her U.S. citizen husband of over eight years, Mr. Nguyen, who is already suffering emotional turmoil in face of his wife's possible deportation.

Accordingly, Mrs. Lee hereby submits the following documents in support of the I-485 and I-601 applications pending before the Court, and I respectfully submit that said evidence will provide Your Honor with the ability to grant relief in this case and allow Mrs. Lee to remain with her loving husband in the United States, a husband who depends on Mrs. Lee deeply and emotionally.

Respectfully submitted on November 18, 2014.

Arturo R. Rios, Esq.

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- Evidencing the loving nature and togetherness of this marriage, and therefore the extreme hardship Mr. Nguyen will suffer if he is separated from Mrs. Lee.

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- Evidencing the unquestionable and extreme emotional and psychological hardship Mr. Nguyen will suffer if Mrs. Lee is deported.

✓ Mr. Nguyen will be negatively impacted if Mrs. Lee were to be deported to Vietnam. The possibility of them relocating to a foreign country like Vietnam with high risks of violence, decreased availability of adequate healthcare, and extreme limitations to gain employment will potentially exacerbate Mr. Nguyen's depressive and anxiety symptoms, to the point of further debilitating his physical and mental health. Currently, his psychological symptoms have already compromised his cognitive processes such as: attention, concentration, visuoconstructional and visumotor skills, and the ability to work efficiently under time pressure, negatively impacting his performance and interpersonal relationships at work and at home... Mrs. Lee has been his primary source for love, attention, nurturing and spiritual guidance helping him cope, and preventing further deterioration in his emotional state. Moreover, Mr. Nguyen's functioning has significantly decreased and he has become increasingly dependent on Mrs. Lee for spiritual and emotional support. It is crucial to maintain Mr. Nguyen's primary emotional support system intact represented in the figure of Mrs. Lee to prevent that Mr. Nguyen's depression and anxiety evolve into complete disability. The results of this evaluation appear to be a valid measure of Mr. Nguyen's current cognitive, affective and neuropsychological functioning at this time.....66-67

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- Further evidencing the loving nature of this marriage, as well as the extreme hardship Mr. Nguyen will suffer if Mrs. Lee is deported.

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- Evidencing the ongoing bona-fide nature of the marriage;
 - Further showing the financial hardship Mrs. Lee’s deportation will impose on the marriage’s finances.
- L. 2013 US State Department Human Rights Report for Vietnam.....221**
- Evidencing the volatile conditions and lack of respect for human rights shown by the Vietnamese government, in short, evidencing the dangerous and unsavory country Mrs. Lee would face if deported.
- M. Human Settlements Group’s Report on Urban Poverty in Vietnam.....267**
- Further evidencing the poor, underdeveloped, and unsavory country Mrs. Lee would return to if deported to Vietnam.

Immigration Judge's Benchbook

Section 212(i) Waiver of Misrepresentation or Fraud

Under section 212(a)(6)(C)(i) of the Act, an alien who, by fraud or willful misrepresentation of a material fact, seeks to procure, has sought to procure, or has procured a visa, other documentation, or admission into the United States or other benefit provided under the Act, is inadmissible. However, the Attorney General may, in his discretion, waive the application of section 212(a)(6)(C)(i) of the Act in the case of an immigrant who is the spouse, son, or daughter of a United States citizen or of an alien lawfully admitted for permanent residence if it is established to the satisfaction of the Attorney General that the refusal of admission to the United States of the alien would result in extreme hardship to the citizen or lawful resident spouse or parent of the alien. INA 212(i).

The Attorney General may also waive the application of section 212(a)(6)(C)(i) for aliens classified under INA 204(a)(1)(A)(iii)-(iv) and (B)(ii)-(iii) if the alien demonstrates extreme hardship to the alien or the alien's U.S. citizen, lawful permanent resident, or qualified alien parent or child. INA 212(i); see also Matter of Cervantes, 22 I&N Dec. 560 (BIA 1999). This waiver was created by Congress to help unite families and preserve family ties composed of United States citizens or lawful permanent residents. See Matter of Tijam, 22 I&N Dec. 408, 416-417 (BIA 1998). To be eligible under section 204(a)(1)(A)(iii)-(iv) of the Act, the alien must be a spouse, child, or parent of a U.S. citizen and the alien or a child of the alien must have been battered or have been the subject of extreme cruelty perpetrated by the alien's spouse or intended spouse. Under section 204(a)(1)(B)(ii)-(iii) of the Act, the spouse or child of a lawful permanent resident of the U.S. is also eligible for a waiver where the alien or the alien's child has been battered or has been the subject of extreme cruelty perpetrated by the alien's spouse or intended spouse. Other conditions also apply to the granting of a section 212(i) waiver for aliens classified under INA 204(a)(1)(A)(iii)-(iv) and (B)(ii)-(iii).

"Extreme hardship" is not a definable term of fixed and inflexible meaning, and the elements to establish such hardship are dependent upon the facts and circumstances of each case. Matter of Pilch, 21 I&N Dec. 627, 630 (BIA 1997); see also Matter of L-O-G, 21 I&N Dec. 413 (BIA 1997); Matter of Chumpitazi, 16 I&N Dec. 629, 635 (BIA 1978). The factors to be considered in determining extreme hardship to a qualifying relative pursuant to section 212(i) include, but are not limited to, the presence of family ties to this country; the qualifying relative's family ties outside the United States; the conditions in the country or countries to which the qualifying relatives would relocate and the extent of the qualifying relative's ties to such countries; the financial impact of departure from this country; and significant health conditions, particularly when tied to the unavailability of suitable medical care in the country to which the qualifying relative would relocate. See Matter of Cervantes, 22 I&N Dec. at 566; see also INS v. Jong Ha Wang, 450 U.S. 139 (1981). The Attorney General can consider the applicant's underlying fraud as an adverse factor in denying him relief under section 212(i) of the Act. See Matter of Cervantes, 22 I&N Dec. at 569; see also Matter of Tijam, 22 I&N Dec. 408 (BIA 1998).

While political and economic conditions in an alien's homeland are relevant, they do not justify a grant of relief unless combined with other factors that render removal an extreme

hardship to the alien's qualifying relative. Matter of Anderson, 16 I&N Dec. 596 (BIA 1978). Economic detriment in the absence of other substantial equities does not constitute extreme hardship. Matter of Sangster, 11 I&N Dec. 309 (BIA 1965); see also Matter of Chumpitazi, 16 I&N Dec. at 635 (finding that the loss of a job and the concomitant financial loss incurred do not rise to the level of extreme hardship). The Supreme Court has held that a narrow interpretation of the phrase "extreme hardship" is consistent with the exceptional nature of this type of relief. INS v. Jong Ha Wang, 450 U.S. at 145.

A section 212(i) waiver cannot be granted to an alien who, under INA 212(a)(6)(C)(ii), falsely represents, or has falsely represented himself or herself to be a citizen of the U.S. for any purpose or benefit under the Act or any other Federal or State law.

RESPECTFULLY submitted on April 6, 2015.

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