



American Immigration Lawyers Association 1331 G Street NW, Washington, D.C. 20005



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Making the Case for Pro Bono

By Cyrus D. Mehta I Chair of AILA National Pro Bono Services Committee

s Chair of the AILA National Pro Bono Services Committee, I urge each and every one of you to get involved in pro bono because it is the right thing to do. We lawyers are fortunate to have a monopoly through the grant of a law license, and it behooves all of us to use this privilege wisely so as to ensure that all people receive competent legal services, including immigrants who cannot otherwise afford a lawyer. By ensuring that we serve as many individuals needing immigration representation as possible, we create more disincentives for people involved in the unauthorized practice of law who do a terrible job for the people they serve, or even worse, scam them by preying upon their vulnerabilities.

While respondents in removal proceedings (especially those with criminal convictions who are in detention) are in dire need of representation, an AlLA lawyer can volunteer pro bono hours to also serve the needs of the immigrant community by properly advising applicants who file for naturalization, TPS or who face a host of other issues under our extremely complex immigration laws. Even advising a non-citizen that there is no available relief constitutes an invaluable service so that this individual does not get scammed by an unauthorized practitioner who promises him or her the earth. As outlined in this newsletter, AlLA national and AlLA chapters provide a host of opportunities for AlLA members to engage in pro bono in all of these areas. Pro bono does not require you to get bogged down on one case for months or years. Many of our pro bono programs require only a few hours at a time providing consultations or serving as a mentor for another attorney who is handling the matter.

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What's Inside:

How AILA chapters are expanding their pro bono activism.

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Pro bono also makes good business sense. It increases the depth of your knowledge of immigration law, however experienced you may be, because one often encounters the most interesting issues during pro bono representation. And for those who manage firms that have other attorneys, please encourage them to do pro bono and give them credit for it. Associates learn a lot when they are involved in pro bono, which in turn will benefit your firm or organization. Moreover, pro bono allows you to forge links with larger multi-practice firms that take on immigration pro bono and require an expert mentor. Such a partnership will enhance your reputation among lawyers outside AILA, and this is bound to lead to referrals from paying clients.

Finally, pro bono is also great for marketing yourself and your practice. If you take on a pro bono case and win, you may be more likely to receive media attention, especially if the case has been supported by a nonprofit organization, large law firm or bar association. Such media attention will burnish your reputation. In addition, corporate clients tend to seek external law firms that have a good pro bono record, and this would also apply to immigration firms who are trying to gain more corporate clients. Regardless of whether you are marketing to corporate clients or not, pro bono creates goodwill for all clients. They will view you as a more caring and compassionate lawyer. So let me leave you with some simple thoughts: We do pro bono primarily because it is the right thing to do. As a lawyer, you have the power to help a person who is in dire need of your expertise. which will make a big difference in his or her life. While doing pro bono, however, your practice will also benefit and your reputation will be further enhanced. Case won!

Introduction

By David P. Lloyd I Bill Archer Fellow

In September 2009 the AILA Pro Bono Committee sent a letter to all chapter chairs congratulating them on their hard work and urging them to join in on a new initiative. The new initiative was inspired by a New York Bar lecture, presented by <u>Judge Robert A. Katzmann</u>, <u>United States Circuit Judge</u> for the <u>U.S. Court of Appeals for the Second Circuit</u>. Judge Katzmann challenged lawyers, both within and outside the immigration bar, to find ways to increase representation to the immigrant poor through pro bono services, and to advance access to justice as well as the administration and operation of our immigration laws. His speech can be found at AILA Doc. No. 07040910 (posted on April 9, 2007).

In this letter Cyrus D. Mehta, Chair of the Pro Bono Committee, pointed out that in 2008, EOIR found that only 40% of individuals in immigration proceedings had representation, and that the representation rate was significantly lower for those who are detained while in proceedings. Mr. Mehta and the members of the Pro Bono Committee strongly believe that as the preeminent immigration bar association, "we must endeavor to take steps to remedy this crisis of unrepresented individuals in removal proceedings." The Committee urged all chapters to make the expansion of the representation of indigent respondents in removal proceedings a major priority for the 2009–10 AILA year.

At the AILA Annual Conference at National Harbor, MD, a special meeting was organized on July 3, 2010 involving a dialogue between Judge Katzmann and AILA's leadership and chapter pro bono liaisons. In addition to his attendance at this meeting, Judge Katzmann was also being honored as the recipient of



AlLA's 2010 Michael Maggio Pro Bono Award. Each chapter representative gave a description of his or her chapter's pro bono activities, including obstacles to pro bono, which resulted in helpful responses from Judge Katzmann and others in the room. Judge Katzmann emphasized the importance of assessing needs and getting the active engagement of the bar, including engaging with non-immigration attorneys and the political leadership in one's city.

The following is a summary of the different chapter initiatives and projects that developed in response to the Committee's call:

If you do not see your chapter listed, please contact your chapter's pro bono liaison and encourage him/her to submit a report!

Southern California

The AILA Chapter Pro Bono Network aims to place lowincome respondents with pro bono attorneys. This



program serves respondents who are in removal proceedings before the Los Angeles Immigration Court. Intakes and consultations occur each week in the probono room of the Los Angeles court.

The network has a dedicated phone line which has been placed on the Free Legal Services Providers List, which is distributed by EOIR to all unrepresented respondents before the Los Angeles court. When respondents call this line, they are informed that they may seek pro bono counsel by meeting with an attorney on any Wednesday afternoon. When respondents appear for intake, the volunteer attorney assesses their financial ability to hire an attorney. For respondents who fall near or below the income levels as shown on the poverty guidelines, the attorney will advise the client regarding what relief is available. If the respondent desires a pro bono attorney to represent them throughout the course of their proceedings, the attorney completes an intake application.

The AILA Chapter Pro Bono Network seeks pro bono attorneys to take these cases. Experienced immigration attorney mentors are available for those attorneys who lack significant immigration experience. A committee consisting of experienced AILA members is in place to organize volunteers for Wednesday intakes, to recruit pro bono attorneys, and to match pro bono attorneys with mentors as needed.

New England

The AILA/PAIR Pro Bono Program is a collaborative project between AILA and the <u>Political</u> Asylum Immigra-



tion/Representation (PAIR) Project. This program is strongly supported by the administration of the Boston Immigration Court and its immigration judges. Some of the immigration judges have already participated in various joint trainings.

The purpose of this pro bono program is to provide pro bono legal advice and different levels of representation to detainees and people in immigration proceedings. The program is divided into different stages or cycles, with several opportunities to provide much-needed pro bono assistance to this segment of the immigration community.

"Know Your Rights"

Over 75 volunteer lawyers signed up to participate in "know your rights" visits. Currently, there are three visits per month at the Suffolk County House of Corrections. During the visits, supervised volunteer lawyers provide consultations to detainees, and can screen potential cases for pro bono representation.

Bond Representation

The Boston Immigration Court sponsored an excellent training early in the project's development on representation in bond proceedings. Immigration judges, DHS trial attorneys, the court administrator, experienced AILA attorneys and PAIR staff all participated with trainees to put on a mock immigration court bond hearing.

Representation in Removal Proceedings

Building on the success of the bond training, the project developed additional trainings in the following years, utilizing the EOIR Model Hearing Program, which gives attorneys hands-on experience in the courtroom and teaches them how to represent clients in removal proceedings.

New York

AILA-NY has met with some success in advancing detainees' access to legal informa-



tion and advice. By partnering up with the Legal Aid Society of New York and the City Bar Justice Center, AILA-NY has been able to provide individualized brief advice and counseling sessions to detainees at the Varick Federal Detention Facility. The New York Know Your Rights Project, also known as the Varick Street Project, has identified a number of detainees as being eligible for some form of relief and/or bond. The project celebrated its first year of implementation in October 2009. The Project owes its existence to the Legal Aid Society of New York, the first organization to successfully organize weekly legal orientations and individualized brief advice and counseling sessions at the Varick Federal Detention Facility. As the only regular provider of legal representation for detainees at 201 Varick Street, Legal Aid is uniquely positioned to support the Project's goal of promoting representation of detainees.

Legal Aid could not alone support the legal expertise required for the brief services model. As a consequence, AlLA-NY's support was sought out. Since the Project's commencement in October

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2008, AILA-NY has recruited 18 experienced immigration practitioners with an expertise in removal defense to closely supervise law firm volunteers in the identification of forms of relief. Thanks to AILA-NY's participation, the Varick Street Project has become a regular provider of high quality and timely legal advice to detainees housed at the Varick Federal Detention Facility. While the Varick Street Project represents only a slice of the pie, it offers a tested brief services model. The Varick Street Project's achievements can be attributed to the commitment of its partner organizations and the ability of each to make a sizeable contribution to the vision and implementation of the Project. Without the contribution of such partners and AILA's own members, the project would not be in existence today or contemplating future expansion.

Varick II

Recently, in an exciting development, the Legal Aid Society was funded to give Legal Orientation Program (LOP) presentations at the New Jersev iails housing New York City venued cases of ICE detainees, so Legal Aid will see all unrepresented detainees before their first master calendar hearing. Through individual sessions, Legal Aid will screen for detainees who would benefit from a more individualized legal consultation, and will refer them to the Varick II clinic on the day of their first master calendar hearing. Legal Aid would then send a list of detainees to be seen, as well as any documents collected to the City Bar for forwarding to the AILA member to review before the weekly clinic. This will allow AILA members to have a jump start on researching the issues prior to the actual clinic. At the clinic, pro bono lawyers will conduct full intakes with each detainee.

and elicit the relevant information which the AILA member has already identified as necessary to develop a roadmap and advice. Depending on the results of the intake, the volunteer will be better able to confer on the results with the AILA member on the day of the clinic and in the majority of cases will be able to close out the case on that day. By having Legal Aid conduct the initial screening, it is hoped that Varick II will be more efficient. and that volunteers will be able to see more detainees who will actually benefit from a more extensive consultation. It is anticipated that volunteers will see more detainees who are good candidates for bond hearings.

Ohio

Ohio has a wonderful pro bono program that is supported through the <u>Legal Aid</u> Society of Cleveland



as well as the <u>Legal Aid Society of Southwestern Ohio</u>. The chapter has several programs that assist the indigent immigrant community. The chapter is working on projects in the following areas:

Refugee Adjustment of Status Clinics

The chapter hosts approximately 2-3 Refugee Adjustment of Status Clinics annually (with the assistance of Catholic Charities) in which chapter members assist refugees with the filing of applications for permanent resident status. At each clinic, they are able to assist 40-60 people and gather all the materials for the refugees to file the applications.

C. Lyonel Jones Pro Bono Immigration Committee

th detainee, The chapter has also established the Hearing Track InfoNet Doc. No. 10101362. (Posted 10/13/10)

C. Lyonel Jones Pro Bono Immigration Committee, which accepts cases that cannot be housed at the local Legal Aid Society. The chapter has recruited over 50 attorneys, statewide to sit on the committee and take individual case assignments throughout the state of Ohio. Due to the closure of the Cincinnati Immigration Court, the chapter has teamed up with Cincinnati attorneys to offer a "tag team" approach so that Cincinnati attorneys do not have to travel to Cleveland for hearings. The committee has been operational since 2006 and has assisted many immigrants in immigration court proceedings and at USCIS. The committee is listed with the Cleveland EOIR as a "free or low cost legal service provider" so that indigent immigrants are advised regarding the program. Furthermore, the committee has established a permanent representative to be present in court hearings for unrepresented minors.

Brief Advice Clinics and Know Your Rights

In collaboration with the Legal Aid Society of Cleveland, AILA-Ohio hosts brief advice clinics to which people may come and ask questions relating to immigration. These events are customarily held on Saturday mornings. The chapter coordinates with three non-profit organizations that perform "know your rights" presentations at local detention facilities.

Citizenship Day

Our chapter participates in Citizenship Day every year, with sites in Cleveland, Columbus, Cincinnati and Toledo.

EOIR Mock Hearing

The chapter hosts a bi-annual Mock Hearing Training at the Cleveland

EOIR for CLE credit. The training is approved for CLE credit and is administered through the Cleveland Metropolitan Bar Association as well as the Legal Aid Society of Cleveland. The event is free in exchange for taking on a pro bono case, and the chapter provides mentors to assist newer practitioners.

Nevada

The Nevada Chapter and the Las Vegas Office of EOIR have agreed to establish a program to provide pro bono assistance to the immigration



court in Las Vegas. The project involves two aspects, Plan A and Plan B. Plan A provides attorney presence at all detained master calendar hearings. Plan B provides pro bono representation to qualified respondents who are unable to obtain their own attorney. Chapter members can sign up for either or both plans. Attorneys participating in Plan A are expected to make arrangements to view the court's file prior to the scheduled master hearing. From the files they are expected to identify cases which may be eligible for relief, or at a minimum, prepare brief questions designed to elicit eligibility if facts such as entry date, LPR status, qualified family members, and criminal history are not clear from the file. The attorney must clarify that s/ he is there to assist the court, and that there is no obligation to represent the respondent beyond that hearing. Plan B provides pro bono representation to qualified respondents who are unable to obtain their own attorney due to limited funds. A volunteer pro bono coordinator receives a list of potential cases from the Plan A attorneys. This coordinator

then forwards the cases to the attorneys on the Plan B list on a rotating basis. Attorneys under Plan B will represent respondents only if they are financially unable to assist themselves.

Washington

The AILA Washington Chapter plans to match new AILA members (mentees)



with experienced AILA members (mentors) on removal cases that have been screened by the Northwest Immigrant Rights Project and Volunteer Advocates for Immigrant Justice. The idea arose when new AILA members expressed an interest in learning how to do detention/ removal work, but asked for guidance, training, and supervision in order to do so. New members have also indicated an interest in having more opportunities to work directly with experienced members. In Washington, programs already exist that are run by the Northwest Immigrant Rights Project and Volunteer Advocates for Immigrant Justice that place pro bono detention/removal cases with non-AILA members/nonimmigration attorneys. So the chapter is working to develop a program that supplements, but does not interfere with or duplicate, the programs already running in our area.

Northern California

For many years the Bar Association of San Francisco's (BASF) Lawyer Referral and Information Service has administered a program



through which attorneys volunteer to appear at master calendar hearings for

unrepresented clients. This program does not currently provide for ongoing representation. Volunteers, the immigration judges, and representatives of AILA have identified a need for further services for certain clients. The expansion of BASF's Volunteer Immigration Program (VIP) proposes that the pro bono attorney of the day flag a case for further representation when the respondent appears to have some relief available. This would occur on the respondent's second unrepresented master hearing date. The reasoning behind this is that a respondent can be expected to have located and retained an attorney before their second hearing, if they are financially able to do so. The pro bono attorney of the day will have a standard form to fill out with a brief case description, and any language requirements the respondent may have. Once the form is complete, a VIP attorney will screen the merits of the case. If it is found that the respondent meets the requirements of the program, a group e-mail will go out to the BASF panel members describing the case. The case will be placed with the first attorney who responds to the e-mail. If an attorney wants to work with a mentor, another e-mail will be sent to the panel and the first attorney to respond will be placed on the case as the mentor. Trainings for MCLE credit will be made available, and the Immigrant Legal Resource Center has graciously agreed to provide assistance to attorneys on an as-needed basis as well. The attorney will not be expected to handle appeals, if there are any. However, the idea for this proposed expansion is to provide the respondent without financial means with reliable representation during their removal proceedings.

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