

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

THE ARDASH MARDEROSIAN TRUST)	
)	
Plaintiff,)	
)	
v.)	CASE NUMBER:
)	
GOVERNOR PATRICK QUINN and)	
THE BOARD OF TRUSTEES OF THE)	
UNIVERSITY OF ILLINOIS)	
)	
Defendants.)	
)	

COMPLAINT

Plaintiff, The Ardash Marderosian Trust, by undersigned counsel, brings this action for an injunction against Defendants Governor Patrick Quinn and The Board of Trustees of the University of Illinois (collectively referred to as “Defendants”), to prevent the depletion of The Ardash Marderosian Trust’s funds to aliens who are not lawfully present in the United States.¹ On information and belief, The Ardash Marderosian Trust alleges the following in support of its claim:

PARTIES, JURISDICTION, AND VENUE

1. Plaintiff The Ardash Marderosian Trust (“The Ardash Trust” or “Plaintiff”), is a trust formed by settlor Ardash Marderosian (“Ardash,” formerly of Western Springs, Illinois) on September 25, 2001 in Oak Brook, Illinois, for his benefit during his lifetime, and then for the benefit of his children upon his death (Catherine V. Marderosian, Caryn V. Russell, and Steven A. Marderosian,

¹ The phrase “aliens not lawfully present in the United States” will also be referred to as “illegal aliens” and/or “unlawful aliens.” These phrases are used interchangeably.

hereafter “children”). The current Trustee of the Ardash Trust is Catherine V. Marderosian (“Trustee”), Ardash’s daughter. The Trustee has the power/authority to, *inter alia*, compromise, contest, prosecute, or abandon claims in favor of or against The Ardash Trust.

2. Defendant Patrick Quinn is the Governor of the State of Illinois and is a citizen of Illinois. His offices are located at: 207 State House, Springfield, IL, 62706; and 100 W. Randolph, 16-100, Chicago, IL, 60601. He is an ex-officio member of Defendant Board of Trustees of the University of Illinois. He is a Defendant in his official capacity.
3. Defendant Board of Trustees of the University of Illinois (hereafter “Board of Trustees”), pursuant to 110 ILCS 305/1, is the body corporate and politic, with the power to sue and be sued, for the management or government of the University of Illinois. The Board of Trustees is responsible for, *inter alia*, setting/approving the University of Illinois tuition rates for all students, including students throughout Illinois and also for students from outside of Illinois.
4. This Court has subject matter jurisdiction over this case as a federal question pursuant to 28 U.S.C. §1331. The issues in this case involve the proper interpretation of 8 U.S.C. §1623, a federal statute.
5. Pursuant to 28 U.S.C. § 1391(b)-(d), venue is proper in this Court because the Defendant Board of Trustees is an entity with the capacity to sue/be sued, and is deemed to reside in this district because its contacts with this district subject it to the Northern District of Illinois’s personal jurisdiction.

**FACTS RELATING TO THE JUDY RIEMENSCHNEIDER MARDEROSIAN
MEMORIAL MUSIC SCHOLARSHIP**

6. In 1992, Judy Marderosian, Ardash's wife, died. Judy Marderosian's family wanted to create a scholarship fund in her memory that was specifically directed at music students who were the most like her, including students who pursued the same curricula as she had and had been raised in hard-working American families of limited means.
7. On November 11, 1992, Ardash entered into an agreement with the University of Illinois Foundation ("Agreement" and "Foundation" respectively), a not-for-profit corporation, to create a scholarship fund for music students in honor of Judy Marderosian. The Agreement is binding upon the parties' heirs, executors, administrators, legal representatives, successors and assigns.
8. Pursuant to this Agreement, the Judy Riemenschneider Marderosian Memorial Scholarship (hereafter "the Scholarship") was created as a merit-based scholarship. Donations to the Scholarship are held as an endowment (hereafter referred to as the "Fund"), with the net income derived from the endowment to be used to pay for the Scholarship.
9. At the time Ardash entered into the Agreement, illegal aliens were not eligible to receive reduced in-state tuition at the University of Illinois.
10. Each year the Scholarship is awarded to Music Education students enrolled at the University of Illinois at Urbana-Champaign² who meet certain academic and course criteria set forth in the Agreement.

² Unless otherwise noted, the University of Illinois will refer to the University of Illinois at Urbana-Champaign.

11. The recipient is selected by a committee appointed by the Chair of the Music Education Division. In administering the Fund, the Foundation will pay over to the University of Illinois the net income of the Fund (which is the net income from the principal endowment of the Fund) upon certification by the University that the income will be applied in accordance with the purposes and restrictions in the Agreement.
12. The amount of the Scholarship varies depending on the amount in the Fund. Currently, the seven year average of the Scholarship endowment is approximately \$21,539.70. The Scholarship amount for fiscal year 2013 is projected to be approximately \$846.
13. The Agreement makes no mention of availability of scholarship to illegal aliens, but it was the intent of the creator (Ardash) that such funds be available only to American citizens and/or legal aliens. It was also Ardash's intent, and is implied in the Agreement, that the Board of Trustees comply with all federal and state laws relating to tuition and enrollment. (As noted, the Illinois law at issue was not enacted at this time.)
14. On May 1, 2012, Ardash Marderosian died. According to the Ardash Trust, the Trustee shall distribute from the principal of the trust estate \$10,000 to the Fund.
15. Ardash's children also asked those who attended Ardash's funeral and wake services to make donations to the Fund in lieu of sending flowers or other gifts. Ardash's children made these requests for the same reasons Ardash created the Fund: to assist the tuitions needs of students from hard working American

families of limited means who want to achieve the same/similar musical success that Judy Marderosian had achieved during her lifetime.

16. Currently, the \$10,000 (noted above, as part of the Ardash Trust estate) has not yet been distributed to the Fund. The Trustee must do this in the coming months in order to conclude the Ardash Trust's estate administration.

**FACTUAL BACKGROUND OF THE REDUCED
TUITION PROGRAM AT ISSUE**

17. This case involves the Defendants' violation of federal immigration law by offering reduced in-state tuition rates to illegal aliens who are deemed "Illinois residents," which then allows such students to be eligible for the Scholarship, in violation of Ardash's intent. Had the Defendants not offered these students reduced tuition rates in violation of federal immigration law, they would not have attended the University of Illinois, and would not be eligible for the Scholarship.
18. The University of Illinois allows any individual "deemed" an "Illinois resident" to pay a reduced "in-state" tuition rate. 110 ILCS 305/7e-5 (in-state tuition charge, hereafter after referred to as "the program," "tuition program," or "reduced tuition program"). The reduced in-state tuition rate is significantly less than the rate charged to students who are not deemed to be "Illinois residents" (likely thousands of dollars per year, per student).
19. An individual is deemed to be an "Illinois resident" if the following conditions are met:
 - (a) Notwithstanding any other provision of law to the contrary, for tuition purposes, *the Board of Trustees shall deem an individual an Illinois resident*, until the individual establishes a residence outside of this State, if all of the following conditions are met:

(1) The individual resided with his or her parent or guardian while attending a public or private high school in this State.

(2) The individual graduated from a public or private high school or received the equivalent of a high school diploma in this State.

(3) The individual attended school in this State for at least 3 years as of the date the individual graduated from high school or received the equivalent of a high school diploma.

(4) The individual registers as an entering student in the University not earlier than the 2003 fall semester.

(5) In the case of an individual who is not a citizen or a permanent resident of the United States, the individual provides the University with an affidavit stating that the individual will file an application to become a permanent resident of the United States at the earliest opportunity the individual is eligible to do so.

Id. (emphasis added).

20. Section (5) specifically makes this program available to unlawful aliens.³ This law was enacted in 2003.

21. The University of Illinois offers this program to unlawful aliens, pursuant to §5 above, and publicizes this program on its website. *See, e.g.,*

<http://www.usp.uillinois.edu/residency/summary.cfm> (last accessed on August 27,

³ Additionally, pursuant to 110 ILCS 979/5, the purpose of the program is the following:

The General Assembly finds and declares that the general welfare and security of the State are enhanced by access to higher education for all residents of the State who desire that education and who demonstrate the qualifications necessary to pursue that education. Furthermore, it is desirable that residents of the State who seek to pursue higher education be able to choose attendance at the higher education institution that offers programs and services most suitable to their needs...

During the past decade, students have been paying more and borrowing more to finance the increasing cost of higher education at Illinois colleges and universities...Consequently, the intent of this Act is to both encourage and better enable Illinois families to help themselves finance the cost of higher education, specifically through a program that provides Illinois families with a method of State tax-free and federally tax-exempt savings for higher education (emphasis added).

2012).

22. The Defendant Board of Trustees, including Defendant Governor Quinn, is responsible for setting and approving the University of Illinois tuition rates, including the rates for the program.
23. On information and belief, illegal aliens routinely utilize this program after enrolling at the University of Illinois at Urbana-Champaign. On information and belief, illegal aliens will continue to utilize this program until the Defendants are enjoined from offering it.
24. On information and belief, illegal aliens would not enroll at the University of Illinois at Urbana-Champaign but for the tuition program because of the significant increased cost of tuition absent the program (likely thousands of dollars more per year).
25. As students of the University of Illinois, these illegal aliens are then eligible to receive the Scholarship if they otherwise meet the academic requirements and course selection requirements, regardless of their immigration status.

COUNT I:
PERMANENT INJUNCTION AGAINST THE DEFENDANTS SEEKING
COMPLIANCE WITH 8 U.S.C. § 1623(a)

26. The preceding paragraphs are incorporated herein as though set forth in full.
27. 8 U.S.C. §1623, which was enacted in 1996, states:
 - (a) In general: Notwithstanding any other provision of law, an alien who is not lawfully present in the United States shall not be eligible on the basis of residence within a State (or a political subdivision) for any postsecondary education benefit unless a citizen or national of the United States is eligible for such a benefit (in no less an amount, duration, and scope) without regard to whether the citizen or national is such a resident.
28. By offering the reduced tuition program to unlawful aliens, the Defendants violate

federal law, 8 U.S.C. §1623, because such benefits are not available to every citizen of the United States, regardless of residency. For example, a resident of Alabama is not eligible to receive reduced tuition at the University of Illinois. Nor is a resident of Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, etc., eligible either.

29. On information and belief, this program allows unlawful aliens to enroll at the University of Illinois in which they would otherwise be unable to afford.
30. As stated above, these students are then eligible to obtain the Scholarship.
31. Allowing illegal alien students to become eligible to receive the Scholarship violates the implied terms of the Agreement between Ardash/Plaintiff and the Foundation, *i.e.*, that the University of Illinois/Defendants would comply with all applicable laws. It also conflicts with the intent and understanding of Ardash/Plaintiff that illegal aliens would not be eligible for this Scholarship.
32. As such, the actions by the Defendants create a real and imminent risk that the Foundation's administration of the Fund violates the terms of the Agreement.
33. Therefore, Plaintiff seeks an injunction against the Defendants for the purpose of halting the administration of the reduced tuition program, which on information and belief, is occurring routinely (as this program is administered regularly and periodically), and is consistently putting the money in the Fund at risk of being depleted in violation of the Agreement and the intent of Ardash.
34. Similarly, the reduced tuition program also puts any future money contributed to the Fund (such as the \$10,000 in the Ardash Trust) at risk of being depleted in violation of the Agreement and the intent of Ardash.

35. An injunction is the only form of relief that will prevent the Defendants' violation of §1623 and prevent the depletion of the Fund's money (for the Scholarship) in violation of the Agreement and intent of Ardash. Once the program is administered and illegal aliens are enrolled at the University, there is no available remedy to prevent illegal aliens from becoming eligible for the Scholarship, and if awarded, from retrieving the Scholarship funds.
36. There is no other adequate remedy available to the Plaintiff.
37. The granting of an injunction would prevent/redress any future harm completely, immediately, and prospectively.

COUNT II:
PLAINTIFF'S CLAIM FOR A DECLARATORY JUDGMENT

38. The preceding paragraphs are incorporated herein as though set forth in full.
39. Plaintiff requests relief in the form of a declaratory judgment, pursuant to 28 U.S.C. §2201, that the Defendants are violating federal law by offering the program to illegal aliens.

PRAYER FOR RELIEF FOR ALL COUNTS

WHEREFORE, Plaintiff, The Ardash Trust, requests a declaratory judgment pursuant to 28 U.S.C. §2201 in its favor and against the Defendants as follows:

- a) That the Court enter a declaratory judgment in The Ardash Trust's favor and against the Defendants declaring that Defendants are violating federal law by administering/offering the reduced tuition program to illegal aliens;
- b) That the Court grant a permanent injunction against Defendants from administering the reduced tuition program to illegal aliens, as described above;

- c) That the Court award Plaintiff its costs; and
- d) Any other relief the Court deems just and proper.

Dated: August 27, 2012

Plaintiff,

The Ardash Marderosian Trust

By counsel,

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