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## The United States Must Do More To Protect Immigrants from Legal Fraud

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Olivia Handelman ✍ · 3 days ago · 3 min read

# The United States Must Do More To Protect Immigrants from Legal Fraud

Earlier this month, counsel for Fareed Heera filed a complaint seeking review of his permanent residence (i.e. green card) application, on the grounds that Heera was victimized by his attorneys.[1] The federal government denied Heera's application due to fraud and misrepresentation.[2] Heera's counsel argues that law firms deceived Heera on two separate occasions when they filed petitions containing factual misrepresentations of which Heera was not aware. The complaint further explains that Heera did not intend to commit fraud by using misrepresentations; rather, he was preyed upon when relying on his attorneys to navigate a legal process unfamiliar to him.[3] Ultimately, Heera argues that he should not be penalized under the Immigration and Nationality Act – rendering him unable to obtain legal status in the United States – for the misrepresentations his attorneys made without his consent.[4]

Heera's case represents one of the hundreds of reported instances of fraud committed against immigrants seeking legal services each year.[5] Immigrants are susceptible to victimization of legal fraud due to their unfamiliarity to American law, culture, and government.[6] Furthermore, those who scam immigrants often prey on aspirations to achieve citizenship or fears of being deported, making this class vulnerable to exploitation.[7]

Immigration fraud encompasses the predatory actions of an immigration attorney, like in Heera's case, as well as individuals without any legal qualifications who target immigrants, otherwise known as notario fraud.[8] Notario fraud scammers, particularly those preying on Latinx immigrants, utilize the difference in terminology of the word 'notary' to find victims.[9] In Latin America, a *notario publico* is an attorney who maintains a "quasi-judicial position," holding a significant amount of authority.[10] In the United States, however, notaries do not have any legal qualifications and are not able to give legal advice unless they are also a licensed attorney.[11] Individuals and businesses without legal authority advertise themselves as a 'notary public' in order to target immigrants who believe they are consulting with a practicing immigration attorney.[12]

The existing remedies available to victims of immigration fraud are expensive and legally complex, and immigrants often lack the time and resources necessary for these legal actions.[13] Typically, an immigrant trying to correct a bad outcome resulting from fraud must reopen their case in immigration court, but this is generally subject to a 90 or 180-day deadline.[14] This can be limiting, especially given that victims are often unaware that they have been defrauded until after deadlines have passed.[15] And motions to reopen are subject to the judge's discretion.[16]

The United States should not be creating more legal hurdles for immigrants who are already vulnerable to exploitation under our legal system. Congressman Foster of Illinois proposed the “Protecting Immigrants from Legal Exploitation Act” that would allow victims of immigration fraud to have their cases reconsidered under specific circumstances.[17] Codifying this avenue of legal remedy rather than relying on nonsensical timelines and judicial discretion rightfully supports immigrant communities and gives people like Heera their fair shot at long-term legal status and citizenship.

[1] Alyssa Aquino, *Immigrant 'Misled' By Attys Seeks To Revive Green Card Case*, Law360 (Oct. 11, 2023, 1:53 PM), <https://www.law360.com/newyork/articles/1731205/immigrant-misled-by-attys-seeks-to-revive-green-card-case>.

[2] Complaint at 4-5, *Heera v. Mayorkas*, No. 1:23-cv-07543 (E.D.N.Y. Oct. 10, 2023).

[3] *Id.*

[4] Aquino, *supra* n. 1. Heera was found to be in violation of 8 U.S.C. § 1182(a)(6)(C)(i). §1882(a)(6)(C)(i) prohibits a noncitizen who procured a visa or other entry document “by fraud or willfully misrepresenting a material fact” from being considered admissible into the United States.

[5] *See, e.g.*, Allison Arteaga Soergel, *First nationwide study of scams targeting immigrants shows local social context may help or hinder reporting*, UC SANTA CRUZ NEWSCENTER (Feb. 10, 2022), <https://news.ucsc.edu/2022/02/immigration-scam-reporting.html> (noting that “between 400 and 700 immigration scams were reported annually from 2011 to 2014 . . . probably represent[ing] ‘just the tip of the iceberg,’ in terms of the true extent of immigration scams”).

[6] Judge Robert A. Katzmann, *The Legal Profession and the Unmet Needs of the Immigrant Poor*, 21 GEO. J. LEGAL ETHICS 3, 8 (2008) (“All immigrants, whether or not refugees or asylum seekers, are largely strangers to our language, our culture, our laws, certainly the complicated maze of immigration laws.”).

[7] *See* Arteaga Soergel, *supra* n. 5.

[8] *About Notario Fraud*, AM. BAR ASS'N (Jan. 31, 2022),

[https://www.americanbar.org/groups/public\\_interest/immigration/projects\\_initiatives/fightnotariofraud/about\\_notario\\_fraud/](https://www.americanbar.org/groups/public_interest/immigration/projects_initiatives/fightnotariofraud/about_notario_fraud/).

[9] Mary Dolores Guerra, *Lost in Translation: Notario Fraud - Immigration Fraud*, 26 J. CIV. RTS. & ECON. DEV. 23, 25-27 (2011).

[10] *Id.* at 25.

[11] *Id.* at 27.

[12] *See* Steph Solis, *Statewide sweep nets 28 New Jersey businesses accused of defrauding immigrants* (Nov. 9, 2018) <https://www.northjersey.com/story/news/new-jersey/2018/11/09/nj-notario-fraud-ag-cites-28-businesses/1941891002/>.

[13] Monica Schurtman & Monique C. Lillard, *Remedial and Preventive Responses to the Unauthorized Practice of Immigration Law*, 20 TEX. HISP. J.L. & POL'Y 47, 52, 61-62 (2014).

[14] *Id.* at 65.

[15] *Id.*

[16] *Id.* at 62.

[17] Press Release from Congressman Bill Foster (D-IL), *Foster Introduces Legislation to Crack Down on*

*“Notario” Fraud* (Sept. 28, 2023) <https://foster.house.gov/media/press-releases/foster-introduces-legislation-crack-down-notario-fraud>.