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IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA ATLANTA DIVISION

:

:

UNITED STATES OF AMERICA,

Plaintiff,

VS

CEYLON M. ROWLAND, M.D. aka Ceylon Marks, M.D

Defendant.

#### COMPLAINT

Comes now the plaintiff, by and through the United States Attorney for the Northern District of Georgia, and alleges as follows

1

This court has jurisdiction by virtue of 28 U S.C Section 1345 and 28 U.S C. Section 3001, et seq.

2.

Venue is proper because defendant resides at 1034 Trace Lane, N W , Lawrenceville, Georgia 30045 within the jurisdiction of this Court.

3

Defendant executed and presented an application to participate in the National Health Service Corps (NHSC) Loan Repayment Program on or about August 19, 1989

LU

1 05-CV 1110

CIVIL ACTION

NO

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The application was approved and accepted by the Department of Health and Human Services on or about September 29, 1989 for the period 1989-1990. In addition, defendant received continuing scholarship awards on February 1, 1990, for the periods 1990 -1991, and 1991 - 1992.

5

These awards were made upon the condition that defendant serve in the full time clinical practice of her profession as a commissioned officer in the Regular or Reserve Corps of the Public Health Service, or as a civilian member of the Corps in a health manpower shortage area designated under Section 332 of the Public Health Service Act (PHS Act). Defendant was to serve one year of obligated service for each year of scholarship support, or 2 years, whichever is greater.

6

Following defendant's graduation, defendant was granted a four (4) year conditional deferment of her service obligation to pursue a residency in Obstetrics/Gynecology Upon completion, defendant was required to begin service of her three (3) year obligation on July 1, 1996.

7.

On April 23, 1996, defendant was informed of her assignment to the Samuel U. Rodgers Health Center in Kansas City, Missouri and to contact the Regional Program Consultant in the Kansas City Regional

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Office. Defendant did not comply and is in default of the conditions of the NHSC Scholarship Contract

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Defendant is indebted to Plaintiff on said contract(s) in the total sum of \$671,834.50 including principal, administrativecollection costs, if any, and interest through February 14, 2005, as shown on the Certificate(s) of Indebtedness attached hereto as an Exhibit to this complaint and incorporated herein by this reference. Interest continues to accrue on this debt at the applicable note rate from February 14, 2005 until judgment is entered herein. Interest will then be due from the date of judgment at the legal rate until judgment is paid in full, together with costs of this action

9

Defendant has failed to repay the amount due although demand has been duly made.

WHEREFORE, plaintiff prays for judgment against defendant in the sum of \$671,834 50 including principal, administrativecollection costs, if any, and interest through February 14, 2005, plus costs and interest thereafter at the applicable note rate per

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#### Case 1:05-cv-01110-RWS Document 1 Filed 04/27/05 Page 4 of 19

annum to date of entry of judgment, plus interest from the date of judgment at the current legal rate which will be compounded annually pursuant to the provisions of 28 U.S.C. § 1961; and for such other relief as the court may deem proper.

Respectfully submitted,

DAVID E. NAHMIAS UNITED STATES ATTORNEY

By,

LORI M. BERANEK ASSISTANT U. S ATTORNEY Georgia Bar No. 053775 600 United States Courthouse 75 Spring Street, S W. Atlanta, Georgia 30303 Phone (404) 581-6350 Fax (404) 581-6167

DEPARTMENT OF HEALTH & HUMAN SERVICES

Program Support Center

Rockville MD 20857

#### **CERTIFICATE OF INDEBTEDNESS**

Ceylon M. Rowland, M.D aka Ceylon Marks, M.D. 1034 Trace Lane, NW Lawrenceville, GA 30045 SSN: 252-04-4228 REF: HHCA-7-80030029

Total debt due United States as of February 14, 2005 \$671,834.50 (principal \$213,702.00, interest \$458,132.50).

I certify that the Department of Health and Human Services' records show that the debtor named above is indebted to the United States in the amount stated above. Interest accrues on the principal amount of this debt at the weighted average interest rate of 15 234% per annum. The daily interest amount accrues at \$89 20 per day.

On August 19, 1989, as a medical student at Morehouse School of Medicine, you applied for a scholarship award through the National Health Service Corps (NHSC) Scholarship Program (42 U S C 294t-y, redesignated as amended 42 U S C 254l, m-q), U S Public Health Service, the Department of Health and Human Services

On September 29, 1989, you received a scholarship award for the period 1989 - 1990 In addition, you received continuing scholarship awards on February 1, 1990, for the periods 1990 - 1991, and 1991 - 1992 You received funds totaling \$71,234 00 representing tuition, fees, stipends, and other reasonable costs

These awards were made upon the condition that you serve in the full time clinical practice of your profession as a commissioned officer in the Regular or Reserve Corps of the Public Health Service, or as a civilian member of the Corps in a health manpower shortage area designated under Section 332 of the Public Health Service Act (PHS Act) You were to serve one year of obligated service for each year of scholarship support, or 2 years, whichever is greater

Following your graduation, you were granted a four (4) year conditional deferment of your service obligation to pursue a residency in Obstetrics/Gynecology (Ob/Gyn) Upon completion, you were required to begin serving your three (3) year obligation on July 1, 1996

On April 23, 1996, you were informed that you had been assigned to the Samuel U Rodgers Health Center in Kansas City, Missouri You were advised to contact the Regional Program Consultant in the Kansas City Regional Office within five (5) days and that if you failed to do so, you would be recommended for default You did not comply

Therefore, on July 11, 1996, you were advised that you had been recommended for default of your scholarship contract for failure to comply with the terms and conditions of your award in accordance with Federal regulation [42 CFR, 62 10(c)] which states

Pursuant to 42 U S C 2540(b)(1), if a participant fails, for any reason, to begin or complete the period of obligated service, the participant must pay the United States damages equal to three times " $\phi$ " (where " $\phi$ " equals the scholarship amounts paid to or on behalf of the participant and the interest on such amounts, as if they were loans bearing interest at the maximum legal prevailing rate), proportionately reduced by the percentage of the period of obligated service performed by the participant Payment of the damages shall be nade within 1 year of the date the participant failed to begin or complete the period of obligated service, as etermined by the Secretary 42 C F R 62 10(c)



### PAGE 2- CERTIFICATE OF INDEBTEDNESS - CEYLON M. ROWLAND, M.D.

On July 31, 2003, you were notified that you had been placed in default of the conditions of your NHSC Scholarship Contract You were advised that failure to make repayment arrangements (RA) would result in your account being referred to the Department of Treasury for offset, consumer reporting agencies, a private collection agency, or the U.S. Department of Justice (DOJ) for enforced collection. You did not make any payments

By letter dated October 1, 2003, you were notified that your account had been referred to OSI Collection for collection. You were advised that your account would be referred to the DOJ if you failed to either remit payment in full or enter into a RA.

In response to your letter which was received on October 10, 2003, you were advised by letter dated October 14, 2003, that your account had been referred to OSI for collection You were encouraged contact them and enter into a RA

In a letter dated October 15, 2003, you were notified that a review of your file determined that you had been appropriately placed in default due to your failure to comply with the instructions related to your assignment to fulfill your NHSC obligation

Although you have made one (1) payment totaling \$100 00 you did not do so under an approved RA To date you have not submitted a request for a RA, nor made any attempt to resolve your debt Therefore, you remain liable for monetary repayment of this debt

The amount the United States is entitled to recover is equal to three times the total scholarship award (plus interest) and was to have been paid by July 1, 1997 Accordingly, your debt has now been referred to the U S Department of Justice for enforced collection

The amount due should be remitted promptly by check, draft or money order(s) payable to the "Department of Justice" and mailed directly to the United States Attorney, Northern District of Georgia, Richard Russell Building, 75 Spring Street, S W, Suite 600, Atlanta, Georgia 30303

**CERTIFICATION:** Pursuant to 28 U S C 1746, I certify under penalty of perjury that the foregoing is true and correct

Date

Barry M Blum Chief, Referral Control Section Debt Management Branch

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

ACADEMIC YEAR

1989-1990

FORM APPROVED O M 8 No 0915-0072 Expiration Date December, 1990

## **APPLICATION FOR PARTICIPATION IN:**

## THE NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP PROGRAM

ALL MATERIALS SUBMITTED BECOME THE PROPERTY OF THE FEDERAL GOVERNMENT AND SHALL NOT BE RETURNED.

BEFORE COMPLETING THIS APPLICATION, READ THE ACCOMPANYING DIRECTIONS IN THE INSTRUCTION BOOKLET

- · Answer all questions
- Use a No. 2 lead pencil. Do not use ball-point or other pen
- In each block, where required, place the needed information in the boxes above the grid area. Then, in the column below each box containing a letter, number, or symbol, blacken completely the circle containing the same letter, number, or symbol, in cases where a box is to represent a space and contains
   no letter, number, or symbol, blacken the empty circle at the top of that column.
- Make your marks heavy and black.
- Avoid stray marks and smudges. Erase incorrect marks completely.
- . Do not staple, fold, bend, spindle or mutilate this form

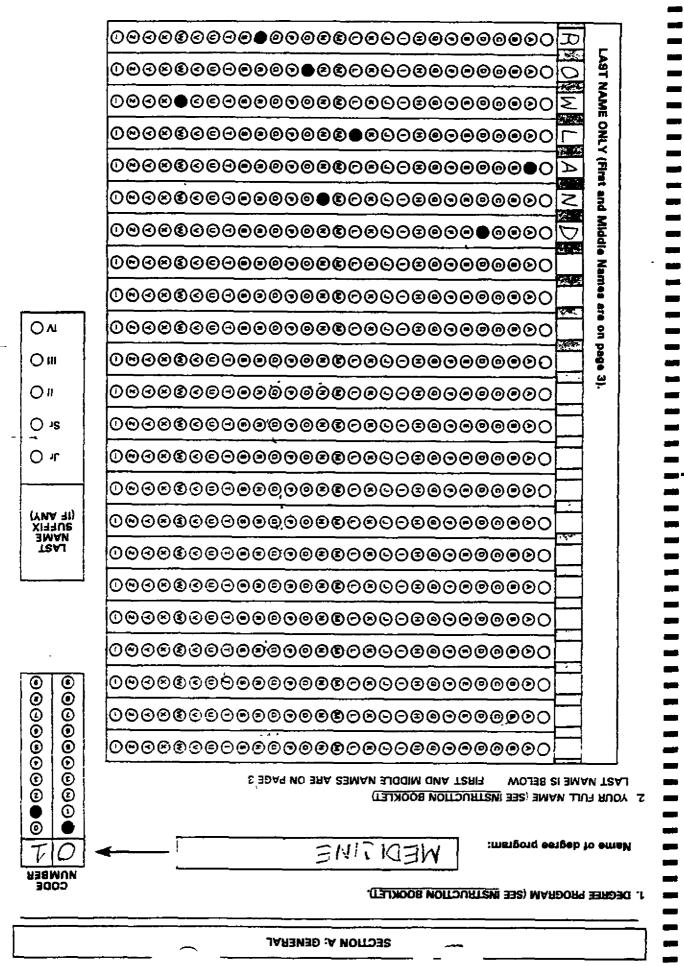
Submit application in the enclosed envelope, or directly to-

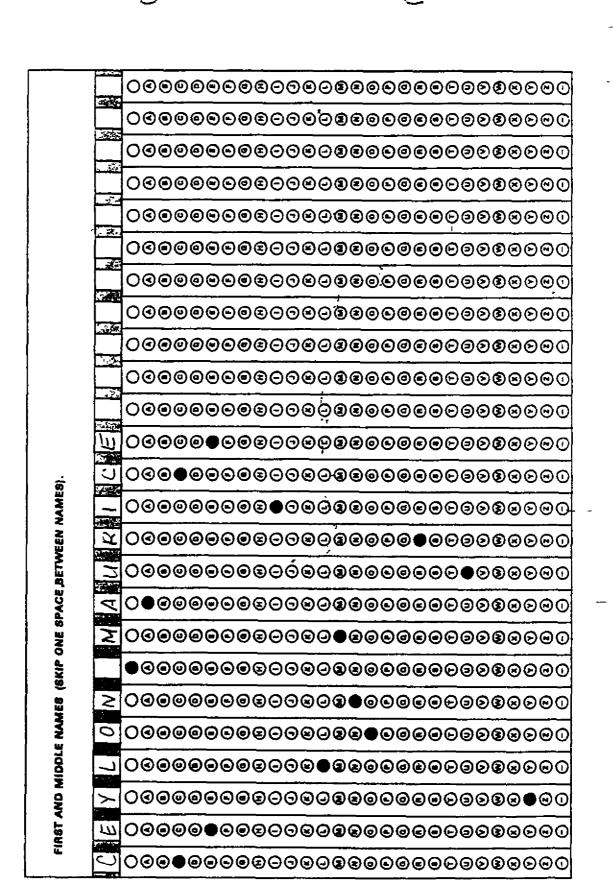
## NATIONAL HEALTH SERVICE CORPS SCHOLARSHIPS

EXHIBIT

5600 Fishers Lane Room 7-16

Rockville, Maryland 20857





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BLACKEN the appropriate circle.

Yes

No 🔿

L

only if your zip code # more than five digits

PAGE 7

9. Are you an American Indian or Alaska Native? (Preferential consideration for scholarship awards) will be given to otherwise eligible applicants who are identified as American Indians or Alaska Natives. Applicants wishing to claim this preference must submit with their application supporting documentary evidence from the Bureau of Indian Affairs of the Department of the Intenior or from their tribal organization. Preferential consideration is given only to those Native American applicants who qualify for priority selection as stated in the Instruction Bookdet.)

Yes 🔿 🛛 No 🖨

10 Have you ever received Federal support under the Scholarship Program for First-Yeer Students of Exceptional Financial Need (EFN)? (Preferential ' consideration will be given to otherwise eligible applicants who are identified as previous recipients of EFN Scholarships. Applicants wishing to claim this preference must submit a letter of verification from an official at the school in which the EFN Scholarship was received.)

11 PREVIOUS SERVICE COMMITMENT (SEE INSTRUCTION BOOKLET).

Yes

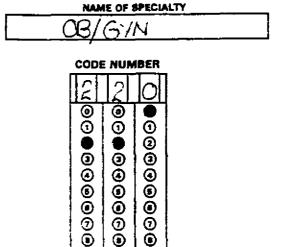
No O

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Are you currently under any obligation to practice your profession in a State or other entity upon the completion of your professional training that would conflict with the service obligation incurred under this Scholarship? Yes No (If you are obligated to practice under another program, please read the terms of that agreement carefully. Many agreements will enable you to serve this Scholarship obligation first. If so, there is no conflict and you should blacken 12. FUTURE SPECIALTY INTEREST (SEE INSTRUCTION BOOKLET)

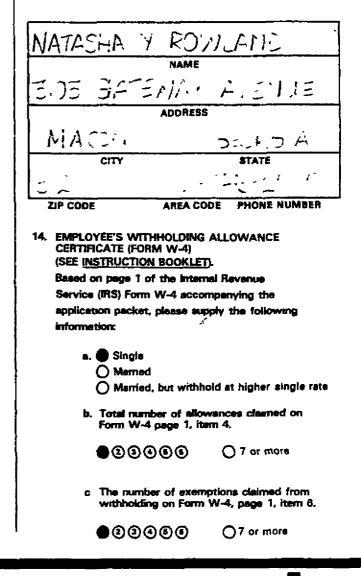
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13 Print name, permanent address, and telephone number of the person through whom you can always be located (e.g., parent, relative, etc.).

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the answer "No")

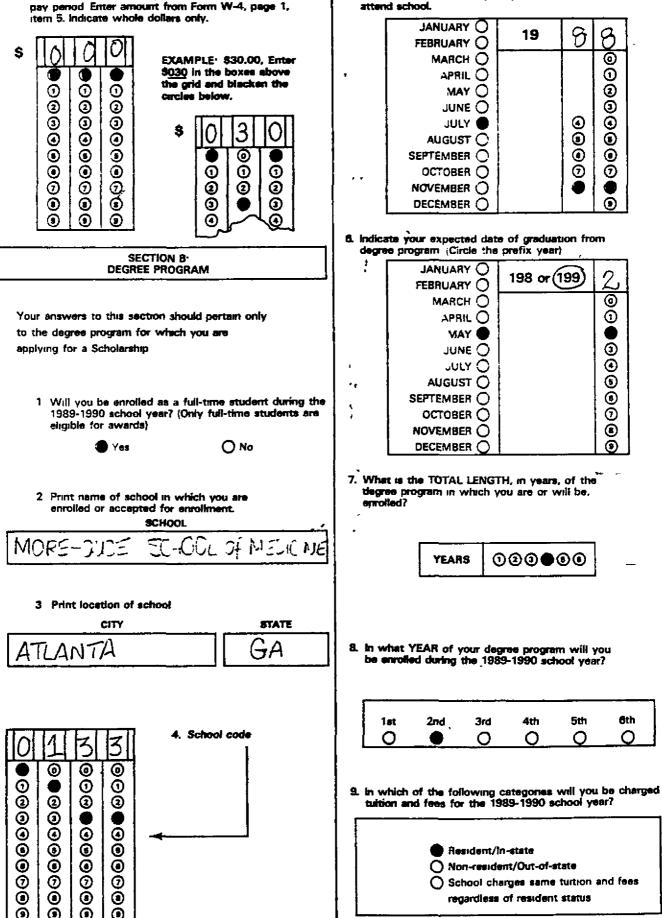
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d Additional amount, if any, to be deducted each pay period Enter amount from Form W-4, page 1, item 5. Indicate whole dollars only.



5. Indicate the month and year you first attended or will

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SECTION C. COMMUNITY BACKGROUND							
long appr In th correct each num livin	est. Indicate the number of years you reside opriate circle in the column asking for the be column for Community Code, indicate the esponds to the population of each communi- n place of residence. In the last column (Ra- aber from the list below which best corresponded	E), enter the five communities in which you have lived the ded in each corresponding community by blackening the Duration (years). Round this number to the nearest whole year. The community code number from the list below which best hity in which you lived by blackening the appropriate circle for aciel/Ethnic Code), indicate the racial/ethnic group code wonds to the predominant racial/ethnic group of the population i residence by blackening the appropriate circle for each place					

#### COMMUNITY CODES

#### RACIAL/ETHNIC GROUP CODES

1. Countryside or small town (population less than 2,500).

-

- 2. Small city (2,500 to 20,000 population).
- Medium-size city (20,000 to 50,000 including suburbs).
- Large city (50,000 to 250,000 including suburbs).
- Major metropolis (Over 250,000 including suburbs).

- White, not of Hispanic origin (Persons having origins in any of the original peoples of Europe, North Africa, or the Middle East).
- 2. Black, not of Hispanic origin (Persons having origins in any of the Black racial groups of Africa).
- Hispanic (Persons of Mexican, Puerto Rican, Cuban, Central or South American or Spanish culture or origin regardless of race).
- American Indian or Alaska Native (Persons having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition).
- Asian or Pacific Islanders (Persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islanda. This area includes, for example, China, Japan, Korea, the Philippine Islands, Samoa).
- Other

Note. Each residence must have a response (only one) blackened in each of the three corresponding columns

Residence (city, county, state)	Duration (years)	Community Code		Rec	ial/Et	el/Ethnic Code		
A MACONI (JONES, 3A	10 years or longer ●	000000	0	•	9	٥	6	٥

B	EVANSTON, IL	023●00700 10 years or longer 0	0000	•	0	0	٢	۲	0
								•	-i
C	COLLEGE PARK, GA	02€000000 10 years or longer	0000	0		٥	0	۲	۲
					. A 6	-		· ``` , ī`	
D		020000000 10 years or longer 0	00000	0	0	0	٩	۲	٢
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۳ ۴		10 years or longer	00000	0	0	Ø	0	۲	٢

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#### Case 1:05

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Case 1:05-cv-01110-RWS Document	1 Filed 04/27/05 Page 17 of 19 PAGE 11
SECTION D: WORK EXPERIENCE BLACKEN the response which best applies to you.	1 - Strongly desirable 2 - Moderately desirable 3 - Indifferent 4 - Moderately undesirable
1 Have you aver been employed or had volunteer experience where services provided by physician and dentists could not be obtained within 30 minutes travel time from your place of employment?	A RESIDENCE COMMUNITY THAT:
Yes 🔿 No 🌑	<ul> <li>2 3 4 5 2, depends primarily on a public transportation system.</li> </ul>
if "yes," was the experience for more than one year? Yes () No ()	① ② ● ④ ③ 3 consists primarily of apartment build- ings and multiple family dwellings
2 Have you ever been employed or had volunteer	O O O O A has a predominantly middle class     population
experience where at least 50 percent of the population within a 1-mile radius of your place of employment was composed of members of the	Solution (Construction) (Construc
following racial/ethnic groups: Blacks, Hispanics, American Indians/Alaska Natives, or Asians? (Refer to racial/ethnic group definitions on page 10.)	• • • • • • • • • • • • • • • • • • •
	1 2 2 4 7, provides a good deal of anonymity
	0 0 0 0 8 is composed of many differing life

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If "yes," was the experience for more than one year? Yes 🔴

- 3 Prior to professional school, were you ever an employee or volunteer in a hospital or other health care setting? Yes 🕘 No O
- 4. Have you received a degree or certification in a health-related discipline other than the one you are now pursuing? Yes O No I

if "yes," did you work in this discipline for more than one year? No O 1 Yes 🔿

SECTION E CAREER GOALS PART I COMMUNITY CHARACTERISTICS

The Public Health Service is interested in your preferences for certain characteristics of a community where you would like to practice AFTER you COMPLETE your Scholarship service obligation. Below is a list of items which suggest particular characteristics of residential communities. Opposite each item is a scale on which to indicate how douirable/undesirable each particular characteristic is to you.

INSTRUCTIONS: Indicate the importance (desirability) to you of each characteristic by blackening in the number that best corresponds to your preference.

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The Public Health Service is interested in your preferences for certain characteristics of health care practice you would like to engage in AFTER you COMPLETE your Scholarship service obligation. Below is a list of items which suggest particular practice characteristics. Opposite each item is a scale on which to indicate how desirable/undesirable each particular characteristic (s to you.

artistic activities

residents

styles.

9 has a varied ethnic/racial composition

1

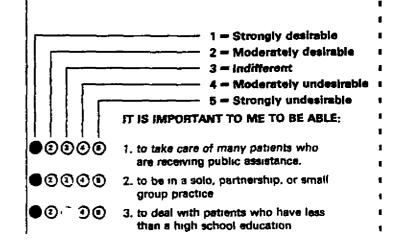
10 provides ready access to cultural/

11 nas many non-English speaking

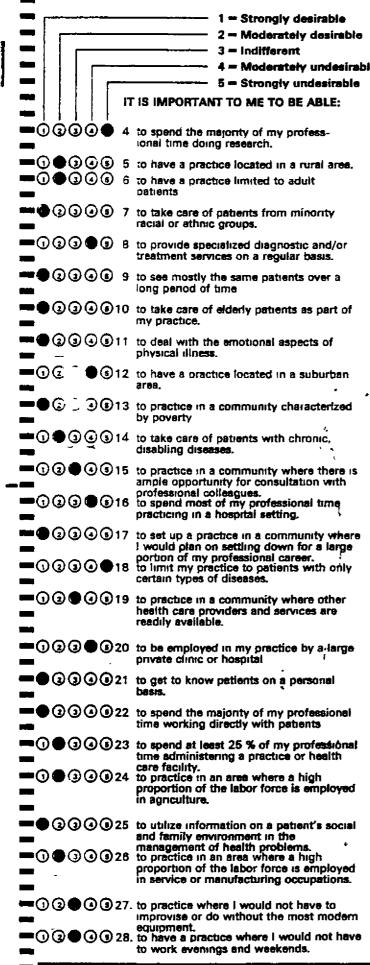
PART II

HEALTH CARE CHARACTERISTICS

INSTRUCTIONS: Indicate the importance (desirability) to you of each characteristic by blackening in the number that best corresponds to your preference.



#### Case 1:05-cv-01110-RWS Document 1 Filed 04/27/05 Page 18 of 19



After fulfilling your Scholarship service obligation. do you intend to continue practicing your pro- tession in a medically underserved or health manpower shortage area (HMSA)? Blacken the number next to the response below which best applies to you. (1) do not intend 'o continue practicing in a HMSA after I have fulfilled my service obligation. (2) I am undecided as to whether I am going to continue practicing in a HMSA after I have fulfilled my service obligation (3) I plan to continue practicing in a HMSA for one to two years after I have fulfilled my service obligation (3) I plan to continue practicing in a HMSA for more than two years but less than five years after I have fulfilled my service obligation (4) I plan to continue practicing in a HMSA for more than two years but less than five years after I have fulfilled my service obligation (1) olan to continue practicing in a HMSA for more than five years after I have fulfilled my service obligation (2) I certify that the information given in this application is accurate and complete to the best of my knowledge and belief. 1 understand that it may be investigated and that any willfully false representation is sufficient cause for rejection of this application, or, if awarded a Scholarship, that I am liable for repayment of all awarded funds and, further, that any false statement herein may be punished as a felony under U.S. code, Title 18, Section 1001. SIGN YOUR FULL NAME IN INK AND DATE SIGNATURE DATE SIGNATURE DATE		PART III	
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Section 336A, C-O of the Public Haults Service Act (A2 U.S.C. 254, e-r) andre-tes the Successy of Haults and Hauman Services ("Sourcesry") to provide appl-rage sectored to be participants in the Nethernal Haults Service Carya Schlashig regions ("Sociality Program") with industry that Service Carya Schlashig pplicants must agree to provide haults arrives in a sense of administrative pro-services (in a participants) with instrict optic to one year of administrative pro-correlary (in a participants) to submit nervices in a sense of administrative pro-correlary (in a participants) to submit and to one year of administrative pro-correlary (in a participants) to submit with their application a signed con-test sating the terms and conditions of participation is the Scholarship Program. The Scretary shall sign only those contracts submitted by applicants who are facted for participation. The terms and conditions of participating in the Scholarship Program for the The terms and conditions of participating in the Scholarship Program for the 1990 advect year are at forth below.

then A — O'Alignations of the Strendary ject to the availability of famols appropriated by the Compress of the United to for the Scholarship Programs and the National Health Service Corps onps"), the Secretary agents to:

- Provide the undersigned applicant ("applicant") with a activity straid for the actival year 1997-1990 during which the applicant

- a is enrolled, or is accupied for currelinger, as a full-drive student is an accredited (as determined by the Surviver), decastrond introduction is our of the secret Summa, the Disrict of Columbia, the Character Mathematical Brancis, Gauna, or American Summa, and an acceleration of the Northwork Mathematical Summa, and a secret study is a decastron by the Surviver of a sub-triangle or a decay base is multi-layed, or interference on the secret student of the Northwork Mathematical Summa, and a secret stude of the Northwork is sub-triangle or a sub-triangle or a sub-triangle of the Northwork of the Surviver of participation is into of your is an according to participate and the surviver of participation is a participation of an activity stoped for the 12-month period beginning with the own the Schulership Program
  2. Unite the applicant to provide health services to accordance with Socian B(3) of the counted
- Defer performance of an applicant's period of obligated arrive if the applicants (1) reaches a degree from a advoid of medicine, oneopaily, deallary, visionary multicles, optionary, policy or pharmery, and (2) requests a priod of deformer to complete as historylap, multicly or other advanced edicid making which the Secretary demoniant with the annual of the Corps.
   Releas the Applicant from all or part of the or the Corps arrive edingation to more the period and strate USD of the Peide Health Service Act, 42 U.S.C. 20th and applicable Corps peides are not.
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- tere at least one year of advanced clinical training approved by the Scot-"he or she roushest a degree from a school of medicine or ontosparity ha or her period of colligated service by providing health services, as mixed by the Scottary-
- In the full-time clinical practice of the or her bouldt profession in a health manyour shorts are acclusived under author 312 of the Public Health Sorrice Act ("Act") as a manner of the National Health Storetz Corps of the other as a communicationed officer is the Rapids or Reserve Corps of the Public Health Service, a chellen employme of the United States, or an individual who is not an employme of the United States, or an individual who is not an employme of the United States, or an individual who is not an employme of the United States, or an

Werk Barbarg (T	3) For exhyd yng 1990-1991 The Helping Hubble Sarrise Crays Schubensky Program canned for the 1980-1999 schod yw?'s farwyrd annot fry for Sarrisey of Hubble and Human Sarrises and fire applicant to provide the applicant with an additional year of adoits with any prof. for the 1990 schod for the 1980-1998 of the 1980 schod year in the Sandarship Program cannot for the 1980-1998 of the schod year in the Sandarship Program cannot for the 1980-1998 of the schod year.	Average of the second s	EYLON M ROWLAND	The Secretary or his/her authorized representative must sign this confract before it becomes effective.
Uns Nomland Verne Seme 12.	2) For school years (750-1971) and (757-1972). This Network Reads Source Corp. Scholarsky, Fragman comparison for the (850-1970) and years in their school by de Standarsky, Fragman comparison of Standarsky,	2/1/90	m/NRawland = 21/9/89	ast sign this contract before it becomes effective.

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- . Comply with provisions of Thie 42, Code of Paderal Regulations, Part 62

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- If for applicat: a I Pale to maintais an acceptable level of academic standing in the course of a starty for which the scholarship aread is provided, or volumenty terminate aradytic training before the completion of meth training, or is demined intro the obtained training before the completion of meth training, interna-tion of performing the protect albightury means, the obtained, interna-tion of performing the protect albightury means that to obtained, report to the United States of Tanda paid to the applease and to the observational institution and the date the participant of this answers and to protect which 3 years of the date the participant becomes liable to make payment under this paragraph and the date the participant becomes liable to make payment under this paragraph. Ĩ
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- news the United States is estibled to recover, 1 of announts paid to or on behalf of the applicant and the 1 such announts which would be payable if at the three the rare paid they were insee beaming behave at the muchmum for any one, as determined by the Trequest of the United States, if muchor of months is the applicant's period of obligated at
- \*\* It doe manadro of seconds of such ported an end by the applicant is according with suction SINC of the Act at white a written agreement worker gooden SIND of the Act. Trajamount the United States is emitted to recover shall be paid white over your of the date the Scottary detormines that the opplicant has fulled to begin or complete the ported of changed service.

Sertes D -- Codizing of Graduat Training Toward So Particle of Galance Sources

- No period of intermship, residency, or other advanced divised training will be control top and with the gented of collegated service incarred works, this continue.
- thethen E.-Caevallation, Saupendiva, and Waive of Obligation \* 1 Any service or payment obligation incerved by the applicant under this con-tract will be calored upon the applicant's deals.
- 2 The Scretary may make or suppose the applicant's service or payment odd-gation incomed where this contrast (i) a compliance by the applicant with the terms and conditions of this contrast is impossible or would jurvice externic handship, and b onforcement of such obligation would be unconscionable

- Section F Country Enter 1. The applicant any security not to exceed 12 months, b
- It applicant say assuming request entroutes of this construct, for a period a to exceed 12 months, if the request is advantined is accordance with proce-e catabilities by the Secretary bloct to the probability of franks appropriated by the Compress of the United say for the Schedurchip Professor and the Compt. the Secretary shall approve parts for construct entrouting if: the report form not extend the total period of achieving small beyond free reports form not extend the total period of achieving small beyond free reports form not extend the total period of achieving small beyond

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Case 1:05-cv-01110-RWS Document 1-1 Filed 04/27/05 Page 1 of 2

## URIGINAL

#### IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA ATLANTA DIVISION

UNITED STATES OF AMERICA,	:	
Plaintiff,	:	
VS.	:	CIVIL ACTION
v5.	:	NO
CEYLON M. ROWLAND, M.D	:	
aka Ceylon Marks, M.D	:	<b>1</b> 05-CV 1110
Defendant.	:	1110

NOTICE OF LAWSUIT AND REQUEST FOR WAIVER OF SERVICE FOR SUMMONS

HWS

TO CEYLON M ROWLAND, M D. aka Ceylon Marks, M D

A lawsuit has been commenced against you (or the entity on whose behalf you are addressed ) A copy of the complaint is attached to this notice.

This is not a formal summons or notification from the court, but rather my request that you sign and return the enclosed waiver of service in order to save the cost of serving you with a judicial summons and an additional copy of the complaint The cost of service will be avoided if I receive a signed copy of the waiver within <u>30</u> days after the date designated below as the date on which this notice and Request is sent I enclose a stamped and addressed envelope (or other means of cost-free return) for your use An extra copy of the waiver is also attached for your records.

If you comply with this request and return the signed waiver, it will be filed with the court and no summons will be served on you This action will then proceed as if you had been served on the date the waiver is filed, except that you will not be obligated to answer the complaint before 60 days from the date designated below as the date on which this notice is sent (or before 90 days from that date if your address is not in any judicial district of the United States ) If you do not return the signed waiver within the time indicated, I will take appropriate steps to effect formal service in a manner authorized by the Federal Rules of Civil Procedure and will then, to the extent authorized by those Rules, ask the court to require you (or the party on whose behalf you are addressed) to pay the full cost of such service In that connection, please read the statement concerning the duty of parties to waive the service of summons, which is set forth on the reverse side (or at the foot) of the waiver form.

I affirm that this request is being sent to you on behalf of the plaintiff, this  $\underline{A}$  day of  $\underline{A}$  day of  $\underline{A}$ 

Respectfully submitted,

DAVID E NAHMIAS UNITED STATES ATTORNEY

By,

LORI M. BERANEK ASSISTANT U. S ATTORNEY Georgia Bar No 053775

600 United States Courthouse 75 Spring Street, S.W Atlanta, Georgia 30303 (404) 581-6350 (404) 581-6167 (Fax) Case 1:05-cv-01110-RWS Document 1-2 Filed 04/27/05 Page 1 of 2

with where end

#### IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA ATLANTA DIVISION

#### UNITED STATES OF AMERICA,

Plaıntıff,

CIVIL ACTION

VS

NO

CEYLON M ROWLAND, M D aka Ceylon Marks, M D

Defendant

WAIVER OF SERVICE OF SUMMONS

TO David E Nahmias and United States Attorney ANICORI M BERANEK Assistant United States Attorney

I acknowledge receipt of your request that I waive service of a summons in this action I have also received a copy of the complaint in this action, two copies of this instrument, and a means by which I can return the signed waiver to you without cost to me

I agree to save the cost of service of a summons and an additional copy of the complaint in the lawsuit by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process in the manner provided by Rule 4

I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections based on a defect in the summons or in the service of the summons

I understand that a judgment may be entered against me (or the party on whose behalf I am acting) if an answer or motion under Rule 12 is not served upon you within 60 days after \_\_\_\_\_\_, or within 90 days after that date if the request was sent outside the United States

DATE

Signature Printed/Typed Name

Duty to Avoid Unnecessary Costs of Service of Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the summons and complaint A defendant located in the United States who after being notified of an action and asked by a plaintiff located in the United States to waive service of summons, fails to do so will be required to bear the cost of such service unless good cause be shown for its failure to sign and return the waiver

It is not good cause for a failure to waive service that a party believes that the complaint is unfounded, or that the action has been brought in an improper place or in a court that lacks jurisdiction over the subject matter of the action or over its person or property. A party who waives service of the summons retains all defenses and objections (except any

relating to the summons or to the service of the summons), and I may later object to the jurisdiction of the court or to the place where the action has been brought

A defendant who waives service must within the time specified on the waiver form serve on the plaintiff's attorney for the unrepresented plaintiff a response to the complaint and must also file a signed copy of the response with the court If the answer or motion is not served within this time, a default judgment may be taken against the defendant By waiving service a defendant is allowed more time to answer than if the summons has been actually served when the request for waiver of service was received

# PLEASE ANSWER THE FOLLOWING QUESTIONS AND RETURN WITH THE WAIVER OF SERVICE OF SUMMONS.

Have you ever been adjudicated mentally incompetent?		
	YES	NO
Are you in the active military service?		
	YES	NC

(signature)

(address)

(address)

(date)