

NOTES FROM SEPTEMBER 17, 2011 AILA CHAPTER CHAIRS AND BOARD OF GOVERNORS MEETINGS, DENVER, COLORADO

By Bonnie Stern Wasser, AILA Washington Chapter Chair

Chapter Chairs Meeting

1. Assign law student liaison
2. 350 members now signed up for the litigation section. Get feedback, ideas for goals, expectations, programming. Members get discounts on books and CLE.
3. Solo/Small Biz Conference: Chapters can offer it as a webcast. Contact Emmie Smith
4. Chapter Chairs resources on infonet at www.aila.org/chapters
5. **American Immigration Council:**
 - a. Dues notices about to go out: encourage members to include \$50 for AIC donation.
 - b. AIC publishing coffee table book called "Greencard Stories". \$50 + tax and shipping. \$15 from each sale goes to AIC on the first 500 sold. Discounts for bulk purchase. Encourage members to buy for clients, friends, relatives; donate to schools and Congress. Use the book as an advocacy piece.
 - c. See prosecutorial discretion survey; new AIC practice advisory. Survey is key to briefings to DHS.
 - d. Asylum EAD clock – want to file suit shortly, probably in Seattle. Need more examples and plaintiffs. AIC did a FOIA and learned there are 8000 pending asylum cases.
 - e. Matter of E-M-R-F & A-S-M: bad case: arrests without a warrant; client need not be advised of right to counsel, etc. *until the NTA is FILED with the court!* Advise members to contact Melissa Crow if they see these kinds of cases.
 - f. IPC – working on innovation and entrepreneurship project.
 - g. Creative writing contest should be getting under way.
 - h. Access to Counsel outside of removal hearings: AIC coming out with a white paper. Provided letters to USCIS, ICE, CBP, etc. Can always use more examples.
 - i. 3rd Circuit Case re rights to file MTR from outside the U.S. 10th Cir. Case will have an en banc hearing in November. Meanwhile, DOJ hasn't yet withdrawn the reg that bars the MTRs.
6. **Law Firm Economics:** Reid Trautz – can win a free iPad if you take the survey; need statistically relevant info; working with consultant. Survey out for two more weeks. Report to be used for making management decisions regardless of practice size. Can use a nickname for the drawing. AILA national will not see the individual data. Consultant has done similar surveys for 33 bar associations and already vetted the antitrust issue.

7. **Prosecutorial Discretion:** 200 responses to the survey so far. Chapter Chairs should call on members to provide info so best practices can be developed and briefing can be provided to DHS. Consider asking for continuances in court. Chapter should get EOIR/ICE liaisons to touch base with OCC and IJs: What are they doing now? Plans for implementation? Also liaise with CIS – encourage them not to put people into proceedings. ICE doesn't see this as just an ICE problem. ICE/DHS wants to know how this is being implemented and they want AILA to tell them, thus importance of the survey. Is not following the memos insubordination?
8. **Chapter Amicus Policy:** Bill Stock is BOG liaison to National Amicus Committee. Debbie Smith (MT) chairs Amicus committee. They need to see chapter proposals: why? the make up of the team? What is AILA saying v. others? Is there a broader principal at stake? Have other states already dealt with an issue (so there is existing briefing and need not reinvent the wheel)?
9. **CIS behavior.** St. Louis Chapter: Prepared a package to Dir. Mayorkas about CIS misbehaviors. One attorney was able to get a marriage interview video through FOIA. Chapter provided a 100-page detailed report showing breadth and scope of the problem. One lawyer gives CIS a letter on day of the interview requesting any video be preserved and if videotaped, files a FOIA the next day.
10. **Parole in Place:** See chapter chair request on message board concerning local policies re implementation.
11. **Military Assistance Project** always needs volunteers. Lots of cases in the pipeline.

Board of Governors Meeting

(Some of the same issues above were discussed.)

1. Secure Communities Task Force Report now out. Laura Lichter represented AILA. Key recommendation: overhaul or terminate.
2. Social Security Administration Report out on H-1Bs 9/15/11. Studied 200 out of 40,000. Found 37 people whose reporting didn't have income from the employer who sponsored the person or had income reported from a different employer. Studied Winter 07-09. Summer 07 was the year of the mass AOS filings when people could get EADs to work for any employer. Lots of problems with this survey. Look for AILA talking points.
3. Attorneys receiving courtesy copies v. Attorney copies of I797s. Seems to be due to a programming change to CLAIMS 3. CIS is working to fix.
4. Service Center Liaison is not going well. CIS is pulling out of or cancelling meetings.
5. L-1 Briefing book prepared by AILA going to Dir. Mayorkas. Another example of reports containing many examples.
6. AILA's report, "Immigration Enforcement: Off Target" well received. Lots of media on it.

7. Consumer Protection: AILA produced a consumer advisory piece in English and Spanish that Prosecutorial Discretion is not amnesty. There is also a PSA in mp3 format on Infonet. Members can distribute to church and community groups, etc.
8. AILA national is upgrading its in-house business technology and looking at new options for Infonet, AILALink and mobile apps, such as for Kurzban book.
9. AIC/Legal Action Center working on practice advisories on mandamus, PERM Prevailing Wages.
10. BOG Wide discussion about Prosecutorial Discretion led by Tony Drago
 - a. How is it being implemented? What should AILA push for regarding timing? How to monitor what's going on? What part of the process is the best time to ask for relief? Goals for upcoming ICE liaison HQ meeting?
 - b. Ideas, strategies, issues, concerns discussed:
 1. Ask for PD after losing cancellation.
 2. S. Florida: Doesn't recognize PD. ICE won't meet with AILA. Examples of meritorious cases being denied (e.g., old person with lots of USC relatives, two-year old kid dying of cancer, etc.)
 3. Get HQ to specify steps their people should take.
 4. SFR – no change. One attorney actually took his clients to DC to discuss with people there. Also had case in the press. Filed habeas.
 5. Demand that HQ review denials if OCC or ICE deny request. Need a review process. That's how it worked for the prolonged detention cases. Make written decisions denying mandatory. Finality of decision is often given as reason for denial where there is an outstanding removal order.
 6. DC: people formerly under order of supervision are now being forced into bracelets.
 7. What if a case is terminated that we didn't want to be terminated?
 8. Messaging: all these people are deportable. One CBP officer commented that "300,000 EAD cards will be issued when so many people are unemployed."
 9. Send AILA's mp3 PSA to churches, community groups, etc.
 10. What's in it for ICE/OCC if they exercise discretion? Less cases, less work? More work?
 11. Role of metrics in professional review – are ICE/OCC employees dinged for not deporting people? 3/10 ICE memo exposed quotas.
 12. Drastic measures for desperate times – hire a production crew to follow a case and make a film. Human tragedies have to be highlighted.
 13. Go up the chain of command and keep asking.

14. AILA/AIC to work on best practices: how to ask, when. Again, importance of the survey. DHS needs accountability. But it's also very political. Wars within the agencies.

15. CBP – not included in the Morton memos, but try using it for expedited removal

11. DOL Prevailing Wage Problems for PERM and H-1Bs – Deborah Notkin

- a. DOL had to redetermine H2Bs in light of litigation before a new reg went into effect 9/30. Cases filed since June have been stuck.
- b. A couple of attorneys filed mandamus action.
- c. Stakeholders meeting 10/3. H-2Bs are supposed to be done by 9/30. Supposedly done by 9/15. Hoping to be current on PERM by 10/1, but more litigation filed about H-2Bs in Louisiana on 9/7. Could delay things again.
- d. DOL aiming for 60 day processing. AILA pushing for 30 days.
- e. DOL not doing H-1B safe harbor PWs right now “because employers don’t have to use it.” Focusing on PERM. Hope to be done with PERM PWs by 11/1. Currently on 6/27. H-1B safe-harbor ETA 9141s not due to be current before 60 days after PERM PWs current.
- f. Litigation – see litigation section. Standing an issue for beneficiaries where employers don’t want to be named in the litigation.

12. AILA ANNUAL PLAN

BOG members broke out into several small groups to brainstorm ideas for services, benefits, liaison, goals, vision, etc. (More about this later.)

13. MISC.

1. A couple of interesting points came up: IOWA criminal courts are appointing immigration attorneys to give advice about the immigration consequences of crimes.
2. Local ICE/CIS liaison should include I-9 folks. Find out if employers are being allowed to sign up for IMAGE before or only after a Notice of Intent to Fine issues. Attorneys who go to employer IMAGE sessions should share what they learn. Materials from the Scottsdale conference a few years ago and in the message center under “PERM Resources” are very useful.
3. Some interest in creating Bangkok and Mexico Chapters based on the Rome Chapter model.
4. Interest in expanding the gmac interest group on global migration and collecting all the material AILA has on global migration into one place.

