

# BBA Immigration Law Committee

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## **BBA Immigration Committee Co-Chairs:**

**Co-chairs 2007-2008 Steve Clark and Ellen S. Kief**

**Co-Chairs 2008-2009 Ellen S. Kief and Paul Glickman**

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*This newsletter was prepared by the leadership of the Immigration Law Committee and Committee member Miriam Ben-Ur.*

## BBA Immigration Law Committee Has Successful Program Year

The BBA Immigration Law Committee sponsored an informative series of programs in the 2007-2008 term under the leadership of co-chairs Ellen Kief and Steve Clark.

Highlights of the year include the **Immigration Court Panel**, which attracted a crowd of nearly 100 people, **Congressman Capuano's** presentation regarding immigration reform in Washington, D.C., and the BBA Council's endorsement of two ABA resolutions on human rights concerning **national detention standards** and **excessive fees** for immigration and naturalization benefits. ❖

## Message from the Co-Chairs



We welcome incoming co-chair Paul Glickman of Glickman Turley, LLP., who joins Ellen S. Kief as co-chair of the BBA Immigration Law Committee. The 2007-2008 calendar included meetings with EOIR Judges and court

administrators, ICE attorneys, and practitioners in family-based, and employment-based immigration, and immigration cases affected by criminal dispositions.



Thanks to outgoing co-chair Steve Clark of Flynn & Clark, for donating his time and expertise to the BBA Immigration Law Committee these past two years.

## EOIR Judges Meet Immigration Bar

*Boston Immigration Court Judges Speak to BBA Immigration Law Committee Members*

Judge Shapiro, Judge D'Angelo, and Court Administrator Robert Halpin of the Executive Office for Immigration Review (EOIR) joined Attorneys Howard Silverman of Ross, Silverman & Levy, and Brian T. O'Neill, Sr., of O'Neill Law Offices before over 100 immigration practitioners at the Immigration Court Panel.

Robert Halpin highlighted key changes in the Immigration Court Practice Manual, effective July 1, 2008, and the immigration judges discussed the introduction of documentary and testimonial evidence, including expert testimony.

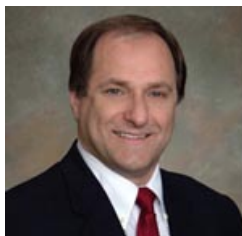
Members of the immigration bar posed questions to the judges and court administrators, who responded with anecdotes from their experience on the bench. ❖

## Congressman Capuano Speaks to BBA Immigration Committee Members

Congressman Michael Capuano and Issues Director Kate Auspitz shared thoughts on the prospects for immigration legislation in Washington at the March 26th BBA Immigration Law Committee meeting.

Congressman Capuano, now serving his fifth term as Massachusetts's Eighth District Representative, discussed the dynamics for change given concerns for labor protection, the preference of the Hispanic caucus for a comprehensive rather than piecemeal approach, and challenges posed by immigration restrictionists.

The Congressman was generous with his time and took many questions from audience members. Steve Clark introduced the speakers and moderated the discussion. ❖



## BBA Council Endorses ABA Human Rights Resolutions

The BBA Council endorsed two ABA resolutions on human rights concerning national detention standards and excessive fees for immigration and naturalization benefits.

The ABA resolution regarding national detention standards urges the Department of Homeland Security's Immigration and Customs Enforcement agency (ICE) to issue standards for all non-citizens detained for immigration purposes, and that the detention should be in the least restrictive setting and in separate quarters from criminal inmates. In addition, the resolution supports increased oversight of detention standards, including observation by nongovernmental organizations, the provision of hard copy legal materials to detainees, and contact visits from family and friends.

The ABA resolution regarding fees for immigration and naturalization benefits recommends fees that are not so burdensome as to deter applicants from applying for these benefits; that fee waivers be made reasonably available for those applicants who cannot pay; and that fees not be charged for applications for humanitarian relief. ❖

## *Pro Bono* in Boston

### BBA Members Work *Pro Bono* with Detainees at Suffolk County HOC

*"Know Your Rights" for Detained Non-Citizens*

BBA members joined PAIR (The Political Asylum/Immigration Representation Project) and attorneys from AILA New England to inform detainees at the Suffolk County House of Corrections of their rights in immigration court. The PAIR program, launched in 2007, recruits, trains, and mentors pro bono attorneys to represent detained clients seeking release on bond and relief from removal. Over 75 attorneys are now trained to give "Know Your Rights" presentations at immigration detention centers and represent clients at bond hearings. Several BBA members are serving as mentors to practitioners with the program and visit detainees twice per month. ❖

### Suffolk Law Immigration Clinic helps Unaccompanied Children

In 2007, Suffolk Law School began an immigration clinic focusing on young children who come to the United States without their parents. Students represent undocumented immigrant children before immigration court and USCIS. Students also may take on deportation defense before immigration court. Other cases concern applications for immigration benefits such as Special Immigrant Juvenile Status, victims of crime visas, or trafficking visas, as well as political asylum matters. ❖

# Calendar of Events

## Year in Review 2007-2008

### **Life after the DOL Backlog Center Closes & Life without H Visas**

September 27, 2007

Steve Clark of Flynn & Clark, P.C. and Edward White of Law Office of Edward White discussed life after the closing of the DOL Backlog Center on 9/30/07, as well as life without H visas. Specific topics included: Processing Backlog Labor Certification Cases after 9/30; the new PERM Labor Certification Application Form; and Work Visa Options other than H-1B: O's, E's and J's

### **VAWA & U Visas**

October 27, 2007

Valerie Fisk, Community Legal Services, Cambridge led a discussion on relief available to victims of domestic violence if there is a qualifying relationship and the batterer has legal status; relief available to victims of domestic violence or crimes if there is no qualifying relationship and/or the abuser does not have legal status in the U.S.; and barriers to immigrant victims of domestic violence and crime.

### **Clinical Evidence for Immigration Cases**

November 29, 2007

Samantha Morton, Deputy Director, Medical-Legal Partnership for Children (MLPC) Boston Medical Center; Sondra Crosby, MD, Co-Director, Boston Center for Refugee Health and Human Rights; and Halim Moris, Moris & O'Shea, discussed unique considerations and best practices to overcome challenges of communicating across the profession divide between lawyers and health care providers. Topics covered included obtaining an overview of medical-legal partnership in the immigration law context, obtaining medical evidence for and identification of immigration cases in which clinical evidence is critical, cultural and practical differences affecting how immigration lawyers and health care providers think about advocacy, best practices for effective communications between immigration lawyers and health care providers.

### **PAIR Deportation Defense / Asylum Training**

January 15, 2008

Members of the Immigration and New Lawyers Committees met with PAIR Project representatives for a free pro bono asylum training session. Moderated by Claudia Gregoire, Glickman Turley.

### **Immigration and Public Benefits**

January 24, 2008

Cristina Dacchille, Equal Justice Works Fellow, Medical-Legal Partnership for Children, Boston Medical Center, discussed when immigrants can qualify for benefits and the impact of receipt of benefits on immigration cases. Specific topics included: Overview of Immigration Eligibility for Public Benefits; Focus on Immigration Eligibility for Health Coverage; and Public Charge: How Accessing Benefits Can Impact an Immigration Case

### **Family-Based Immigration**

February 28, 2008

Jason A. Levy, Ross, Silverman & Levy LLP, discussed family-based immigration issues. The focus was on conducting intake with clients in the context of an application for permanent residence based on the marriage of a foreign national to a U.S. citizen, and issues in more complex cases. Also covered were practicalities of 212(i) fraud waivers and 245(i) considerations.

### **ICE and the Integration of Criminal & Immigration Law**

March 19, 2008

BBA attorneys joined ICE (U.S. Immigration and Customs Enforcement) attorneys and immigration practitioners for a panel discussion. In recent years, ICE has placed an increased emphasis on ensuring compliance with U.S. Immigration laws through criminal enforcement tools. This program provided federal and state criminal practitioners with an understanding of ICE's components parts, offered guidance on how to navigate through ICE, discussed common legal issues arising from ICE criminal enforcement actions, and provided practice tips for representing federal and state defendants facing immigration issues. Speakers Rick Neville, ICE Deputy Chief Counsel, and Nadine Pellegrini, Assistant U.S. Attorney, discussed navigating and working with ICE; legal issues arising from worksite and other ICE enforcement actions and ICE current enforcement initiatives. Immigration practitioners Paul Glickman of Glickman Turley LLP, and Jerry Friedman of Kaplan, O'Sullivan & Friedman, discussed immigration consequences of criminal dispositions and issues to consider for motions to vacate convictions under Massachusetts state law.

### **Prospects for Immigration Reform on Capitol Hill**

March 26, 2008

Congressman Michael Capuano and Issues Director Kate Auspitz shared thoughts on the prospects for immigration legislation in Washington. Congressman Capuano discussed the dynamics for change given concerns for labor protection, the concerns of the Hispanic caucus for a piecemeal approach, and challenges posed by immigration restrictionists.

### **Affidavits of Support (I-864)**

March 27, 2008

Estelle Regolsky, Avrin & Regolsky, discussed Form I-864 Affidavit of Support in Family Immigration Cases, including new Poverty Guidelines effective March 2008.

### **EOIR Judges: Presenting Adjustment and Cancellation Cases**

April 29, 2008

A panel of EOIR Judges discussed presenting Adjustment of Status and Cancellation of Removal cases before the EOIR. Topics included elements of the case (direct, cross, experts, establishing a foundation) as well as procedure for putting on evidence. This meeting discussed practice changes resulting from the Immigration Court Practice

Manual which replaces local court rules effective July 1, 2008. Panelists included Leonard I. Shapiro, Immigration Judge, Matthew D'Angelo, Immigration Judge, Robert Halpin, Immigration Court Clerk. Howard Silverman Ross, Silverman & Levy, and Brian T. O'Neill, Sr. O'Neill Law Offices moderated the discussion.

**Shut Out by the H-1B Cap: Staying and Working in the US**

May 22, 2008

Vincent Lau, Flynn & Clark, P.C., and Bennett Savitz, Savitz Law Offices discussed the H-1B visa cap. In 2007, 240,000 graduating foreign students and experienced specialty workers were unable to work or remain in the U.S., as only 65,000 H-1B visas were allocated. This presentation discussed work and training visa options available for applicants who do not qualify for an H1-B visa, as well as alternatives to the H1-B Visa for employers and employees.

## Suggestions for Topics 2008-2009

Are there any topics you would like to learn more about or suggest that your colleagues present?

The BBA Immigration Law Committee welcomes suggestions for presentation topics or *pro bono* projects by practitioners in various areas of immigration law.

Send suggestions to the BBA Immigration Law Committee co-chair, Ellen Kief, at [ekief@kiefllaw.com](mailto:ekief@kiefllaw.com), with the subject line: "BBA Immigration Committee: Suggestions."