

1 one and see if we can get some common ground here before we go
2 forward. And, Mr. Hu, you or Mr. Kisor may -- either one of you
3 can respond to this.

4 If the government is effectuating a policy that is injuring,
5 directly injuring an individual, doesn't the individual have
6 standing to file a lawsuit to stop that policy?

7 MR. KISOR: May I approach the podium, Your Honor?

8 THE COURT: You may. You may.

9 MR. KISOR: As a general matter, the answer is
10 sometimes. The injured party would have to have standing, and
11 so the injury would have to be concrete and particularized. It
12 would have to be traceable to the defendants, in this case the
13 government's conduct, and the Court would have to have some
14 mechanism to redress it.

15 There are areas where an injured person who was injured --
16 been injured by some government employee or some governmental
17 policy by an agency who has a concrete injury can file a civil
18 suit under the Federal Tort Claims Act which acts as a waiver of
19 sovereign immunity. And what that person would first have to do
20 in order to exhaust is to file an administrative claim with
21 whatever agency the plaintiff claimed had injured him or her.
22 And then if 180 days have gone by and the claim was either not
23 adjudicated or denied, could file a federal tort claims lawsuit.

24 THE COURT: What about an ongoing tort, though?

25 MR. KISOR: I'm sorry, sir?

1 THE COURT: An ongoing tort.

2 MR. KISOR: It would -- an ongoing tort, I suppose the
3 Court could enjoin if there was otherwise standing and
4 jurisdiction.

5 THE COURT: And by standing, you mean if the ongoing
6 tort was proximately causing injury to that person, that person
7 would have standing to enjoin it.

8 MR. KISOR: If they had Article III standing and
9 prudential standing. And if the injury is so generalized as to
10 be injuring them and everyone else, then that becomes a
11 nonjusticiable political question under case law that discusses
12 prudential standing which we've cited in our brief.

13 And here what we have is a policy or a mechanism to enforce
14 the Immigration and Nationality Act, and -- and therefore, it is
15 so widespread and affects every American that it should be
16 resolved by the political branches under the political process.

17 THE COURT: Well, I mean, is it your position in this
18 case that Dr. Taitz doesn't have standing because we're not only
19 hurting her, but we're hurting everybody and that's okay?

20 MR. KISOR: No, Your Honor. The government's position
21 is Dr. Taitz does not have standing in this case because she
22 fails on all three prongs of the standing test. And in the
23 alternative, if she were able to succeed on all three prongs of
24 the standing test, would nonetheless lack prudential standing.

25 THE COURT: Because of?

1 MR. KISOR: Because under the case law, the alleged
2 injury is so abstract or generalized such as in the -- as an
3 example, in the proper operation of government, which is
4 essentially what she's challenging here, the proper operation of
5 government.

6 THE COURT: Why do you say it's proper?

7 MR. KISOR: Why do I say the current --

8 THE COURT: I mean, you're asking me to assume it's
9 proper.

10 MR. KISOR: It's proper because it's being administered
11 in accordance with the Immigration and Nationality Act, which is
12 Title 8 of the United States Code.

13 THE COURT: And so as long as you're doing that, or you
14 at least claim to be doing that, you can hurt anybody regardless
15 of the outcome?

16 MR. KISOR: Not necessarily, Your Honor, but first there
17 would have to be a showing that -- that there was the injury as
18 in the enforcement of the Immigration and Nationality Act or the
19 mechanism by which it's being implemented, the regulations.

20 THE COURT: Let me -- I tried to start with what I
21 thought was a simple example, and maybe I'm striking out here.

22 The federal government has a person that has Ebola in its
23 custody. And it takes that Ebola person and says: I'm going to
24 transfer that person out of our custody and put him in a
25 facility without warning anybody that he's got Ebola; put him in

1 a facility where he's being cared for by Mr. Jones, and I'm not
2 telling Mr. Jones he's got Ebola. And Mr. Jones later contracts
3 Ebola; and the immigrant that has Ebola continues to, you know,
4 run around loose infecting other people. And I don't know if
5 Ebola is an infectious process or not, but I'm using that as an
6 example.

7 You're telling me that no one can enjoin the federal
8 government from doing that?

9 MR. KISOR: Your Honor, what I was saying was that in
10 order to file a civil suit against the federal government to get
11 an injunction, there would have to be a waiver of sovereign
12 immunity, which is the mechanism by which the case could come
13 into federal court. So -- and it would be the plaintiff's
14 burden to establish the waiver of sovereign immunity. And in
15 this case we don't have one, or we don't have one identified in
16 the plaintiff's filings.

17 THE COURT: Okay. But so you're telling me that the
18 government can infect anybody it wants to in the United States
19 and no one has a remedy? That's what you're telling me. I
20 mean, I'm shocked you're taking that position.

21 MR. KISOR: Your Honor, that's not precisely what I'm
22 saying because the government has been sued under various
23 statutes for infecting people. I'm thinking of the Tuskegee
24 airmen case in the 1940s.

25 THE COURT: But I'm talking about an ongoing program

1 that is endangering Americans. And I'm not saying this one is.
2 I'm saying hypothetically there's an ongoing program that's
3 endangering Americans. And you're saying that no one can stop
4 it and that I don't have jurisdiction to even hear the case?

5 MR. KISOR: I'm saying -- Your Honor, under your
6 hypothetical, I can -- I can conceive of situations where that
7 would be true, but that's not this case.

8 THE COURT: I didn't say it was this case. That's why I
9 started with what I thought was an easy one, and then you
10 started saying no, and I thought -- you know, I was trying to
11 set the parameters on both ends and work my way in and --

12 MR. KISOR: Yes, Your Honor, I --

13 THE COURT: You already knocked down one of my
14 parameters by saying I didn't have jurisdiction to even stop
15 that.

16 MR. KISOR: Under your hypothetical, I -- I guess it
17 would depend. And I'm not prepared certainly to concede
18 standing in this case.

19 THE COURT: I wasn't asking you this case.

20 MR. KISOR: Yes, Your Honor. I -- in order to file a
21 civil suit, there would have to be standing and a waiver of
22 sovereign immunity, and I can conceive of waivers of sovereign
23 immunity. Certainly if the government is doing something
24 unconstitutional, the Court could enjoin or restrain it.

25 THE COURT: Okay. All right. Now, that was my

1 situation over here. My situation over here is more like the
2 *Clapper* case that was recently heard, although maybe even less
3 specific than that, and that is I'm just a taxpayer, and I don't
4 like what the government is doing with my money, and I think
5 it's a waste of time to fly these immigrants around the nation,
6 a waste of time and money. If nothing else, they ought to have
7 to take the Greyhound. And I assume it would be your position
8 in this one over here that there's never going to be standing.

9 MR. KISOR: That's correct, Your Honor. There isn't
10 going to be taxpayer standing unless there's a waiver of
11 sovereign immunity that expressly permits it. And in the
12 hypothetical that you just suggested, if everybody would have
13 taxpayer standing and everybody has 100 percent of opinions
14 across the spectrum, the government would get 100 different
15 suits, and the Courts would be asked to do 100 different things
16 to accommodate everyone; and that's why we have a political
17 process, to legislate and enact laws that way.

18 THE COURT: Okay. So, I mean, what I'm trying to do is
19 hone in on this case.

20 MR. KISOR: Yes, Your Honor.

21 THE COURT: Now, let's assume -- and again, this is
22 hypothetical because I'm not sure Dr. Taitz's complaint actually
23 vocalizes this. That she's saying: I work at a place where
24 immigrant children are being housed. They are being shipped
25 from South Texas where they're coming into custody either --

1 probably DHS custody and then ultimately maybe HHS custody, and
2 they're shipping them to a facility in South Texas (sic) I work.
3 There's no warning about any diseases they have. They don't
4 tell us anything about these kids. They show up, and I am asked
5 to take care of them. And all of a sudden I find out they've
6 got all these diseases and they make me sick.

7 And I'm assuming in this hypothetical that, No. 1, she's
8 actually set that out. And No. 2, that there's medical evidence
9 to support it, which so far I have not seen. But assuming those
10 two things, wouldn't she have standing to enjoin the government
11 or at least ask for an injunction?

12 MR. KISOR: I think that under -- if I understand your
13 hypothetical correctly, Your Honor, you're talking about an
14 employee of the United States?

15 THE COURT: I'm talking -- no. I'm talking about let's
16 say an independent contractor.

17 MR. KISOR: Okay. And so that would -- because if it
18 was an employee, there would be a worker's compensation issue
19 and there could be a worker's compensation lawsuit.

20 THE COURT: FECA Act.

21 MR. KISOR: FECA matter, exactly right, Your Honor. If
22 it is not an employee of the United States and the conduct is
23 tortious, there could be a Federal Tort Claims Act kind of case
24 to the extent that the plaintiff can show a state law tort,
25 negligence or willful endangerment or something.

1 THE COURT: Okay. But again, I'm not asking -- or the
2 plaintiff is not asking for damages. Plaintiff is asking quit
3 sending these sick kids all around the nation. You know, don't
4 send them off some place either without warning people that
5 they're sick; or two, waiting until they're well and then
6 sending them on.

7 MR. KISOR: Assuming that this is a concrete injury
8 that's traceable to some policy of the defendants, which I
9 believe -- or the government, which I believe is the first two
10 prongs of your hypothetical, so that your question goes to --

11 THE COURT: And I'm also assuming there's medical
12 evidence to support it.

13 MR. KISOR: Yes, Your Honor. And so if I understand
14 your question, it goes to the redressability prong of the
15 standing test. If I have that right, then I believe that that
16 would probably -- under that hypothetical would fail under the
17 redressability prong as a political question.

18 THE COURT: So the government could continue to put
19 people at risk and they'd have no remedy?

20 MR. KISOR: Well, there would be a remedy.

21 THE COURT: What would that be?

22 MR. KISOR: Assuming there was a waiver of sovereign
23 immunity, there could be monetary damages under the statutes
24 that permit that. There could be injunctive relief under the
25 Administrative Procedures Act. To the extent that it was a

1 final agency action, I suppose the APA operates as a waiver of
2 sovereign immunity. I don't think it's an issue in this case.
3 But under your hypothetical, Your Honor, a court would be able,
4 under the Administrative Procedures Act, to enjoin agency action
5 that was causing a present danger to people.

6 THE COURT: Okay. All right. All right. Ms. Taitz,
7 let me get you to --

8 MR. KISOR: If I may add one thing that --

9 THE COURT: Go ahead.

10 MR. KISOR: Assuming that the agency action was
11 arbitrary and capricious or not in accordance with law.

12 THE COURT: And what? I'm sorry. I didn't hear the
13 last. Arbitrary, capricious or?

14 MR. KISOR: Or not in accordance with law.

15 THE COURT: All right. Dr. Taitz, if you will -- Taitz.
16 I'm sorry if I mispronounce your name. Let me -- I'm going to
17 ask you the same questions I've been asking Mr. Kisor. And
18 maybe I'll skip right -- skip the hypothetical and go right to
19 it.

20 I mean, do you feel that you -- and by "you," I mean you,
21 Dr. Taitz, not lawyer Taitz. Do you feel you have standing as a
22 taxpayer to complain about this? And if so, why?

23 DR. TAITZ: Not only as a taxpayer, Your Honor. As a
24 matter of fact, I have brought the whole treatise of hundreds of
25 cases where citizens had standing to sue the federal government

1 on malfeasance and specifically in regards to immigration law
2 policies. If I may give to --

3 THE COURT: Cristi?

4 DR. TAITZ: I'm sorry. Actually this one.

5 MR. KISOR: Thank you.

6 DR. TAITZ: So this is actually very common. And I
7 would like -- if I may give you one more case. Here you go.
8 This is -- I would actually like to start with a case that --
9 where U.S. District Court Judge, Judge Lamberth in the District
10 of Columbia, has issued a ruling stating that the plaintiffs had
11 standing. And the reason I would like to start with this case,
12 because it has to do with what I am asking for, quarantine. And
13 that case didn't even talk about deadly diseases.

14 This case is Orchid Growers Association that has sued the
15 Department of Agriculture and stated that the orchids that were
16 brought to the United States of America from Taiwan, where
17 imported, in the pots, in the soil contained moss. And this
18 moss had a pest that might potentially affect orchids that --
19 those in Hawaii.

20 And Judge Lamberth has ruled that this association has
21 standing to bring a legal action stating that -- and Judge
22 Lamberth has found that because there is imminent injury, that
23 there will be an injury to their economic interests and their
24 ability to grow those orchids, he found standing.

25 And specifically the Court stated, as a matter of fact, very

1 similarly, the government stated that there is no standing. And
2 Judge Lamberth, who is, by the way, now here in Texas being a
3 senior -- retired senior judge wrote, "Unlike aliens" -- excuse
4 me just one second. I apologize.

5 It found, "The Court concludes contrary to defendants'
6 argument, that plaintiff has adequately demonstrated for
7 purposes of establishing standing that alien pests may invade
8 Hawaii and its native orchids through eggs laid in the sphagnum
9 moss in which maturing orchids are cultivated in Taiwan."

10 Further he stated, "That to establish the requisite Article
11 III standing, plaintiff bears the burden of demonstrating at an
12 irreducible minimum that it has suffered concrete particularized
13 injury which is actual and imminent; that injury is fairly
14 traceable to action of defendants; and the injury is likely
15 redressable by a favorable decision from the Court."

16 The Court has found, "Plaintiff alleges it will be -- it
17 will be injured -- potential, not actual -- but potential injury
18 both because of increased competition and because of possible
19 alien insect infestation resulting from imports."

20 He continues explaining that the acts of this pest in the
21 moss. And he stated, "Plaintiff further maintains they will be
22 injured economically by the Final Rule as well. Plaintiff will
23 no longer enjoy the advantage from domestic sales of mature
24 orchids, plants, and will not be able to produce nursery
25 products in a domestic environment free from invasive alien

1 plant pests. Defendant argue that plaintiff's claims are
2 conclusory and plaintiff has failed to produce any evidence to
3 support their assertions. The Court concludes, contrary to
4 defendant's arguments, that plaintiff has adequately
5 demonstrated for purposes of establishing standing that alien
6 pests may invade Phalaenopsis orchids that are cultivated in
7 Taiwan. Plaintiff has established that plaintiff's native
8 Hawaiian orchids may be injured in a concrete and particular way
9 by pests that may be introduced into the environment," and so
10 forth.

11 THE COURT: Well, isn't -- I mean, I don't mean to
12 interrupt you, but isn't that -- basically he's asking -- it's
13 gone through the APA, the Administrative Procedures Act, and
14 isn't this a request to enjoin a rule change by the Department
15 of Agriculture?

16 DR. TAITZ: Yes.

17 THE COURT: Isn't that a different situation than what
18 we have here?

19 DR. TAITZ: Well, what it is, what Mr. Kisor is stating
20 that you have -- that there has to be a waiver of immunity by
21 the government in order to sue the government. This is
22 absolutely not true. There are multiple cases where the
23 government was sued because specific policies have affected
24 citizens. In this case, the growers were standing (sic) that
25 potentially it will affect their orchids.

1 THE COURT: Well, isn't it -- but the ability to
2 challenge a new rule is built into the APA, isn't it?

3 DR. TAITZ: In this case, it's not -- actually they did
4 not -- I don't believe this is an APA. It's stating that it is
5 Department of Agriculture that they're suing. But it is an
6 example that suing -- that suing the federal government does not
7 require waiver of sovereign immunity.

8 Further, I would like to bring more cases that deal
9 specifically with immigration policies.

10 For example, in the legal treatise that I provided for Your
11 Honor, it's a treatise by a Professor Adam Cox who is a
12 professor in Princeton University. And he specifically argues
13 that citizens have standing, legally cognizable standing to
14 challenge immigration policies.

15 For example, a case of *Fiallo v Bell*. The Court has found
16 that immigration law regularly injures citizens by expelling or
17 excluding people with whom citizens wish to associate. And the
18 Court did find standing simply because the -- the plaintiffs in
19 this case were arguing that their equal protection rights are
20 affected and they cannot associate with their relatives.

21 Here my equal protection rights and my economic rights are
22 affected due to the fact that I am in imminent danger on daily
23 basis, ten or 20 times a day, from individuals who are being
24 transported to California and who have not just, you know,
25 something that affects plants, something that can be a deadly

1 disease. It affects my health and health of my employees.

2 THE COURT: Well, tell me -- wait a minute. Let stop
3 you there. Tell me how that is. It's not clear to me. I mean,
4 I've read -- I think I've read everything you filed. I hope I
5 have. But it's not clear to me under what basis you actually
6 see these immigrant children.

7 DR. TAITZ: Well, I am -- I am a doctor provider with
8 Denti-Cal and Medi-Cal. Those are specific government programs
9 where doctors are providing care for poor, for immigrants. The
10 doctors are typically checked. They check the office. They
11 check all of the certifications. And they -- the government
12 refers patients to me directly to my office. Many of those
13 patients are patients that are being transported by the
14 government.

15 Furthermore, in the State of California, what the government
16 is doing, it is paying every foster parent \$7,000 per month to
17 foster those illegal alien children. And --

18 THE COURT: According to the news yesterday, California
19 has said they'd take all these kids. I mean, that's what the
20 governor said. "Bring them on."

21 DR. TAITZ: Well, unfortunate -- well, Governor Brown
22 happens to be a liberal democratic who believes in open borders,
23 and he believes in North American Union and open borders.
24 However, Governor Brown does not represent all of the citizens.
25 And specifically this is a tort. And --

1 THE COURT: Wait, wait, wait, wait, wait. What's a
2 tort?

3 DR. TAITZ: In that the government is being, at the very
4 minimum, negligent or acting with reckless disregard to public
5 health and to human life in that it is transporting individuals,
6 knowing that those individuals are afflicted with infectious
7 diseases, with deadly diseases such as tuberculosis and rabies.
8 And I will go further in regards to those diseases. They are
9 transporting those individuals, and they are not warning the
10 public.

11 THE COURT: Where do you plead negligence?

12 DR. TAITZ: I cannot point specific area of the
13 pleadings because --

14 THE COURT: Here's one of the problems I have. I may
15 have some problems with Mr. Kisor saying I can never sue the
16 government even if they're out here making people jump off a
17 cliff, but here's one of the problems I have with you. I've
18 read your complaint several times, and you document your
19 argument fine. But it's hard for me to determine what your
20 actual causes of action are. I mean, you have a cause of action
21 basically based on Title 8, United States Code, Section 1324,
22 and I'm not sure you can sue somebody under that cause of action
23 even for negligence per se.

24 You have a cause of action that basically accuses the
25 government of treason. And you have pled -- and this one I

1 think you perhaps, maybe not adequately, but you certainly
2 raised a RICO cause of action. But I don't recall any
3 negligence pleading.

4 DR. TAITZ: Well, first of all, I am -- I am entitled to
5 sue under civil RICO. As an individual who was harmed, I am
6 entitled to -- to bring a civil RICO and bring wanton actions
7 and violations of criminal statutes under civil RICO.

8 Further --

9 THE COURT: Can you sue the government under RICO?

10 DR. TAITZ: I can sue government employees and
11 government officials in civil RICO. And I will be happy to
12 provide Your Honor with -- with precedents on that. There are a
13 number of precedents where government employees were sued in
14 civil RICO.

15 Further, there is negligence.

16 Thirdly, this -- the administration is employing medical
17 professionals who are supposed to check those individuals who
18 have infectious diseases, and they have to be quarantined. As a
19 matter of fact, I have a release from Health and Human Services
20 stating that individuals who have infectious diseases are
21 quarantined. However, this is not being done. So this is also
22 a medical --

23 THE COURT: How do you know it's not being done?

24 DR. TAITZ: Because I have a report from the Border
25 Patrol stating that individuals were transported from Texas to

1 California with open sores, open sores from scabies and other
2 diseases, with coughing, individuals who had tuberculosis, H1N1
3 virus.

4 And by the way, a couple of officers, if I might state, can
5 testify on the phone. I have an email stating that they did not
6 get an okay from the government to travel and testify until
7 yesterday after I already left for the airport. So for that
8 reason, they could not testify, but they are willing to testify
9 on the phone and confirm what I am stating.

10 Also you have a press release from a Border Patrol officer
11 who is a health -- who is health and safety officer with a local
12 union who specifically stated that individuals are not being
13 checked, and they are arriving with multiple infectious
14 diseases.

15 THE COURT: Mr. Kisor, what is the government's
16 position? I mean, are they checking these kids for health
17 problems?

18 MR. KISOR: Absolutely, Your Honor, and we have
19 witnesses here who can testify as to the manner that they're
20 being medically screened, both when they come into custody and
21 then subsequently. Individuals, for example, who have -- excuse
22 me -- tuberculosis, as an example, would be taken to a hospital
23 for treatment. And to the extent that they be quarantined
24 pursuant to, you know, hospital regulations about how to go
25 about that, that is absolutely happening. We have a witness

1 here today that can testify as to those processes if the Court
2 desires.

3 DR. TAITZ: May I respond?

4 THE COURT: Go ahead.

5 DR. TAITZ: Well, for example, they -- right here in
6 Texas in Laredo station, they had an individual, an illegal
7 alien, who individual died from rabies. He went into a coma and
8 was sent to Corpus Christi hospital where he died of rabies.
9 According to the information that I got from the doctor, 30
10 governmental employees, nurses and Border Patrol agents did get
11 shots from rabies. However, 700 detainees who were illegal
12 aliens did not get the shots, and they were just released.

13 So this -- I can sue -- and that's another cause of action
14 for medical malpractice, because as I'm receiving more
15 information, those -- those employees who worked specifically
16 for government-run detention camps or employees who are working
17 for this organization called Baptist Family Services have not --
18 are committing medical malpractice because they are allowing
19 individuals who have psychosis, who are suicidal, who have
20 infectious medical diseases, they're allowing them to be just
21 transported to different areas and dispensed around the country.
22 They are not getting proper treatment. So this is clear medical
23 malpractice.

24 And in this case, the defendants are the superior, are
25 respondeat superior.

1 THE COURT: Dr. Taitz, let me -- let's assume for a
2 minute it is medical malpractice. I mean, let me preempt
3 Mr. Kisor. I'm sure if I were in his position, I'd say even if
4 you had standing to bring the case you brought, you certainly
5 don't have standing to bring somebody else's medical malpractice
6 case.

7 DR. TAITZ: Oh, my medical malpractice case because I am
8 affected by the medical malpractice which is committed by those
9 healthcare officials who are not advising the public. And I
10 have reports stating that the medical officials were told to be
11 under a gag order not to disclose to the public the extent of
12 infectious diseases that we are seeing in those camps. So I am
13 affected, and I am in imminent danger until and unless the
14 recent redress of my grievance by this court.

15 THE COURT: Okay. You mentioned you were a -- you were
16 contracted, and I think perhaps I interrupted you because I had
17 asked you how exactly you were exposed to these children. Let
18 me go back and tell me factually how you are -- you provide
19 dental work?

20 DR. TAITZ: Yes.

21 THE COURT: To -- now, do you provide it -- in the last
22 six months, have you provided dental work to the alien children
23 we're talking about?

24 DR. TAITZ: Yes, on a daily basis.

25 THE COURT: All right. And through what -- are you a

1 contractor to the federal government?

2 DR. TAITZ: They -- the federal government places them
3 with foster families, and then they fall under Denti-Cal
4 program. It's -- there is Medi-Cal and Denti-Cal, government
5 programs where --

6 THE COURT: Okay. That's a California program?

7 DR. TAITZ: Well, it's actually connected to the federal
8 government. For example --

9 THE COURT: Well, I mean, it's administered -- it's
10 Denti-Cal, C-A-L, right? I mean, it means California, right?

11 DR. TAITZ: But it's -- actually it's the grant that
12 comes from the federal government.

13 THE COURT: No, I understand that. I just wanted to
14 identify it, because, I mean, obviously I don't think we have
15 Denti-Cal here in Texas.

16 DR. TAITZ: Yeah.

17 THE COURT: Okay. So you are treating these children.
18 And so let's say in the last six months or let's say since
19 January 1 of 2014, how many of these children have you treated?

20 DR. TAITZ: Several hundred probably.

21 THE COURT: And what do you treat them for?

22 DR. TAITZ: Well, they often come with pain. They --
23 many never had any dental treatment done in the countries of
24 origin, so I am in close contact. I'm doing extractions. I'm
25 doing root canals, fillings, crowns. And many of them, they

1 show up, they are coughing. They -- they have infectious
2 diseases. One of my assistants was -- got sick several times.
3 I got sick.

4 And when you are a dentist, you work in a very close
5 proximity with the patient and you deal with the patients. For
6 example, if I am drilling, the blood becomes airborne. As a
7 matter of fact, dentists are more at risk than others just
8 because we work with those machines. And the blood becomes
9 airborne. Saliva becomes airborne. It is in the air, so it's
10 very easy to get infected.

11 THE COURT: I think everybody would admit, even
12 Mr. Kisor if I held his feet to the fire, that if you're a
13 dentist and you're doing some dental work on somebody, they're
14 breathing on you. I mean, you're in close contact. I think
15 everybody agrees with that.

16 How do you -- and you know these are alien children because
17 of what?

18 DR. TAITZ: Because --

19 THE COURT: Do they have some kind of form that's filled
20 out or --

21 DR. TAITZ: They -- when -- actually they show up with a
22 card. This is a Denti-Cal card. And we make just a copy of the
23 card that they present, and then we bill the government. So I
24 have this card that they are presenting. I also take health
25 history where they're telling me that they just came in. They

1 came from whatever country. And --

2 THE COURT: Now, do you speak Spanish, or do you have
3 someone that speaks Spanish in your office?

4 DR. TAITZ: (Speaking Spanish.) I speak Spanish. And
5 also one of my assistants speaks Spanish. We also get people
6 who are not just from Central America. We have people coming
7 from other countries. I speak Russian. I mean, I speak several
8 languages. I have doctors who speak Persian. And I have people
9 who are from Africa.

10 Just the other week I saw somebody who was from Sudan. And
11 I actually asked him: Are you -- is there any Ebola in your
12 area? I just was worried about not tuberculosis, but Ebola.
13 And he said no, there's no Ebola in Sudan. But it is -- it is
14 the matter of public health.

15 By the way, I also would like to draw Your Honor's attention
16 to a recent case. And it was regarding Google Android consumer
17 privacy litigation. And what was interesting, that the Court --
18 and it's a 2013 case from Northern District of California.

19 And the Court have found that, "Plaintiff may satisfy the
20 injury in fact requirement to have standing under Article III
21 and may be able to bring a civil action without suffering
22 dismissal for want to standing to sue without being able to
23 assert a cause of action successfully."

24 So -- and I can provide Your Honor with a caption. It's --
25 it was United States District Court, Northern District of

1 California, March 26th, 2013, and it's 2D-2013-WL-1283236.

2 So in this case what I filed so far is an emergency motion
3 for stay. And if the standing is granted and -- I would like to
4 file a full complaint for a more definitive action. But what it
5 states, that even if I did not plead a specific -- specific --
6 it specifically states that even if I did not plead -- I did not
7 assert a successful -- a specific cause of action, if Your Honor
8 is not convinced whether it is negligence or that it is medical
9 malpractice or whether it is civil RICO, the Court can find that
10 there is standing to bring the complaint; and later on for
11 purpose of summary judgment, decide if -- if indeed the case was
12 proven.

13 So I also would like to bring several other cases that
14 specifically relate to immigration laws where standing was
15 found.

16 For example, *Abourezk v Reagan*. And it's a 1986 case, and
17 it is in the treatise that you have, Your Honor. The Court has
18 found -- it was a holding that citizens who invited foreign
19 speaker have standing to seek review of visa denials because
20 unquestionably are aggrieved by the State Department's resort to
21 Section 182 to keep out people they have invited to engage in
22 open discourse with them within the United States.

23 So in *Abourezk v Reagan*, the Court has found that people who
24 simply wanted to invite somebody as a speaker, and according to
25 immigration policies, he was not allowed to -- was not allowed

1 entrance, still the Court found that they had standing. This is
2 much more important issue for myself and for public health.

3 Further, *Pesikoff versus Secretary of Labor*. And that's
4 1974 case; D.C. Circuit, 1974 case. The Court found that
5 holding that putative employer had standing to seek APA review
6 of denial of labor certification for alien.

7 So here in *Pesikoff* -- and it's *Pesikoff versus Secretary of*
8 *Labor*, 501 F.2d 757, 760-61, District of Columbia Circuit, 1974.

9 Again, standing and possible grievance is minor. It's an
10 employer who wants to hire somebody as an illegal alien is
11 challenging immigration policies, and the Court has found
12 standing.

13 Further, in '83 case, it's -- I'm sorry. It's a 1996 case,
14 *Federation for American Immigration Reform, Incorporated versus*
15 *Reno*, 93 F, as in *Frank*, 3.d 897, 900, D.C. Circuit 1996. The
16 Court noted that plaintiff's theory of injury was that the rush
17 of immigrants resulting from the Mariel boatlift adversely
18 affects the welfare of the Federation's members by generating
19 unemployment and wage reductions by placing burdens on public
20 services such as hospitals and schools, especially in Miami
21 area.

22 So here is another case where the government has found that
23 individuals had standing to challenge the immigration policies
24 because those policies potentially, potentially will affect the
25 welfare of the public, meaning hospitals and schools and wages.

1 In my case, this is a much stronger standing because those
2 are specific individuals who are coming to my office, and that
3 affects my well-being.

4 THE COURT: Dr. Taitz, let me ask you this. Can't you
5 just not treat them? Can't you just say: I'm not going to
6 treat any of these people under this program that come from El
7 Salvador or Guatemala or Honduras or wherever the federal
8 government is shipping them in from?

9 DR. TAITZ: Well, Your Honor, then it will be economic
10 standing. One way or another, I will have standing because I
11 would be forced to stop my occupation. And there will be
12 definitely economic standing because I will lose big part of my
13 livelihood because I do see a lot of patients. And all I'm
14 asking for --

15 THE COURT: You could see some other patients.

16 DR. TAITZ: I see some other patients. However, the
17 contract -- typically government contracts are large contracts.
18 So I will definitely have economic standing if I would be forced
19 to -- to lose -- to lose big part of my livelihood because the
20 government is not disclosing the fact that individuals have
21 infectious diseases and because the government is not holding
22 those individuals in quarantine. As a matter of fact,
23 Department of Health and Human Services is claiming that they
24 hold individuals in quarantine. However, this is not being
25 done. And further on in the case, I will be happy to provide

1 further information, but I provided sufficient information just
2 for the purpose of standing.

3 Moreover, in *Northwest Forest Workers Association*, 688 F --
4 and it's the case from '93. The Court has -- holding was that
5 nonprofit organization concerned with the economic,
6 environmental and demographic effects of immigration had
7 standing to challenge immigration regulations on the ground that
8 the regulations improperly expanded the scope of a guest worker
9 program. And assuming, without deciding, that a nonprofit
10 immigration group's alleged economic injury stemming from Mariel
11 boatlift suffices for purposes of constitutional standing.

12 So this is a case that clearly states here the Northwest
13 Forest Workers Association did not plead any specific damages.
14 They just stated that the fact that the government is expanding
15 guest worker program will affect members of nonprofit economic,
16 environmental and demographic effects. So this is a very
17 generalized case, and the government has found standing.

18 So based on all of those standings, I have pled sufficient
19 facts for cognizable legal Article III standing. Whether
20 ultimately I will win or not, we don't know, but I believe that
21 I have pled sufficient for standing.

22 Moreover, I have noticed that the government -- here's
23 another case. This is not actually an immigration case, but
24 it's *Shaw v Reno*, 509 U.S. 630, comma, 651, 1993. And again, in
25 this case the government found standing where -- they stated,

1 "Extending standing to all federal taxpayers in a case
2 concerning whether a federal spending program violated
3 establishment clause."

4 *Akins*. *Akins*, 524 U.S. case. It was a case where a few
5 people were challenging FEC classification of AIPAC, claiming
6 something very minor, that American Israel Public Affairs
7 Committee should be called American Israel Public Action
8 Committee because -- and if they're being renamed by FEC, there
9 will be more information to the public.

10 And the Court in *Akins* has found -- and I guess it's in that
11 treatise. The Court in *Akins* found that plaintiffs had
12 standing. And what was their injury? All that we're looking
13 for is for the right to know about specific FEC filing of a
14 specific organization. Also --

15 THE COURT: Let me stop you here.

16 DR. TAITZ: Yeah.

17 THE COURT: Let me ask, Mr. Kisor, do you want to
18 respond to her general response to your motion to dismiss for no
19 standing? If not, there's some -- I want to move in a different
20 direction.

21 MR. KISOR: No, Your Honor. Although I would add only
22 two very minor points very briefly. The cases cited by
23 Dr. Taitz, at least from my understanding of the facts recited,
24 sound to me like APA cases in which there was an agency action
25 or regulation that was being challenged.