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The Representational and Counseling Needs of the Immigrant Poor

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THE REPRESENTATIONAL AND COUNSELING NEEDS OF THE IMMIGRANT POOR

*Jennifer L. Colyer, * Sarah French Russell, ** Robert E. Juceam***
& Lewis J. Liman*****

*on behalf of
The Subcommittee on Increasing Pro Bono Activity†*

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INTRODUCTION

Our subcommittee was organized by the Study Group on Immigrant Representation to assess the need for legal services of the immigrant poor, identify gaps in the capacity of existing mechanisms to try to meet it, and suggest what should be done to leverage scarce resources. Our members, most not immigration lawyers or policy advocates, knew from professional activities that demand outstripped capacity at all levels: initial counseling, developing and filing applications for immigration benefits, pursuing administrative appeals, responding to notices of proceedings to remove or deport noncitizens, and representation in adversarial removal and judicial review proceedings. Since coming together six months ago, our work has made it quite apparent that the demand has never been greater, indeed, that the demand has achieved near-crisis proportions, and there is a potential for

federal legislative reform that could unleash a legal tsunami of millions of out-of-status “low or no” income immigrants in search of competent legal representation to qualify for any potential relief.¹

The existing need for immigration services was exacerbated after the establishment of the U.S. Immigration and Customs Enforcement (ICE), with its focus over the last three years on enforcement of the immigration laws through surprise workplace raids and other practices producing unprecedented numbers of individuals arrested, detained, and placed in immigration proceedings. In 2008 the number of immigration cases received by the Immigration Courts increased to 351,477 from 335,959 in the year before.² A large proportion of those matters were handled by the Immigration Courts in New York City, which remained the second largest recipient of new cases (Los Angeles is the largest).³ New York’s receipts were down only slightly (two percent) from 2007.⁴ In the vast majority of the court matters nationwide involving removal proceedings (285,178 out of 351,477), the government sought to deport the accused parties,⁵ most of whom had been detained.⁶

The community of persons subject to Immigration Court proceedings, especially those in detention, is particularly vulnerable and in need of assistance. Even lawfully admitted foreigners frequently arrive in this country without money, substantial education, or language skills. With the increased emphasis by federal law enforcement authorities on deportation

1. One introductory note and caveat: we focus here on the New York metropolitan area. That is of necessity; it is the location with which we are most familiar. We hope, however, that our membership will expand to other areas of the U.S. Court of Appeals for the Second Circuit and whatever good ideas we develop might be applied in other locations as well. We also focus on lawyer, law firm, nonprofit organization, bar association, and law school activities to service direct client representation needs. We do not focus on pro bono opportunities to advocate for policy reform or for initiatives that could minimize the need for pro bono assistance, issues under other areas of law affected by a client’s immigration status, or the substantial need for increased funding, recruitment of lawyers in government and corporate law departments, and support from state and local governments. *See generally* Daniel M. Kowalski, *Things To Do While Waiting for the Revolution*, 21 GEO. J. LEGAL ETHICS 37 (2008) (emphasizing the need for private lawyer leadership in advocating statutory and policy reform). These matters await our further review. Finally, even though our report documents need, it is preliminary and interim, being prepared by only a subset of those in the subcommittee. Special acknowledgement and appreciation is extended to Judges Robert A. Katzmman and Denny Chin for their irresistible inspiration and commitment to the issues, to this Report’s coauthors Lewis Liman, Sarah Russell, Jennifer L. Colyer, and Robert E. Juceam, for the substantial contributions of C. Mario Russell, Judith Resnik, and M. Lynn Kelly, for the careful review by Megan Mack and Karen Grisez, and for the hard work and thoughtful suggestions of the members of the Fordham Law Review during the Levine Lecture and throughout the production process.

2. U.S. DEP’T OF JUSTICE, EXECUTIVE OFFICE FOR IMMIGRATION REVIEW, FY 2008 STATISTICAL YEAR BOOK B3 (2009) [hereinafter EOIR 2008 STATISTICAL YEAR BOOK], available at <http://www.usdoj.gov/eoir/statspub/fy08syb.pdf>.

3. *Id.* at B4.

4. *Id.* at B3.

5. *Id.* at C3.

6. According to the Executive Office for Immigration Review (EOIR), the Immigration Courts completed 134,117 cases for individuals who were detained. *Id.* at O1.

and removal, an alien with strong ties to this country, for example with a U.S. citizen spouse and/or children, may find himself or herself in a legal setting alternatively confusing and intimidating, in which the stakes could hardly be higher.⁷ The government will be on one side with its awesome power, extensive institutional experience, and sophisticated understanding of the law. An immigration judge will be presiding, who might be sympathetic to the immigrant's story, but who would benefit from an adversarial presentation. And the immigrant will often be standing all alone, unfamiliar with the complex web of laws that will determine whether he or she stays in the United States or is sent to a foreign country far from his or her family. A ruling from the judge will determine whether the immigrant goes or is permitted to stay, while a single inadvertent misstep from the immigrant may result in the waiver of valuable rights.

The plight of many immigrants in removal proceedings has been well-described by Judge Robert A. Katzmann in *Aris v. Mukasey*.⁸ Indeed, the U.S. Department of Justice, Executive Office for Immigration Review (EOIR) expresses "great concern" in noting "the large number of individuals appearing *pro se*" in immigration proceedings, requiring immigration judges to take extra care and spend extra time ensuring that the individual understands the proceedings and his or her rights.⁹ As EOIR recently noted, "Many individuals in removal proceedings are indigent and cannot afford a private attorney."¹⁰

The high stakes in the outcome of immigration proceedings and the degree of those unrepresented led our subcommittee to emphasize the goals of the Study Group on Immigrant Representation to bring awareness of the legal needs of the immigrant poor to the attention of the general public and the bar, to promote increased representation of the immigrant poor through pro bono legal services and other mechanisms, and to advance access to justice in the administration and operation of our immigration laws. Our work has led us to appreciate the differences in skills and strategies appropriate to provide legal assistance at the various stages of the immigration legal process and the varying capacities of individuals to assist effectively in their representation. Short of fully funding each of the multiple tiers in the system, or of possible reforms in the law to permit appointment of counsel paid by the government and the removal of

7. Removal can "result . . . in loss of both property and life; or of all that makes life worth living." *Fung Ho v. White*, 259 U.S. 276, 284 (1922); *see also* *Haw Tan v. Phelan*, 333 U.S. 6, 10 (1948) (noting that deportation "is a drastic measure and at times the equivalent of banishment or exile" and that "the stakes are considerable for the individual").

8. 517 F.3d 595, 600 (2d Cir. 2008).

The importance of quality representation is especially acute to immigrants, a vulnerable population who come to this country searching for a better life, and who often arrive unfamiliar with our language and culture, in economic deprivation and in fear. In immigration matters, so much is at stake—the right to remain in this country, to reunite a family, or to work.

Id.

9. EOIR 2008 STATISTICAL YEAR BOOK, *supra* note 2, at G1.

10. *Id.*

restrictions on services by attorneys in public interest law offices funded by the Legal Services Corporation,¹¹ the onus for devising successful and efficient strategies to increase representation—through recruiting, training, and supervising more lawyers and securing appropriate cases—falls on nonprofit legal service organizations, bar associations, local government, practicing lawyers, nongovernmental organizations, law schools, and the generosity of public and private funders. No one source can provide all the resources to meet all the needs and no single program or model of service delivery is effective in dealing with the immigrant poor at all stages of the immigration process where there is need. Marshalling the energy, attention, and support of all those who could be involved in promoting increased representation by a sustained effort is time-consuming, expensive, and fraught with the risk of distraction by other pro bono and public service needs. We believe, however, that each of the sources we identify in this report can and should do more in arranging for or delivering the needed representation, and we are looking to promote positive steps to facilitate this.

Our discussion below reports on some of the existing service providers and models for leveraging resources. It recognizes that, for many of the unrepresented, legal representation will be difficult or impossible to obtain, but existing and proposed programs can put them on the path to improved outcomes in many circumstances. This report is designed to invite comment from the bar and the general public, promote future discussion on new or expanded strategies, recognize what is and is not working well and why, and address any obstacles to increased legal representation and support mechanisms and how they may be overcome.

I. THE CRISIS OF LEGAL REPRESENTATION OF THE IMMIGRANT POOR

A. *Exploring Needs of the Immigrant Poor: Lawyers Make a Difference*

Immigration proceedings are complicated. They require an understanding of both the law and the procedure in the United States. An immigrant without a lawyer proceeds in such matters at his or her peril. Government statistics regarding the number of represented persons in immigration proceedings confirm the importance and urgent need of such representation in ensuring that a person who faces deportation is, and feels, that he or she is fairly treated and that the proceedings have reached the substantively correct result.

EOIR found that fewer than half of the individuals in immigration proceedings in 2008 were represented; just as alarmingly, the percentage of

11. Omnibus Consolidated Rescissions and Appropriations Act of 1996, Pub. L. No. 104-134, § 504(a)(18), 110 Stat. 1321, 1321–56 (codified as amended in scattered titles and sections of the U.S.C.); see PHILIP GALLAGHER, BRENNAN CTR. FOR JUSTICE, THE RESTRICTION BARRING LEGAL SERVICES CORPORATION-FUNDED LAWYERS FROM ASSISTING ALIENS (2001), http://www.brennancenter.org/content/resource/lsc_restriction_fact_sheet_4_the_restriction_barring_legal_services_corpora/.

represented individuals in 2008 (forty percent) decreased from the percentage of individuals represented in 2007 (forty-three percent).¹²

The problem is particularly acute for individuals who are detained because of the isolated place of detention, lack of adequate legal resources in detention to competently self-represent, and other matters discussed below concerning EOIR's Legal Orientation Program (LOP).¹³ The current program of mandatory detention has led to alarming increases in the need. In 2002, ICE detained just over 200,000 persons.¹⁴ In 2007, ICE detained over 311,000 persons.¹⁵ By 2009, the number of detainees surpassed 400,000.¹⁶ And, according to an informed anonymous source, ICE is establishing its 2010 planning as if 450,000 will be detained.

In general, only about ten percent of detainees secure legal counsel.¹⁷ A 2008 study by the Vera Institute of Justice reported that, for cases that began in detention in 2006, the nationwide representation rate was fourteen percent, but acknowledged that the rate was lower for cases that began and ended in detention.¹⁸

In 2007, Immigration Courts handled almost 335,000 cases total—about 33,000 in Immigration Courts within the Second Circuit.¹⁹ In 2008, the number of cases processed increased to about 351,000, with approximately

12. EOIR 2008 STATISTICAL YEAR BOOK, *supra* note 2, at G1 fig.9. Years recited from government sources refer, in all instances, to fiscal years ending September 30. A recent study found that one out of three asylum seekers who do not have counsel during asylum interviews conducted by asylum officers is not likely to prevail. See HUMAN RIGHTS FIRST, U.S. DETENTION OF ASYLUM SEEKERS: SEEKING PROTECTION, FINDING PRISON 7 (2009) (“[M]ultiple studies, based on government statistics, have confirmed that asylum seekers who are represented are three times as likely to be granted asylum.”).

13. Additional matters are also discussed in the Reports of the Subcommittee on Enhancing Mechanisms for Service Delivery. See Jojo Annobil, *The Immigration Representation Project: Meeting the Critical Needs of Low-Wage and Indigent New Yorkers Facing Removal*, 78 FORDHAM L. REV. 517 (2009); Peter L. Markowitz, *Barriers to Representation for Detained Immigrants Facing Deportation: Varick Street Detention Facility, A Case Study*, 78 FORDHAM L. REV. 541 (2009).

14. See HUMAN RIGHTS FIRST, *supra* note 12, at 3.

15. *Observations on the Adherence to ICE's Medical Standards in Detention Facilities: Testimony Before the Subcomm. on Immigration, Citizenship, Refugees, Border Security and International Law of the H. Comm. on the Judiciary*, 110th Cong. 1 (2008), available at <http://www.gao.gov/new.items/d08869t.pdf>. (statement of Richard M. Stana, Director, Homeland Security and Justice Issues).

16. See HUMAN RIGHTS FIRST, *supra* note 12, at 3.

17. AM. BAR ASS'N COMM'N ON IMMIGRATION, IMMIGRATION DETAINEE PRO BONO OPPORTUNITIES GUIDE 1 (2004), available at <http://www.abanet.org/publicserv/immigration/probonoguidefinal.pdf>.

18. VERA INST. OF JUSTICE, LEGAL ORIENTATION PROGRAM EVALUATION & PERFORMANCE & OUTCOME MEASUREMENT REPORT, PHASE II, at 59 (2008) [hereinafter LOP EVALUATION], available at <http://www.usdoj.gov/eoir/reports/LOPEvaluation-final.pdf>.

19. U.S. DEP'T OF JUSTICE, EXECUTIVE OFFICE FOR IMMIGRATION REVIEW, FY 2007 STATISTICAL YEAR BOOK B3 (2008), available at <http://www.usdoj.gov/eoir/statspub/fy07syb.pdf>.

21,000 within the Second Circuit.²⁰ At the Immigration Court level, less than half of the individuals were represented.²¹

The number of immigrants who are represented seems to increase on appeal. In 2008, nine percent of Immigration Court decisions were appealed to the Board of Immigration Appeals (BIA). Of these appeals, seventy-eight percent had legal representation.²² Historically, about nine percent of counseled cases thus appealed were reversed, vacated, or remanded in whole or in part, while only two percent of pro se cases were.²³ This dramatic difference plainly demonstrates that having counsel makes a substantial difference in the outcome of the case.

The grant rate of relief at the BIA for people whose Immigration Court cases begin while they are detained is only three percent overall.²⁴ Despite this limited percentage, it reflects that relief had been granted on appeal to thousands of petitioners who otherwise were subject to forcible removal.

B. *Need To Expand the Number of Lawyers Involved in Immigration Pro Bono*

The legal community in New York and the surrounding metropolitan area has both the ability and the responsibility to meet some of this crying need. There are three primary and immediate sources for expanding the number of lawyers (or soon-to-be lawyers) available to provide or assist in providing pro bono legal services in immigration proceedings: law firms (and individual lawyers), clinics and fellows at law schools, and immigration and general bar associations. We are confident that there are capable lawyers available who would significantly increase the quality of legal services to the immigrant poor in immigration proceedings if given the appropriate encouragement, screening of cases, training, and mentoring. There are, however, obstacles in organizing, training, supervising, and engaging larger numbers of the private bar discussed in this report. Moreover, some lawyers choose and are consumed by other competing

20. EOIR 2008 STATISTICAL YEAR BOOK, *supra* note 2, at B3.

21. According to the Honorable Sarah M. Burr, Assistant Chief Immigration Judge in New York City, as of March 2009, twenty-two judges sat at 26 Federal Plaza in Manhattan. They had, in the aggregate, 26,400 open cases for nondetained immigrants. For the two judges at the Varick Street Detention Facility, there were then some 950 open cases. See Nina Bernstein, *In City of Lawyers, Many Immigrants Fighting Deportation Go It Alone*, N.Y. TIMES, Mar. 12, 2009, at A21.

22. EOIR 2008 STATISTICAL YEAR BOOK, *supra* note 2, at A2.

23. Robert A. Katzmann, *The Marden Lecture: The Legal Profession and the Unmet Needs of the Immigrant Poor*, 21 GEO. J. LEGAL ETHICS 3 (2008) [hereinafter *Marden Lecture*]; see also Jaya Ramji-Nogales, Andrew I. Schoenholtz & Philip G. Schrag, *Refugee Roulette: Disparities in Asylum Adjudication*, 60 STAN. L. REV. 295, 340–41 (2007) [hereinafter *Refugee Roulette*] (whether a noncitizen is represented is the “single most important factor affecting the outcome of [an asylum] case”).

24. LOP EVALUATION, *supra* note 18, at 63. Explanations for this vary, focusing more on detained immigrants than nondetained immigrants proceeding pro se and the difficulties detained persons have in marshalling evidence of their claimed entitlement to relief at the Immigration Court level. *Id.*

areas of need for pro bono legal services to the poor.²⁵ Without denigrating service to other needs, our subcommittee believes that it is not consistent with fairness in seeking justice to ignore idly the large numbers of unrepresented persons in contested immigration removal proceedings.²⁶ The need for such representation is at near-crisis proportions. Moreover, the absence of such representation imposes huge costs in the operation of our immigrant justice system in terms of efficiency, the impact on personal relationships and economic matters within affected families, and on public confidence in the legal process and justice of outcomes.

C. Need for Lawyers in Screening and Training Nonlawyers for Services Demonstrated by Experience in Counseling: The LOP Model

The LOP statistics confirm the difference made by informing detainees of their rights even without undertaking a lawyer-client relationship. The statistics are stark. In 2006, the LOP organizations and volunteers (lawyers and nonlawyers) worked with more than 25,500 detainees²⁷ to arm them with basic information on forms of available relief from removal, how to represent themselves pro se, and how to obtain legal representation.²⁸ EOIR publishes lists given to detainees of free or nominal fee immigration legal services providers with contact information for those providers.²⁹

LOP sites are typically selected based on low rates of representation so that the program can seek to fill in the gaps for areas in the most need. As a consequence, the formal representation statistics at LOP sites are lower than the national average.³⁰ To provide properly informational counseling to

25. A New York State Bar Association (NYSBA) study concluded that only fourteen percent of New York's indigent with general civil legal problems were able to access legal services. See THE FUTURE OF PRO BONO IN NEW YORK, VOLUME TWO: REPORT & RECOMMENDATIONS FROM THE NEW YORK STATE UNIFIED COURT SYSTEM'S PRO BONO CONVOCATIONS 1 n.3 (2004) (citing NEW YORK STATE BAR ASS'N COMM. ON LEGAL AID, THE NEW YORK LEGAL NEEDS STUDY (1993)), available at http://www.courts.state.ny.us/reports/probono/proBono_Vol2_report.pdf. In 2006, a Report to the House of Delegates of the American Bar Association (ABA) accompanying a resolution to "provide legal counsel . . . at public expense to low income persons in those categories of adversarial proceedings where basic human needs are at stake" highlighted an ABA legal needs study from 1993 that found "that legal help was not obtained for over 70% of the serious legal problems encountered by poor people." AM. BAR ASS'N, REPORT TO THE HOUSE OF DELEGATES: HOUSE RESOLUTION 112A, at 1, 5 (2006), available at <http://www.abanet.org/legalservices/sclaid/downloads/06A112A.pdf>; see also LEGAL SERVS. NYC, NEW YORKERS IN CRISIS (2008), available at http://www.legalservicesnyc.org/storage/lsny/PDFs/new_yorkers_in_crisis.pdf (reporting over three million people in New York City had low incomes below 200% of the Federal Poverty Level for a family of three).

26. See *Aguilera-Enriquez v. INS*, 516 F.2d 565, 568 n.3 (6th Cir. 1975) ("Where an unrepresented indigent alien would require counsel to present his position adequately to an immigration judge, he must be provided with a lawyer at the Government's expense. Otherwise, 'fundamental fairness' would be violated.").

27. LOP EVALUATION, *supra* note 16, at iii.

28. *Id.*

29. See EOIR Pro Bono Program: Free Legal Service Providers, <http://www.usdoj.gov/eoir/probono/states.htm> (last visited Oct. 11, 2009).

30. LOP EVALUATION, *supra* note 16, at 59.

detainees, volunteers and nonprofit representatives need to be given current and accurate materials on eligibility for release from detention or relief from deportation, trained in presentation, interviewing, and the nature of evidence required to support a claim, and shown how to access supervisors and lawyers as mentors. More lawyers and interpreters are needed to augment the capacity of LOP providers to provide the necessary counseling.

The statistics show the efficacy of nonrepresentational detainee counseling. LOP participants who received intensive individual services had asylum grant rates (9.4%) almost four times greater than the nonrepresentational grant rates for participants who attended group-only orientations alone (2.4%), indicating that individualized attention and counseling by a trained nonlawyer compared to generalized group information sessions increase the likelihood of presenting a persuasive claim for relief.³¹ With full legal representation, the LOP study acknowledges that there typically would be yet higher rates of application for relief and higher grant rates.³²

From inception through September 2007, EOIR's LOP program served over 100,000 detainees. As the expansion of detention has outpaced the expansion of funding, however, the numbers of persons being serviced has represented a shrinking percentage of the overall detained population. Since the current reality is that many unrepresented detainees will not secure counsel, private sector lawyers can play an important role in assisting them by volunteering for service at the LOP, mentoring LOP providers, or helping to promote an LOP for detention sites, such as New York, now not served by an LOP at all. Our subcommittee supports the EOIR's consideration of New York as a venue for the creation of a new LOP and the Study Group on Immigrant Representation has encouraged EOIR to do so.

II. LAW FIRM PRO BONO DIRECT REPRESENTATION OF THE IMMIGRANT POOR

The private bar in New York can make a difference in providing direct representation to the immigrant poor. It has a long history and tradition of responding to reduce the unmet legal needs of the indigent.³³

Our subcommittee surveyed pro bono counsel who coordinate law firm pro bono activities, are members of the probono.net Law Firm Pro Bono Coordinators listserv, and who have offices in New York, through an e-mail

31. *Id.* at 63.

32. *See id.* at 65.

33. According to the ABA, there are roughly 150,000 actively practicing attorneys in New York. Many of them practice at law firms. *See THE FUTURE OF PRO BONO IN NEW YORK*, *supra* note 25 (discussing the bar's historic role, reporting a finding of 2.5 million legal problems for New Yorkers annually for which no lawyer is available, and advocating for judicial leadership to increase pro bono, creation of local pro bono action plans and committees, education of law students and newly admitted attorneys about pro bono, establishing pilot projects, and providing court-based initiatives to facilitate court access for litigants with pro bono attorneys).

sent to the listserv on September 8, 2008. Responses were received over the following three weeks. We asked whether they represent immigrants pro bono at the Asylum Office or in Immigration Court proceedings and in what types of cases. We also asked whether they represent immigrants on appeal at the BIA and the U.S. Court of Appeals for the Second Circuit.

Representatives of thirteen firms responded. All firms who responded said that they undertake asylum matters. Most firms will represent asylum and Violence Against Women Act (VAWA) applicants both before the U.S. Citizenship and Immigration Services (USCIS) and the EOIR, but three firms said that the only matters they would undertake before EOIR are asylum applications; in one case the office had one asylum matter and, to the responder's knowledge, it was the only one the office had taken.

Other firms, for various reasons, were not well-positioned to represent persons in other types of contested immigration proceedings, especially those where removal is based on an immigrant's criminal conviction or fraud, or where relief for the noncitizen requires cancellation of removal or a waiver of a ground of inadmissibility or deportability. Some will not undertake cases for detained immigrants because of the severe time commitments or fearing that the alien will be transferred to a detention facility out of state, as frequently happens, and being unable then to withdraw from the case as of right when the hearings in the case are also transferred to an inconvenient venue for the lawyer. On the other end of the scale, three firms indicated that they regularly represent aliens before the USCIS and EOIR in a broad array of matters including asylum, VAWA, Petitions for Special Immigrant Juvenile (SIJ) status,³⁴ Petitions for U Visas,³⁵ Petitions for T Visas,³⁶ and applications for cancellation of removal.³⁷ Two firms indicated that they work on deportation defense cases, one of them in connection with recent raids (not in New York). Uniformly, there is widespread interest in representing immigrants before

34. Special Immigrant Juvenile (SIJ) status is available to unaccompanied alien children who cannot return to their homeland because they were abused, neglected, or abandoned by their parents. *See* 8 U.S.C. § 1101(a)(27)(J) (2006); 8 C.F.R. § 204.11 (2009). SIJ status involves a finding by the Family Court in the jurisdiction where the child lives that the child is dependent upon the family court, usually made in guardianship or foster care proceedings, and then an application to U.S. Citizenship and Immigration Services (USCIS) or made in open court where the child is in removal proceedings. If granted, SIJ status results in adjustment to Lawful Permanent Resident status.

35. Under the Immigration and Nationality Act sections 101(a)(15)(U), 214(p), and 245(m), certain victims of crime who cooperate with authorities in prosecuting the perpetrators can obtain U nonimmigrant status, also known as a "U Visa." *See* 8 U.S.C. §§ 1101(a)(15)(U), 1184(p), 1255(m). Qualified holders of U Visa status are permitted to seek adjustment to Lawful Permanent Resident status after a waiting period; many grounds of inadmissibility are waived.

36. T Visas are available to certain victims of human trafficking.

37. Cancellation of removal and the concomitant adjustment to Lawful Permanent Resident status are remedies available to certain immigrants in removal proceedings. If eligible, cancellation results in relief from removal and permission to stay in the United States as a Lawful Permanent Resident. Immigrants need to demonstrate good moral character, a required level of hardship and length of residency, and general admissibility.

the Second Circuit where needed, in any type of case. This may be because such an experience broadens the law firm pro bono attorney's practice-relevant skills, the case proceeds on an already developed hearing record, and the representation is not subject to the scheduling vagaries of the Immigration Court.

We also discussed with several pro bono counsel how they think that immigration work at their firms could be expanded. Issues heard over and over were lack of internal expertise in immigration law at the firm and the perception that available training and mentoring for expansion are inadequate or hard to arrange. Other firms reported high-quality support and training from various experienced and well-known organizations that refer asylum cases (such as Human Rights First and the City Bar Justice Center), but are reluctant to get involved in matters beyond asylum cases for lack of expertise at various levels within the firm.

A few firms expressed disappointment in working with certain programs in seeking representation for unaccompanied alien children, citing failure to provide sufficient mentorship and training after an initial bar association push to persuade pro bono counsel to work on these cases within the past few years. These firms never went back to try again.³⁸ Some firms had good experiences with other organizations that seek counsel for SIJ clients. Unfamiliarity with the family court component of SIJ cases, however, made them particularly troublesome to some firms. Several pro bono counsel also expressed doubt that they could obtain meaningful numbers of volunteers for opportunities other than asylum and VAWA matters. While U and T Visa applicants present similar equities, the forms of relief are not as well understood by their firm attorneys and few programs refer or provide training for those sorts of matters.

The thirteen law firms in the survey are admittedly a small representation of those in New York capable of providing legal services to immigrants and thus our information is essentially anecdotal. Of the 250 largest law firms in the United States, forty are located in New York.³⁹ If, however, those law firms that responded to our survey, and the twenty-seven other New York-based large firms, devoted just a small portion of their resources to handling immigration cases, a material difference could be made. Certain testimonials to that difference, collected by the Public Service Committee of the Federal Bar Council (FBC), are appended as Annex A.

The subcommittee has begun to assess what is needed to make it more feasible for law firms to take on types of cases that previously have seemed unattractive. We believe structured programs need to be put in place and

38. The renewed pro bono lawyer challenge of the Kids in Need of Defense (KIND) project initiated by the Microsoft Corporation and Angelina Jolie Foundation, first announced in October 2008, is just getting underway in New York and thus was not reflected in our survey. See KIND: Kids in Need of Defense, www.supportkind.org (last visited Oct. 11, 2009).

39. See 2008 NLJ 250, Annual Survey of the Nation's Largest Law Firms, <http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202425778391> (last visited Oct. 11, 2009).

made easily accessible, at flexible times, that feature competent case screening prior to placement in order to

- attract firm partners to assure adequate law firm support and supervision of its attorneys;
- offer quality training by case type from respected sources for both supervising partners and more inexperienced attorneys with front line responsibility;
- deliver expert mentoring on a timely basis; and
- work with the Immigration Court to provide reasonable accommodations to clients with pro bono counsel.

With its own enthusiasm and the encouragement of the Study Group on Immigrant Representation after the April 2009 Fordham University School of Law Levine Lecture, the Public Service Committee of the FBC reached out to New York firm leadership concerning the need for increased immigration pro bono. It publicized two projects: one at the Varick Street detention facility in Manhattan and one at 26 Federal Plaza.⁴⁰ The Varick Street project is run by The Legal Aid Society of New York with assistance from members of the American Immigration Lawyers Association (AILA).⁴¹ Should a law firm volunteer find that a particular detainee has a remedy, the Varick Street project envisions that the firm will represent that detainee.

Besides the Varick Street project, AILA and the City Bar Justice Center (CBJC) have been staffing an Immigration Representation Project (IRP) intake at 26 Federal Plaza (the federal building in New York City housing the immigration authorities) one day per month. There is general agreement within the organizations that this program should and can be expanded materially and that law firm lawyers and increased AILA member participation could substantially augment the current number of volunteers.⁴²

40. At a July 2009 meeting, the Public Service Committee of the Federal Bar Council (FBC) received expressions of interest from over twenty firms interested in one or both of these programs.

41. Law firm volunteers meet with detained immigrants one on one to determine whether they have an avenue of relief from removal. AILA lawyers, as well as lawyers from the Legal Aid Society's Immigration Representation Project (IRP), are present at all of the screenings and available to help volunteers spot issues. This helps ensure that the screening function is adequately performed.

42. For a fuller description of the Varick Street project and the IRP, see Annobil, *supra* note 13, and Markowitz, *supra* note 13.

A. *Law Firm and Pro Bono Lawyer Involvement with Nonprofit Programs
To Represent the Immigrant Poor and Expand
Nonrepresentation Services*

A wide variety of organizations, differing by size, focus, and scope of activities, undertake immigration law and policy advocacy in New York, counseling of noncitizens, and direct representation of them in removal cases. They also provide assistance short of representation to refer and guide those needing help in dealing with their immigration proceedings.

The New York Immigration Coalition (NYIC) is an umbrella organization for more than two hundred groups in New York State that work directly with immigrants and refugees. While the NYIC's emphasis is on policy, analysis, and community and voter education, its training institute promotes hundreds of workshops each year, and its staff directly, and by collaborating with others, provides immigration law training and immigration law support to its members and pro bono lawyer volunteers.⁴³ It has undertaken to work with The Legal Aid Society of New York in providing training to volunteer lawyers being recruited through the FBC.

Moreover, the ABA Commission on Immigration has surveyed immigration direct delivery groups in New York State (as of 2007). A list of sixty-eight clinics, bar programs, ethnic, civil rights and religious organizations, and others providing immigration counsel and representation services is posted on its website.⁴⁴ AILA is currently updating this list.

The subcommittee believes that all of the direct delivery nonprofit organizations would—assuming funding for training, office space, software, computer equipment, and supervision capacity—be able to meaningfully increase the scope and depth of direct representation if pro bono lawyers could be attracted to augment permanent staff and if there were a plan to sustain the additional workload. One of our ongoing tasks is to define initiatives that we can undertake to promote or facilitate such expansion.

B. *Screening and Intake of Potential Immigration Pro Bono Clients in
Proceedings: Basic Models*

Three basic models have emerged for the intake and screening of potential clients in proceedings. The Varick Street project and the IRP at 26 Federal Plaza both involve onsite screening with experienced lawyers to spot avenues for relief and issues associated with pursuing them. Community clinics would use the same model, but be housed in a more immigrant-friendly environment. The Pro Bono Committee of the New York Chapter of AILA has successfully sponsored several community-

43. See New York Immigration Coalition, <http://www.thenyic.org> (last visited Oct. 11, 2009).

44. See ABA Commission on Immigration, New York, <http://www.abanet.org/publicserv/immigration/states/newyork.pdf> (last visited Oct. 11, 2009).

based clinics in the past two years by housing them in local schools or in the offices of local community organizers.

A second model is to house an experienced coordinator within a law firm, as is being done by the Kids in Need of Defense (KIND) project.⁴⁵ Sensitive to the need for screening, triage, and case preparation even before pro bono counsel is sought, the Microsoft Corporation and the Angelina Jolie Foundation announced in October 2008 an effort to begin in 2009 to provide representation for eighty-five percent of detained noncitizen children within three years and established a New York arm of the program. Its model is to raise funds from law firms, corporate sponsors, and interested persons, fund the employment of lawyers with two to four years of experience at various public interest law organizations, and engage two lawyer coordinators for New York City to be housed at a law firm in order to undertake the time-consuming and triage-like screening and placement of cases identified by the public interest lawyers.

In choosing this model, KIND decided to relieve the public interest organizations from having the burden of staffing the screening function and recruiting potential volunteers to undertake the specific cases chosen from the screen. Moreover, the coordinators would not themselves do direct representation, spending their time instead on promoting immigration pro bono at the firm in which they are housed and at other law firms in New York City and verifying that the cases KIND places are worthy of scarce pro bono resources.⁴⁶ KIND expects to have its New York area structure fully in place this year. Its two New York area coordinators have been appointed and housed.

A third model is to have potential clients meet with attorneys at public interest law organizations to have their cases screened and then possibly referred to a volunteer lawyer for representation. Human Rights First is just one of many examples of organizations that rely on this model for its Asylum Project. Its staff of knowledgeable and experienced immigration attorneys ensures that the noncitizen has a basis to pursue relief. Moreover, those attorneys are trained to spot potential barriers to winning that relief. The limitation of this model is that it only serves nondetained persons and puts the time-consuming screening function on the legal service provider's relatively small staff. Fewer cases can be screened and prepared for referral than if volunteer lawyers could be trained to participate in screening to supplement the staff's capacity.

Overall, the following actions would promote broader representation by attorneys who do not regularly practice before USCIS and EOIR:

45. See KIND, *supra* note 38; see also Albor Ruiz, *Aid for Youngest of the Undocumented*, N.Y. DAILY NEWS, Sept. 3, 2009, at 55 (describing KIND and projecting that KIND will represent 2100 children nationwide by 2010).

46. See *Kids in Need of Defense (KIND): Microsoft and Angelina Jolie Galvanize Legal Community in New Initiative To Protect Unaccompanied Children*, PRO BONO WIRE (Pro Bono Inst., Washington, D.C.), Sept. 2009, <http://pbi.informz.net/admin31/content/template.asp?ps=2269&sid=2269&brandid=4063&ptid=198&uid=1000973506&mi=195181>.

- Broaden the commitment from AILA members to mentor pro bono attorneys;
- Increase training sponsored by bar associations and law school clinics in Immigration Court procedures, family petitions, and other application work; and
- Increase trainings from public interest law organizations in substantive areas such as VAWA, U Visas, T Visas, and cancellation of removal where those organizations have expertise.

C. Expanding Private Lawyer and Law Firm Pro Bono Direct Representation of the Immigrant Poor

In the absence of mandatory reporting of pro bono activities by lawyers in New York, there are only limited and anecdotal reports available for our subcommittee to gauge the nature and extent, in terms of number of cases and time commitment, of pro bono representation in immigration proceedings and the counseling and administrative processing that precedes it.⁴⁷

Recent developments, however, give us comfort that increases in lawyer involvement in immigration pro bono is achievable directly or through participation in organized programs of bar associations and public interest organizations. Several examples of these recent developments follow:

- In 2008, the 1100 member New York Chapter of AILA, composed primarily of solo and small firm lawyers, reactivated its Pro Bono Committee as the national organization hired a full time national pro bono coordinator and adopted a formal pro bono policy. It has rolled out program models and recognition events in a concerted drive to enhance its members' participation. Some of the fruits of that effort are plain in the discussion of some of the partnered activities described below and in the Report of the Subcommittee on Enhancing Mechanisms for Service Delivery.

47. In February 2009, the ABA Standing Committee on Pro Bono and Public Service released its 2008 study, *Supporting Justice II: A Report on the Pro Bono Work of America's Lawyers*. It reported that seventy-three percent of the nation's lawyers claimed to have provided at least twenty hours or more of direct representation in 2008 (not identified by subject area or nature of client) to persons of limited means and that the work undertaken almost invariably was within the lawyers' experience and expertise (ninety-four percent). THE ABA STANDING COMM. ON PRO BONO & PUBLIC SERV., SUPPORTING JUSTICE II: A REPORT OF THE PRO BONO WORK OF AMERICA'S LAWYERS 12, 18 (2009) [hereinafter ABA 2008 SURVEY], available at <http://www.abanet.org/legalservices/probono/report2.pdf>. Given the comparatively small percentage of attorneys with an immigration law concentration, that finding puts a premium on convincing lawyers that what is at stake for the system and for the immigrant poor is so meaningful that they are willing to devote the time to develop the expertise to counsel competently.

- Cardozo Law School's Bet Tzedek Law Clinic, NYIC, and the FBC are collaborating on free collective training on immigration subjects for law firm fellows—lawyers who have been offered positions at nonprofit direct delivery public interest organizations as part of sabbaticals or deferred start dates at law firms. The first such training occurred on September 21 and 25, 2009, and carried Continuing Legal Education (CLE) credit.
- Human Rights First (in asylum) and the CBJC (more broadly), as well as other groups providing direct delivery immigration representation for the immigrant poor, provide regular training programs for lawyers in exchange for commitments to undertake cases or participate in screening of cases for referral. These and other trainings are widely announced through www.probono.net and by the sponsoring entities themselves.⁴⁸

The desire to increase the number of lawyers participating in immigration pro bono representation in removal proceedings and judicial review requires some understanding of the factors that encourage or discourage participation. These factors include

- the lawyer's sense of professional obligation;
- the interests at stake in the matter;
- whether the matter came to the lawyer from sources respected or trusted by the lawyer;
- whether the lawyer has been encouraged by an employer, partners, or a judge;
- the lawyer's ability to define the scope of the participation and fit it into a regular work schedule;
- the range of opportunities open to the lawyer;
- free training and CLE credit;
- having research support and mentoring; and
- whether the lawyer has or is prepared to acquire the skills or experience to competently address the immigration issues in the matter.

These factors are consistent with the findings of factors of encouragement (their absence are factors of discouragement along with difficulties in participation, lack of time through business and family

48. See New York State Pro Bono Opportunities, <http://www.probono.net/ny/volunteer> (last visited Oct. 11, 2009). This site requires registration, but registration is free for pro bono lawyers and public interest legal services providers.

obligation, or simply lack of desire) identified in the 2008 survey released by the ABA's Standing Committee on Pro Bono and Public Service.⁴⁹

The subcommittee has put a priority on what it can do to leverage resources for training and heightening awareness of resources available to newcomers to immigration pro bono. First and foremost, it is a matter of competence and an effective predicate for client counseling. Second, it has to be organized and accessible so that lawyers can be comfortable integrating it into their professional life and other assignments. Third, it has to be focused on case evaluation. It is critical that lawyers be trained both in immigration law and in agency and court procedures. However, effective training should also help pro bono lawyers in determining whether the case has a potential for relief and a strategy for success.

There are substantial new resources for inexperienced lawyers who would like to be involved in immigration pro bono, and many are only a download away as the Internet has made access to laws, regulations, agency guidance, professional blogs, treatises, webinars, and other sources readily available.

Novice and experienced lawyer alike can turn to Pro Bono Net for training calendars, breaking news, and libraries. It is maintained by a national nonprofit organization dedicated to innovative uses of technology and increased volunteer lawyer participation and funded by corporate sponsors, law firms, and foundations. As of May 2009, the site listed thirty-two opportunities in New York State to provide immigration pro bono assistance to nonprofits and their clients on immigration matters (counseling, defense, appeals), as well as the intersection of immigration law with issues of health care, housing, AIDS management, elder and spousal abuse, insurance, employment discrimination, estate planning, creditor rights, and tax law compliance that noncitizens face.⁵⁰

Immigration Advocates Network (IAN),⁵¹ a collaborative effort of leading immigration advocacy groups seeking to provide free online access for authorized users to comprehensive resources, is another resource. It lists twenty-one training programs nationwide as of May 1, 2009, and twelve downloadable podcasts, all on substantive and procedural issues of individual eligibility to status, waiver, and removal defenses under immigration law.⁵² Its website posts videos of selected seminars presented by the NYIC, Catholic Legal Immigration Network, Inc. (CLINIC), the National Immigration Law Center, and the New York Legal Assistance Group. Moreover, basic immigration law materials are available on its library page, along with an index to materials on advanced subjects.

49. ABA 2008 SURVEY, *supra* note 47, at 21–23.

50. See New York Volunteer Results, <http://www.probono.net/ny/oppsguide/search?natl=&c=&a=14&p=&o=&t=> (last visited Oct. 11, 2009); New York State Pro Bono Opportunities, *supra* note 48.

51. Immigration Advocates Network, <http://www.immigrationadvocates.org> (last visited Oct. 11, 2009).

52. *Id.* (access to listings of webinars and training materials available to registered users only).

Current events are available in its News, Agency Watch, and Case pages, the cases being chosen by AILA.

The American Immigration Law Foundation's (AILF) Legal Action Center provides links to legal materials and issues practice analysis and advisories.⁵³ AILF is a contributor to IAN materials.

AILA sponsors a Web Resources page for its membership to access general legal and policy research, legislative research, immigration-related organizations, and human rights and refugee issues, among others.⁵⁴

CBJC provides training and undertakes direct representation of immigrants through its Immigrant Justice Project, with a focus on asylum, domestic violence, and human trafficking cases.⁵⁵ The CBJC's Immigrant Outreach Project trains community organizations and public officials.⁵⁶ It partners regularly with AILA, The Legal Aid Society, Volunteers of Legal Service, Law Help New York, Pro Bono Net, and the New York County Lawyers Association.

Although these and other internet resources, as well as hard copy treatise publishers, provide materials and training programs, such information could be better publicized to the community of potential volunteers. Because there is some overlap, these resources often lead unguided potential new pro bono lawyers into feeling that the legal issues are all very complicated and time-consuming to absorb. This may discourage a new lawyer from even trying to obtain the basics needed to understand the law or whether the client is actually eligible for relief and, if so, how it can be obtained and in what time frame. In a way, having so many new sources of materials, the recently involved lawyer lacks comfort that he or she is in command of the landscape. Being able to ask questions of a seminar panelist or trainer, having a readily accessible mentor, and knowing that there will be supervision of performance are important to the recruitment process and helps assure quality of representation. FBC has thus refocused on the need to provide such resources and ease the burdens of the learning process by exploring how to bring interactive training in-house to law firms through programs beginning in the fall of 2009.⁵⁷

FBC, moreover, has arranged with AILA to enlist mentors and adopt a pilot approach to both the counseling and representation opportunities. FBC plans to examine other projects in forthcoming meetings, including a

53. See AILF Legal Action Center, http://www.ailf.org/lac/lac_index.shtml (last visited Oct. 11, 2009). AILF is now named the American Immigration Council, Inc.

54. See AILA: Web Resources, <http://www.aila.org/content/default.aspx?docid=1180> (last visited Oct. 11, 2009).

55. See Immigrant Justice, <http://www.nycbar.org/citybarjusticecenter/projects/immigrant-justice/> (last visited Oct. 11, 2009).

56. See Immigrant Outreach Project, <http://www.nycbar.org/citybarjusticecenter/projects/immigrant-justice/immigration-outreach-project/overview/> (last visited Oct. 11, 2009).

57. See Memorandum from the Immigration Representation Subcomm. of the Pub. Serv. Comm. to Fed. Bar Council Members (June 5, 2009), available at https://members.federalbarcouncil.org/custom/uploads/pdfs/Immigration_Project_Memo.pdf.

potential bond hearing representation project in which pro bono lawyers would commit to representation limited to the bond hearing. If the detainee is released, such limited representation would be enormously helpful because he or she would have greater access to counsel and be more readily able to gather evidence.

D. Expanding Pro Bono Volunteers Through the New York City Bar Association and Other Bar Associations

Because of their professional membership and historic role in educating the bar and promoting the rule of law, bar associations are natural places to turn to for help in this crisis of inadequate representation of the immigrant poor in agency and court proceedings. Success or failure, in individual cases, aside from possible deportation to an uncertain fate, obviously has ripple effects on the broader community of U.S. citizens and lawful permanent resident family members and employers.

The New York City Bar Association and the CBJC have provided a substantial launch pad for the efforts of Judges Robert A. Katzmman and Denny Chin to spark the attention of bar leaders, lawyers generally, and the public on the emergent need for increased pro bono representation of the immigrant poor.⁵⁸

Recently CBJC, AILA, and the New York City Immigrant Advocacy Initiative (NYCIAI) responded to a crisis for the “clients” of Victor Espinal, whose office was shut down. Mr. Espinal had been arrested for allegedly pretending to be an immigration lawyer. He was accused of falsely holding himself out as an attorney for over a decade, based on charges relating to three clients; those charges remain pending. After reading about the arrest in the press,⁵⁹ attorneys from CBJC, AILA, and NYCIAI suspected that there were many, many more Espinal clients whose rights to immigration remedies were compromised by faulty representation. They therefore secured fifty volunteer lawyers recruited by AILA and hosted an emergency

58. The Association of the Bar of the City of New York (New York City Bar) hosted Judge Katzmman’s seminal Orison S. Marden Lecture on the subject in February 2007, which was later revised and published with other author commentary in the *Georgetown Journal of Legal Ethics*. See *Marden Lecture*, *supra* note 23. New York City Bar members helped organize an invitational to interested constituencies to explore needs and means in promoting immigration pro bono in August 2008 at the Annual Meeting of The American Bar Association. Elizabeth Reichard, the New York City Bar’s 2008–2009 fellow sponsored by the law firm of Fragomen, Del Ray, Bernsen & Loewy LLP, Peter Eikenberry, Chair of the New York City Bar’s Marden Committee, and the Study Group on Immigrant Representation recruited lawyers to join the Study Group in 2008 and to give structure and thought to address pro bono needs. Over the last sixteen months, they and other members of City Bar Justice Center’s (CBJC) staff played important roles in guiding the Study Group on Immigrant Representation’s subcommittees, in setting the stage for the breakout panels at the Levine Lecture, and in promoting a convocation at Benjamin N. Cardozo School of Law among nonprofit legal services organizations and law firms.

59. See, e.g., Nina Bernstein, *An Immigration Attorney Is Accused of Being a Fraud, and His Clients Scramble for Help*, N.Y. TIMES, Feb. 25, 2009, at A25; see also Careen Shannon, *Regulating Immigration Legal Service Providers: Inadequate Representation and Notario Fraud*, 78 FORDHAM L. REV. 577, 588 & nn.34–35 (2009).

clinic. The New York City Bar Association provided free space for the clinic and CBJC donated several coordinating attorneys and administrative assistants who spoke Spanish.

The clinic was organized after the Fragomen Fellow at CBJC reached out to contacts at the New York County (Manhattan) District Attorney's office. NYCIAI volunteers had learned of the arrest of Espinal and were concerned that his "clients" were being left without legal representation. It was publicized by notices in the *New York Daily News* and on *Telemundo*, as well as through personal letters sent by the New York County District Attorney's office to each affected "client" about the free clinic.⁶⁰

After the clinic, the CBJC reviewed all of the intake forms of the 120 persons interviewed at the clinic. It appeared that forty percent of the cases were valid cases currently in progress. Most were family-based immigrant visa petitions and naturalization applications and some deadlines had been missed only because Espinal had been arrested before the response or filing was due, leaving the case unattended. In such cases, individuals were advised to seek new counsel, respond as soon as possible, and cite Espinal's arrest in explaining the missed deadline. Ten percent of the clients interviewed did not indicate that their experience with Espinal had been problematic, or said that they had not worked with Espinal on immigration matters (in other words, it appeared that they had heard about a free clinic and simply came to get advice although they were not the targeted group). Critically, fifty percent of the cases reviewed apparently were negatively impacted by Espinal's actions or inaction.

Several concerns were reported by the clients or noted in reviewing the intake forms at the clinic:

- Espinal collected fees for numerous family-based petitions. When clients requested receipt notices and copies of petitions, Espinal reportedly was unable to produce them.
- Espinal frequently failed to meet filing and response deadlines, often for motions to reopen or requests for evidence, which resulted in case denials.
- Espinal filed several seemingly baseless VAWA petitions and, on several occasions, numerous VAWA petitions on behalf of the same client, often without any new or additional evidence.

60. The clinic took place at the City Bar Association with CBJC staff assisting in organizing the crowd. Between 6:00 p.m. and 8:30 p.m., numbers were given to those in a line extending into the street. Clients were greeted in the lobby and escorted to second floor interview stations as available. More experienced attorneys conducted interviews on their own. Others were interviewed in pairs in a large room with a volunteer attorney at each table. Volunteers met with over 120 individuals who had hired Mr. Espinal and who were unable to access their immigration files after his January arrest. All interviews were completed by the end of the evening.

In addition, there was anecdotal information that Espinal and/or his associates threatened clients who told him that they would file disciplinary complaints concerning his mishandling of their cases.

At the clinic, clients who appeared eligible for one or more forms of relief were advised to seek new counsel (free and low-cost referrals were provided) and file Freedom of Information Act requests to determine the trajectory of their cases.

Overall, the clinic interviewed more than one hundred identified Espinal clients in two and one-half hours, and most clients left with an action plan for their matter, many with agreements for pro bono representation from volunteer lawyers who had interviewed them.⁶¹ It was a successful example of partnering to promote representation by counseling, using the media, bar associations, and volunteer lawyers.

III. MEETING CERTAIN NEEDS OF THE IMMIGRANT POOR THROUGH ASSISTANCE SHORT OF FULL LEGAL REPRESENTATION

To expand capacity to meet needs through leveraging, the subcommittee has two immediate areas of focus.

A. *Assisting Detained Clients by Promoting a Legal Orientation Program and Know Your Rights Presentations*

LOPs work primarily with detained immigrants. They give immigrants basic information about forms of relief from removal, how to proceed pro se in Immigration Court, how to accelerate the removal process if desired, and how to seek legal representation. The programs are run in collaboration with the EOIR, public interest organizations, and volunteer lawyers,⁶² although some, such as Know Your Rights (KYR) presentations, are conducted independently of EOIR solely by public interest organizations. There are generally four components to these efforts:

- Group orientations that offer broad overviews of the immigration process and grounds for relief from removal;
- One-on-one meetings between a volunteer and a detainee that provide more specific information about forms of relief and the court process;
- Self-help workshops for small groups of immigrants who are representing themselves; and
- Referrals to pro bono attorneys for some immigrants.⁶³

There are currently eighteen formal LOP sites operating nationwide.⁶⁴ As noted above, the U.S. Department of Justice LOP statistics confirm the

61. See Bernstein, *supra* note 59.

62. LOP EVALUATION, *supra* note 18, at iii.

63. *Id.*

difference made by informing detainees of their rights even if they do not achieve legal representation. In 2006, LOP participants who received intensive individual services had asylum grant rates of 9.4% as opposed to only 2.4% for participants who attended group orientations alone.⁶⁵

In 2008, the ABA launched an innovative pro bono immigration pilot project in San Diego, California, the Immigration Justice Project (IJP), pursuant to a seed grant from the ABA Enterprise Fund supplemented by funds from the ABA Section on Litigation with the support of U.S. District Judge Nancy Atlas and other Section leaders. The IJP, an LOP site, is a model program that has flourished thanks to collaboration among EOIR, the federal judiciary, bar associations, large and small private law firms, universities and law schools, and public interest organizations. Judge Margaret McKeown of the U.S. Court of Appeals for the Ninth Circuit was instrumental in the inception of the IJP. Recognizing at the U.S. court of appeals level the often uncorrectable harms brought about by a lack of access to counsel in Immigration Court and ineffective assistance of some counsel, Judge McKeown gave freely of her considerable skill, experience in the private bar prior to becoming a judge, and insight as a jurist. She worked with the ABA Commission on Immigration, the ABA Standing Committee on Federal Judicial Improvements, and others to fashion the IJP to address these representation gaps in San Diego and establish a possible model for other locations in the Ninth Circuit.

Now in its second year, the IJP has a staff of two attorneys and one paralegal who facilitate the LOP program, coordinate pro bono screenings and referrals, and represent a small number of indigent individuals who would otherwise proceed pro se in the Immigration Court due to indigence and, if necessary, on any appeal to the BIA. The IJP coordinates the LOP services for some seven hundred detainees and solicits pro bono attorneys.

The IJP conducts LOP presentations and screenings both for detained and nondetained individuals.⁶⁶ For the detained program, the list of requested immigrant attendees at the LOP presentations is assembled based upon a list the Executive Office for Immigration Review provides to the IJP and other pro bono immigrant advocacy nonprofit organizations, referred to as the “pro se list.” This list contains the names and alien registration numbers of individuals who have appeared pro se at least once at a preliminary hearing in Immigration Court.

Detainees may also request to attend an LOP presentation. EOIR provides to detained pro se individuals in immigration proceedings a “free legal services list.” The IJP LOP is listed as one of the free legal service

64. ABA, List of Current Legal Orientation Program Locations, http://www.abanet.org/poladv/abaday09/resources/lop_locations.pdf (last visited Oct. 11, 2009).

65. LOP EVALUATION, *supra* note 18, at 63. Full representation typically leads to higher rates of applications for relief and higher grant rates. *Id.* at 65.

66. The detained program is funded by EOIR as part of the LOP program. EOIR does not fund the nondetained program, though it does encourage and facilitate the program.

providers, so many individuals seek to attend an LOP presentation based on this referral source.⁶⁷

The pro bono volunteers who are ultimately assigned LOP-screened cases, as well as the IJP legal staff, are provided with experienced and expert immigration practitioner mentors in the area of their assigned cases. The mentors are selected based on their reputation in the San Diego legal community as leaders in their respective fields of immigration practice. All of the mentors are also members of AILA.

In concert with the IJP's LOP pro bono project, a study of the project is being conducted by Georgetown University's Institute for the Study of International Migration. The Georgetown study will evaluate the LOP-linked pro bono program's impact on the Immigration Court and appellate process.

While LOPs provide an important resource to a population that has great unmet legal needs, the LOP model alone is not sufficient as a vehicle to meet all the legal needs of the immigrant poor. First, while one of LOP's objectives is to increase access to pro bono counsel for detainees,⁶⁸ LOP does not provide sufficient resources to manage the large number of potential pro bono referrals.⁶⁹ Second, at some LOP sites, issues ranging from a lack of intelligible announcements to shortages of staff result in detained individuals who are eligible for LOP being denied their opportunity to attend.⁷⁰ In addition, some local jurisdictions prohibit drafting of pleadings unless the drafter appears of record on the pleadings and in the case.⁷¹ This detracts from the ability of LOP attorneys to assist larger numbers of immigrants where the pro bono programs are

67. In the nondetained context, the immigration judges assigned to a regular docket in the San Diego Immigration Court similarly provide the free legal services list to pro se individuals. The times and locations for the IJP's nondetained LOP program are noted on the free legal services list. The immigration judges may also inform nondetained pro se individuals that there are classes available at no charge offered by the LOP attorneys at the Immigration Court on certain days and that through the LOP screening process pro se immigrants may be able to find a pro bono legal representative.

68. LOP EVALUATION, *supra* note 18, at 13–14.

69. *Id.* at 24. In fact, the pro bono referral function is the least funded of all of the LOP's activities. *Id.* The Vera Institute found that only a handful of LOP providers have dedicated funding for the pro bono function. *Id.*

70. *Id.* at 33.

71. See *Laremont-Lopez v. Se. Tidewater Opportunity Ctr.*, 968 F. Supp. 1075, 1077–79 (E.D. Va. 1997) (construing Local Rule 83.1 of the Rules for the U.S. District Court for the Eastern District of Virginia as meaning that it is “improper for lawyers to draft or assist in drafting complaints or other documents submitted to the Court on behalf of litigants designated as *pro se*”); see also *Chaplin v. Du Pont Advance Fiber Sys.*, 303 F. Supp. 2d 766, 772–73 (E.D. Va. 2004); *Clarke v. United States*, 955 F. Supp. 593, 598 (E.D. Va. 1997), *vacated*, 162 F.3d 1156 (4th Cir. 1998) (unpublished table decision). But see ABA Comm. on Ethics and Prof'l Responsibility, Formal Op. 07-446 (2007) (rejecting arguments, accepted by some contrary state ethics opinions, that nondisclosure is inherently misleading and unfairly exploits courts' reputed leniency toward pro se plaintiffs and stating that “[a]bsent an affirmative statement by the client, that can be attributed to the lawyer, that the documents were prepared without legal assistance, the lawyer has not been dishonest within the meaning of Rule 8.4(c)”). This opinion withdrew a prior opinion that a lawyer must make the court aware of the fact that a document was drafted by a lawyer. *Id.*

underresourced. Third, LOPs are usually offered only in English and Spanish, and there is a great number of people in need of assistance who speak other languages. While there is an effort to serve these populations, the continuous shift in the detainee population has impeded efforts to consistently provide LOP programs in languages other than English and Spanish.⁷²

There is no LOP program currently serving immigrants detained in New York City. However, public interest organizations and law school clinics have been active in doing KYR presentations for detained immigrants. For example, The Legal Aid Society, CBJC, and AILA do regular KYR presentations as well as one-on-one presentations at the Varick Street Detention Facility. In addition, The Legal Aid Society conducts KYR presentations and intake at the Bergen and Monmouth County jails in New Jersey (where New York immigrants are housed), as well as at the Orange County Jail in Goshen, New York. Legal Aid also runs a hotline once a week for detained people to call in for advice. Several law school clinics have also participated in KYR presentations. The need for increased KYR sessions, however, still far exceeds the available services and the subcommittee intends to explore how to expand them.

B. Accommodations of Immigration Court Procedures To Promote Pro Bono Representation: Limited Representation for Bond Hearings

Limited representation in Immigration Court proceedings in many cases is better than no representation. Relaxing the Immigration Court rules to allow limited representation for bond hearings will facilitate pro bono representation. It will also save costs for EOIR by ensuring that immigrants are well represented at hearings and provide a secure basis for judges to release those who do not pose a substantial risk of flight or danger to the public.

Often, an immigrant is arrested and quickly transported thousands of miles away. A person's family might be able to find an attorney to handle an initial bond hearing, but finding an attorney who can travel to a remote location for future proceedings in the case on a pro bono basis is usually impossible. In addition, finding local pro bono counsel in these locations can be extremely difficult since many detention centers are far from areas where there are significant local immigration counsel or public interest organizations able to assist. Put starkly, lawyers in New York often decline committing to pro bono representations at master calendar or bond hearings if they are at risk of being required to continue representation even if their clients end up in a remote Texas facility and there is no assurance that they will be relieved of the representation.

The *Immigration Court Practice Manual*, which governs immigration proceedings, has a rule restricting limited representation. Rule 2.3(d) provides the following:

72. LOP EVALUATION, *supra* note 18, at 35–36.

Limited appearances. — Once an attorney has made an appearance, that attorney has an obligation to continue representation until such time as the alien terminates representation or a motion to withdraw or substitute as counsel has been granted by the Immigration Court. The filing of a Notice of Entry of Appearance as Attorney or Representative Before the Immigration Court (Form EOIR-28) on behalf of an alien constitutes entrance of appearance for all proceedings, including removal and bond, unless the Immigration Judge specifically allows a limited appearance.⁷³

Advocates have urged EOIR and the Immigration Court to amend this rule to allow certain limited appearances at master calendar hearings and bond hearings.⁷⁴

Recently, judges at the Varick Street court have allowed some advocates to enter limited appearances for bond hearings. The NYU School of Law Immigration Clinic and other pro bono providers have represented immigrants in these limited bond hearings. In the hope that this practice becomes permanent and is adopted by the Immigration Court elsewhere, O'Melveny & Myers LLP has been conducting trainings across the country about how to represent clients at immigration bond hearings.⁷⁵ Judges should continue to allow these limited representations and the *Immigration Court Practice Manual* should be modified to explicitly allow limited representations at bond and master calendar hearings.

IV. EXPANDING REPRESENTATION FOR THE IMMIGRANT POOR THROUGH LAW SCHOOLS AND LAW SCHOOL CLINICS

With administrative and faculty leadership, law schools can contribute significantly in various ways to improving access to legal representation for immigrants. We look at some of the ways schools can help, especially with respect to curriculum (including clinics), externships, and summer and postgraduate fellowships. We also consider how schools can increase interest in these issues among students and alumni through hosting colloquia, workshops, or other events on campus, publicizing the achievements of alumni working in the field, promoting research and scholarship, and publishing articles about the substantial unmet legal needs of the immigrant poor in law journals, newsletters, alumni magazines, or other publications.

73. IMMIGRATION COURT PRACTICE MANUAL § 2.3(d) (2008), available at http://www.usdoj.gov/eoir/vll/OCIJPracManual/ocij_page1.htm.

74. See Letter from Nancy Morawetz, Professor, N.Y. Univ. Sch. of Law, to the Office of the Chief Immigration Judge, U.S. Dep't of Justice, Executive Office for Immigration Review (May 13, 2008), available at http://lawprofessors.typepad.com/immigration/files/comments_5.13.08%20FINAL.pdf.

75. Press Release, O'Melveny & Myers LLP, O'Melveny Partners with Client Participant Media and Immigrant-Rights Advocacy Group To Provide Pro Bono Training Workshops (March 23, 2009), <http://web.omm.com/newsroom/News.aspx?news=1179>.

A. Law School Curriculum

Where is immigration in legal education? Professors offer courses specifically focused on immigration law⁷⁶ and write text books and scholarly articles on topics relating to immigration.⁷⁷ Some professors teach about issues of immigration, citizenship, and sovereignty in courses such as federal courts and criminal law.⁷⁸

B. Law School Clinics

In addition, clinics have become an important part of law schools' curricula over the past forty years. In particular, immigration law clinics, where professional values are instilled and cultivated and the opportunity for high-quality mentoring abounds, have blossomed over the last two decades.⁷⁹ Through such clinics, students learn substantive immigration law and procedure and represent clients under the supervision of professors. Clinics also serve important functions including the following:

- Encouraging new people to enter the field. Students often fall in love with the work. They enter the profession as immigration lawyers and may be more likely to take on pro bono immigration clients.

76. See, e.g., Columbia Law School: Immigration Law, <http://www.law.columbia.edu/courses/L6250-immigration-law> (last visited Oct. 11, 2009); HLS: Courses—Immigration Law, <http://www.law.harvard.edu/academics/courses/2009-10/?id=6733> (last visited Oct. 11, 2009); NYU Law—Immigration Law, <https://its.law.nyu.edu/courses/description.cfm?id=5090> (last visited Oct. 11, 2009); WASHINGTON UNIVERSITY IN ST. LOUIS, GENERAL UPPER LEVEL COURSES: IMMIGRATION LAW 3 (2009), available at <http://law.wustl.edu/Registrar/CourseDir/2009-2010/FL09-CourseDescripts-LatestVersion.pdf>; Yale Law School: Peter H. Schuck, <http://www.law.yale.edu/faculty/PSchuck.htm> (last visited Oct. 11, 2009). There are 158 faculty members from over 171 institutions of higher learning who are members of the Immigration Law Section of the Association of American Law Schools (AALS). See AALS Member Schools, http://www.aals.org/about_memberschools.php (last visited Oct. 11, 2009); IMMIGRATIONPROF BLOG, AALS MEMBERSHIP LIST (2009), <http://www.lawprofessorblogs.com/immigration/linkdocs/immigrationprofsbyname.pdf>; see also ImmigrationProf Blog, <http://lawprofessors.typepad.com/immigration/> (last visited Oct. 11, 2009) (providing links to eighty-four immigration and immigration-related sites, sixteen blogs, and governmental resources).

77. See, e.g., THOMAS ALEXANDER ALEINIKOFF ET AL., IMMIGRATION AND CITIZENSHIP PROCESS AND POLICY (6th ed. 2008); *Refugee Roulette*, *supra* note 21; MIGRATIONS AND MOBILITIES: CITIZENSHIP, BORDERS & GENDER (Seyla Benhabib & Judith Resnik eds., 2009).

78. For example, federal courts classes deal with questions of non-Article III tribunals, such as immigration and other administrative courts, and subjects, such as rights of habeas corpus and other legal methods. There is, moreover, increasing overlap between criminal law and immigration law, as immigration-related offenses are criminalized, removal is more frequently a consequence of criminal convictions, and immigrants are detained in great numbers in manners and places similar to those convicted of crimes.

79. See ABA Law School Public Interest and Pro Bono Programs, http://www.abanet.org/legalservices/probono/lawschools/pb_programs_chart.html (last visited Oct. 11, 2009) (providing a national directory of law school public interest and pro bono programs).

- Training and assisting attorneys and pro se litigants through both formal and informal means, such as providing advice and model papers and doing KYR presentations.
- Identifying, and sometimes developing, cases for representation, and referring them to volunteer lawyers and nonprofit legal services organizations.
- Developing innovative partnerships.
- Working on cases involving novel and important issues of law.⁸⁰

In addition to teaching, clinical professors provide mentoring and encouragement to students to enter public interest careers. Clinical professors also write important pieces of scholarship and contribute to policy debates by, for example, writing policy reports or testifying before Congress.⁸¹

Below is a chart completed by Sarah Russell and Peter Markowitz for the subcommittee showing information about law school clinics and externship programs within the Second Circuit that are doing immigration work.⁸²

80. Many public interest organizations are funded by the Legal Services Corporation (LSC) and are thus subject to its restrictions on forms of advocacy (such as prohibition of class action litigation and lobbying) and types of clients (such as limitations on representing undocumented people). See Scott L. Cummings, *The Internationalization of Public Interest Law*, 57 DUKE L.J. 891, 914–34 (2008) (discussing LSC restrictions relating to representation of immigrants). Clinics are free from these restrictions and thus have more flexibility.

81. See, e.g., MARGOT MENDELSON ET AL., COLLATERAL DAMAGE: AN EXAMINATION OF ICE'S FUGITIVE OPERATIONS PROGRAM (Migration Policy Institute ed., 2009) (policy report by two students and clinical professor Michael Wishnie); Nancy Morawetz, *Citizenship and the Courts*, 2007 U. CHI. LEGAL F. 447 (2007); Andrew I. Schoenholtz & Hamutal Bernstein, *Improving Immigration Adjudications Through Competent Counsel*, 21 GEO. J. LEGAL ETHICS 55 (2008); Michael J. Wishnie, *Laboratories of Bigotry? Devolution of the Immigration Power, Equal Protection, and Federalism*, 76 N.Y.U. L. REV. 493 (2001).

82. The information in the chart is current as of April 30, 2009. In-house clinics are clinics in which the clinical teachers work full time at the school. Externship programs allow students to receive credit for working with attorneys on immigration cases at legal services organizations. Some schools have hybrid approaches, with lawyers from advocacy organizations serving as adjunct professors and teaching clinics. See ABA Law School Public Interest and Pro Bono Programs, *supra* note 77.

1. Immigration Law Clinics and Externship Programs
Within the Second Circuit

NEW YORK SCHOOLS			
SCHOOL	NAME OF CLINIC	BRIEF SUMMARY OF WORK	INSTRUCTORS
Brooklyn Law School	Safe Harbor Clinic	Asylum cases; cases involving lawful permanent residents and domestic violence victims	Stacy Caplow Dan Russell Smulian
University at Buffalo Law School	Immigration Clinic	Employer-sponsored immigration cases	Mark Popiel
Benjamin N. Cardozo School of Law	Immigration Justice Clinic	Removal defense; representation of immigrant community-based organizations on litigation and advocacy projects	Peter L. Markowitz
Columbia Law School	Immigration Defense Externship	Work with Legal Aid Society's Immigration Unit on removal cases	Maria Navarro Olivia Cassin
Cornell Law School	Cornell Asylum Clinic	Asylum cases before the BIA	Sital Kalantry Stephen Yale-Loehr
CUNY School of Law	Immigrant and Refugee Rights	Removal defense; immigrant workers' rights; litigation under VAWA	Sameer Ashar Alizabeth Newman Liliana Yanez
Fordham University School of Law	Immigrants' Rights and Access to Justice Clinic	Asylum cases; removal defense; cases involving abused children or battered spouses	Gemma Solimene
Hofstra Law School	Political Asylum Clinic	Asylum cases	Lauris Wren
New York University School of Law	Immigrant Rights Clinic	Removal cases involving criminal issues, detention, or new enforcement initiatives; work for immigration organizations	Nancy Morawetz Alina Das
New York University School of Law	Immigrant Defense Project	Work with Legal Aid Society's Immigration Unit on removal cases	Yvonne Floyd-Mayers Jojo H. Annobil
Pace Law School	Immigration Justice Clinic	Representation of immigrants seeking regularization of their legal status	Vanessa Merton
St. John's University School of Law	Immigrant Rights Clinic	Primarily asylum cases	C. Mario Russell
Touro Law Center	International Human Rights-Immigration Litigation Clinic	Asylum cases	Neil H. Afran

CONNECTICUT SCHOOLS			
SCHOOL	NAME OF CLINIC	BRIEF SUMMARY OF WORK	INSTRUCTORS
University of Connecticut School of Law	The Asylum and Human Rights Clinic	Asylum cases	John Bauer Margaret Martin, Fellow
Yale Law School	Immigration Legal Services	Asylum cases	Carroll Lucht Jean Koh Peters Stephen Wizner
Yale Law School	Legal Services for Immigrant Communities	Legal services for immigrant clients in immigration matters as well as nonimmigration matters	Carroll Lucht Stephen Wizner
Yale Law School	Workers and Immigrant Rights Advocacy Clinic	Represent individual clients in labor and immigration matters, and organizational clients in a range of nonlitigation matters	Michael Wishnie

As this chart demonstrates, approximately half of the clinics and externship programs within the Second Circuit focus on asylum work. Others do deportation defense, sometimes representing immigrants with criminal convictions, petitions under VAWA, KYR presentations, raids defense, and representation of organizations in a range of nonlitigation matters such as legislative advocacy.

Of the nineteen law schools within the Second Circuit, only five do not currently have a clinic or externship program focused on immigration.⁸³ Schools without immigration clinics should consider starting them and schools with existing clinics could consider adding additional clinics (some schools, such as NYU and Yale, already have multiple clinics doing immigration work) or adding clinical teachers or volunteer adjuncts to existing clinics. At some schools, clinical teaching fellowship programs are a successful model. Clinical fellows—who are lawyers who have typically spent about five years in private practice—provide additional supervision for students working on cases and increase the work that clinics may accomplish. These fellowships also provide training and preparation for the fellows to enter careers in clinical teaching.⁸⁴

There are many opportunities for collaboration among law school clinics, law firms, and public interest organizations. Clinics can help identify cases to refer to private attorneys, and can provide support for private attorneys

83. These schools are Albany Law School, New York Law School, Quinnipiac University School of Law, Syracuse University College of Law, and Vermont Law School.

84. Examples of clinical teaching fellowships are the Albert M. Sacks Clinical Fellowships at Harvard Law School and the Robert M. Cover Fellowships at Yale Law School. See Albert M. Sacks Clinical Law Fellowship, <http://www.law.harvard.edu/academics/clinical/students/sacks.html> (last visited Oct. 11, 2009); Yale Law School, Cover Fellowships, <http://www.law.yale.edu/academics/coverfellowships.asp> (last visited Oct. 11, 2009). Georgetown University School of Law also has a number of clinical fellowship opportunities. See Georgetown Law, Clinical Graduate Fellowships, <http://www.law.georgetown.edu/clinics/fellowships.html> (last visited Oct. 11, 2009).

by conducting trainings, providing model briefs, and answering questions. Clinics can also partner with private law firms or public interest organizations on projects or cases.

The St. John's University School of Law's Immigration Rights Clinic is an example of a unique and successful partnership between a law school and a public interest organization to increase pro bono representation for the immigrant poor.⁸⁵ The clinic is supervised and taught by two adjunct professors who are both senior attorneys at Catholic Charities Community Services of the Archdiocese of New York (CCCS) and students work on cases with CCCS. Students have the opportunity to provide direct representation to immigrants in cases involving, among other things, asylum, the Convention Against Torture, VAWA, the Victims of Trafficking and Violence Protection Act, and protection requests by unaccompanied children who are detained and were abandoned, abused, or neglected by their parents in their home country. The clinic emphasizes the development of the student-client relationship and students are given significant responsibilities on cases.

CCCS has found that the clinic expands its capacity to deliver services and permits supervising attorneys to handle many more cases with student assistance than they are without. In addition, the clinic encourages students to continue with the work after graduation. Instructors estimate that fifty percent of clinic graduates enter immigration, international human rights, or public interest law fields after graduation.

In the forty years since law school clinics were established, some have sought to have them substantially augment or even replace legal services organizations in handling individual cases.⁸⁶ Clinical teachers and advocates, however, have opposed these efforts, arguing that the pedagogical goals of clinics are inconsistent with representing large numbers of clients. They have asserted that law schools should fund clinics, and other sources of funding should not be taken away from legal services organizations.⁸⁷ It seems plain that the clinics are not the core solution to filling the ever-widening gap in direct representation of indigent immigrants. Law students, understandably, require supervision. Clinics carefully limit the type and number of cases that they take so faculty can provide intensely individualized mentoring.⁸⁸ Equally so, the structure of the St. John's clinic nurtured by C. Mario Russell shows how thoughtful leveraging of scarce resources can increase pro bono representation.

85. Immigration Rights Clinic, <http://www.stjohns.edu/academics/graduate/law/academics/clinical/immigration> (last visited Oct. 11, 2009).

86. Stephen Wizner & Jane Aiken, *Teaching and Doing: The Role of Law School Clinics in Enhancing Access to Justice*, 73 FORDHAM L. REV. 997, 997-99 (2004) (discussing the proposal of President Ronald Reagan's Attorney General Edward Meese that federal funding for legal services be diverted to law schools away from federally funded legal services programs—which Meese viewed as advancing left-wing agendas).

87. *Id.* at 999 (describing opposition to the Meese proposal by law school clinicians and legal services attorneys).

88. *Id.* (discussing tensions between pedagogical goals and providing legal services).

C. Postgraduate Fellowship Programs

Law schools can also contribute meaningfully to increasing pro bono representation through one- or two-year-long fellowships for graduates to do immigration work.

The Arthur Liman Public Interest Fellowship and Fund at Yale Law School,⁸⁹ founded in 1997 to honor Arthur Liman,⁹⁰ provides one model. The program provides year-long fellowships for graduates of Yale Law School to do public interest projects at organizations around the country. Liman Fellowships help launch talented students into public interest careers. The program began with one fellow in 1997 and, as of the 2009–2010 school year, has supported sixty-three fellows.⁹¹ Five of the eight fellows for the 2008–2009 school year did immigration-related projects,⁹² and some of their work received attention in *The Washington Post*, *The Los Angeles Times*, and on National Public Radio.⁹³ Judge M. Margaret

89. Yale Law School, The Arthur Liman Public Interest Program, <http://www.law.yale.edu/intellectuallife/ArthurLimanPIFellowship&Fund.htm> (last visited Oct. 11, 2009).

90. A nationally known and highly respected attorney in private practice, Arthur Liman also served in a wide range of public service positions. He was chief counsel to the New York State Special Commission on Attica Prison, President of The Legal Aid Society of New York and of the Neighborhood Defender Services of Harlem, Chair of the Legal Action Center in New York City, Chair of the New York State Capital Defender's Office, and Special Counsel to the United States Senate Committee Investigating Secret Military Assistance to Iran and the Nicaraguan Opposition. See Yale Law School, About Arthur Liman, <http://www.law.yale.edu/intellectuallife/aboutarthurliman.htm> (last visited Oct. 11, 2009).

91. Yale Law School also offers other postgraduate fellowships such as the Robert L. Bernstein Fellowships in International Human Rights and the Heyman Federal Public Service Fellowships for work in the federal government. The new Yale Law School Public Interest Fellowship Program recently expanded the existing fellowships available to do domestic (including immigration) work. For the 2009–2010 school year, Yale is supporting more than thirty postgraduate public interest fellows. See Yale Law School, Yale Law School Expands Its Public Interest Fellowship Program (Apr. 23, 2009), <http://www.law.yale.edu/news/9561.htm>. For a full list of the fellows by organization and substantive project area, see Recipients of YLS Fellowships, http://www.law.yale.edu/documents/pdf/News_&_Events/RecipsYLSandotherfellowships.pdf (last visited Oct. 11, 2009); Recipients of YLS Fellowships by Practice Area, http://www.law.yale.edu/documents/pdf/News_&_Events/Recipsbypracticearea1.pdf (last visited Oct. 11, 2009).

92. See 2008–2009 Liman Public Interest Fellows (Apr. 1, 2009), http://www.law.yale.edu/documents/pdf/Intellectual_Life/2008-09LimanFellows.pdf. The fellows' projects included challenging practices of prolonged detention of immigrants during the pendency of their removal proceedings, addressing problems that confront immigrants with criminal convictions, improving access to medical care and the courts, and legal representation for detained immigrants, assisting immigrants in responding to local, state, and national immigration laws and practices, and improving working conditions for migrant workers. *Id.*

93. Justin Cox, 2008–2009 Liman Fellow, spent his fellowship year at CASA de Maryland, an immigrants' rights organization. Justin investigated immigration enforcement policies and incidents in Maryland, including a raid at a Baltimore 7-Eleven convenience store that resulted in the arrest of twenty-four individuals for alleged civil immigration violations. Justin brought a lawsuit under the Freedom of Information Act for information about the raid, and the case generated considerable media attention, including a story on National Public Radio's *All Things Considered* and a front-page story in the *Washington*

McKeown of the U.S. Court of Appeals for the Ninth Circuit worked with Allegra McLeod, who was at the time one of her law clerks, to pioneer the innovative IJP in San Diego, with promotion and funding from the ABA. McLeod then became one of the 2008–2009 Liman Fellows and spent her fellowship year at the IJP focusing on issues facing immigrants with criminal convictions.⁹⁴

Roughly one-third of the sixty-three fellows have done immigration-related work during their fellowship year or later in their careers. Some former Liman Fellows are now running immigration legal services organizations or working on immigration issues in government. The career path of former Liman Fellow Tom Jawetz, a 2003 graduate of Yale Law School, provides a good example. After clerking on the U.S. District Court for the Southern District of New York, Jawetz spent his Liman Fellowship year at the Immigrant and Refugee Rights Project of the Washington Lawyers' Committee for Civil Rights and Urban Affairs. As a Liman Fellow, Jawetz created a screening program in the Immigration Court in Arlington, Virginia to identify individuals with valid defenses to deportation. He represented some immigrants in proceedings and also created a program to enlist volunteer attorneys. Jawetz then worked as the Immigration Detention Staff Attorney for the ACLU National Prison Project. He worked on a wide range of issues dealing with the conditions in which immigration detainees are housed and co-counseled lawsuits involving issues ranging from overcrowding to poor medical care. Jawetz currently serves as counsel to the House Judiciary Committee, where he is dedicated to the Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law. He manages numerous immigration-related issues for the Committee, including detention and removal, interior enforcement, and border issues.

Postgraduate fellowship opportunities exist at other schools as well. The Kirkland & Ellis New York City Public Service Fellowships are available for graduates of Columbia and NYU and focus on serving the needs of people in the New York area.⁹⁵ One graduate from each school is awarded

Post. See N.C. Aizenman, *Conflicting Accounts of an ICE Raid in Md.*, WASH. POST, Feb. 18, 2009, at A01; *All Things Considered: Feds Allegedly Profiled Hispanic Day Laborers* (NPR radio broadcast Jan. 29, 2009), available at <http://www.npr.org/templates/story/story.php?storyId=100027476>. Marisol Orihuela, another 2008–2009 Liman Fellow, spent her fellowship year at the ACLU of Southern California. Shortly after her fellowship began, Marisol began interviewing detained immigrants held in squalid conditions at a downtown Los Angeles basement. Through investigation, she discovered that detainees' access to the courts was severely impaired, as detainees often could not send mail or access pens and paper, or a library. She was part of a team that filed a lawsuit challenging these conditions. The lawsuit has received significant print and TV media attention. See, e.g., Posting of Anna Gorman to L.A. Now, <http://latimesblogs.latimes.com/lanow/2009/04/immigrant-detainees.html> (Apr. 2, 2009, 07:13 PST).

94. See Recipients of YLS Fellowships, *supra* note 91.

95. See Kirkland & Ellis LLP, Public Service Fellowships, <http://www.kirkland.com/sitecontent.cfm?contentID=239&formLawschool=4830§ion=1&subitemid=531&editstatus=0> (last visited Oct. 11, 2009).

a fellowship each year and the fellowships can be used for immigration work.⁹⁶

Schools should consider expanding these fellowship opportunities, and some fellowships could be specifically targeted toward immigration work given the current urgent needs. The presence of fellowship opportunities at law schools would help attract law school applicants. They have been particularly appealing to alumni, law firms, and foundations for outside support. For a relatively modest contribution—approximately \$60,000—a fellow can be funded for a year, make a real impact in services, and come away imbued with the importance of serving those who cannot afford representation. Postgraduate fellowships, moreover, offer a great opportunity for partnership among law schools, law firms, foundations, and public interest organizations.

Many schools and student scholarship programs currently provide funds for students to work at public interest organizations during the summer. Summer fellowships expose students to the work of immigration lawyers, allow them to make connections with advocates in the field, and inspire some to internalize a commitment to work after law school. Schools and alumni should continue to support these summer opportunities as well.

There are several major fellowship programs not affiliated with particular law schools that offer funding for post-graduate public interest work. Equal Justice Works (EJW) provides two-year fellowships for law school graduates from any school to do work in public interest law, including immigration work.⁹⁷ EJW relies on funding from law firms, corporate sponsors, and other donors.⁹⁸ Thirteen of the forty-six EJW Fellows selected in 2009 will do immigration-related work.⁹⁹ Similarly, the Soros Justice Fellowships have supported immigration work—three of the seventeen fellows selected in 2009 will focus on immigration work.¹⁰⁰

Another fellowship model has recently emerged. With the economic downturn, many law firms have deferred the start dates of associates originally scheduled to start in fall 2009. Certain firms have given incoming associates the option of spending a year working as a fellow at a

96. Other schools within the Second Circuit do not currently appear to offer fellowships funding immigration work.

97. See Equal Justice Works Fellowships, <http://www.equaljusticeworks.org/programs/fellowships/general> (last visited Oct. 11, 2009). The Skadden Fellowship Foundation also provides funding for two-year public interest fellowships. Skadden has traditionally not funded direct forms of immigration representation, such as asylum work and removal defense, but has supported the needs of immigrant communities such as work with Chinese youth on education and workers' rights and representation of abused immigrant children. See Skadden Fellowship Foundation, www.skaddenfellowships.org/index.cfm (last visited Oct. 11, 2009).

98. See Equal Justice Works Fellowship Sponsors, 2007–2009, <http://www.equaljusticeworks.org/communities/sponsors> (last visited Oct. 11, 2009).

99. See Equal Justice Works Fellows, <http://www.equaljusticeworks.org/communities/participants/fellowships#c2009> (last visited Oct. 11, 2009).

100. See Soros Justice Fellowships Grantees 2009, http://www.soros.org/initiatives/usprograms/focus/justice/programs/justice_fellows/grantees/grantee_folder_initiative_view?keywords=&year=2009&submit.x=8&submit.y=6 (last visited Oct. 11, 2009).

public interest organization for a stipend paid by the firm below first-year associate pay. Law schools and public interest organizations have collaborated with these law firms to place such fellows, as well as more senior associates offered sabbatical leaves, in programs where they can pursue public interest legal work. Peter Markowitz, a clinical professor at Cardozo School of Law, has led an effort to promote service by these attorneys with immigration organizations. Under his leadership, and with the encouragement of the Study Group on Immigrant Representation, a convocation was held in May 2009 at Cardozo to discuss the capacity of nonprofit organizations to absorb and effectively use these lawyers and legal interns. This effort to match fellows with organizations and facilitate their training and participation is ongoing.¹⁰¹

D. Events, Publications, and Networks

Symposia and workshops that draw attention to the problems facing immigrants can be sponsored by law schools. Examples of such events include the working symposium, *Overcoming Barriers to Immigrant Representation: Exploring Solutions*, from which these *Fordham Law Review* papers have emerged, Georgetown Law's annual *Immigration Law and Policy* conference, a symposium held several years ago at NYU School of Law entitled *Immigration Reform: Balancing Integration and Enforcement*, and the recent conference at Yale, *Beyond Borders: Immigration Policy in the New Century*. Such meetings permit students, scholars, nonprofit service providers, members of local government, local bar associations, and private law firms to network, and have led to the exploration of partnerships to enhance participation in immigration pro bono and overcome obstacles to making these partnerships effective.

Law schools can also build awareness and interest in immigration issues by promoting research and scholarship on these issues in law journals or other publications. In addition to law journals that have published symposium issues on immigration topics, examples of publications devoted exclusively to immigration law include the *Georgetown Immigration Law Journal* and the *Immigration and Nationality Law Review* at the University of Cincinnati College of Law.

Schools can also promote the importance of immigration work by publishing articles in school newsletters or alumni magazines. These publications may draw attention to the problems facing immigrants and publicize the successes of clinics or alumni advocates in their representation. Schools could also sponsor an annual pro bono awards event for immigration services by members of its faculty and alumni.

101. Mayor Bloomberg has announced an intention to commit \$2 million to train and supervise attorneys in representing immigrant populations in New York. MIKE BLOOMBERG, IMMIGRANTS: THE LIFEBLOOD OF NEW YORK CITY 3 (2009), available at <http://www.mikebloomberg.com/ImmigrantsLifebloodNYC.pdf>.

Public institutions of higher education, in conjunction with local bar associations, governmental agencies, newspapers, or nonprofit organizations can sponsor call-ins and public education events or can establish immigration centers on campus, such as the City University of New York Citizenship and Immigration Project.¹⁰²

Finally, the subcommittee is interested in building, but has not yet helped develop, a model for law schools to nurture networks of alumni working on immigration issues and connecting alumni to law students to provide mentoring. By providing online resources to aid in developing these networks and hosting events for these purposes, the law school can become a central core from which to promote increased representation, if supported by internal leadership and funding.

V. SUBCOMMITTEE SUGGESTIONS FOR ACTION AND FURTHER PLANNING

The subcommittee has approached its mission aware of the dire underfunding issues at all levels that inherently impact its goals and the limits on expectations of materially increased funding over the short term from governmental sources, private and public nonprofit program funders, and other participants in the immigration process. Thus, there is a premium on using available funds efficiently and making strategic choices about which partnerships and coventures can deliver maximum representation of noncitizens' claims to benefits in removal proceedings and in the administrative processes that precede them. For the present, we have not arrived at grand solutions for the circumstances, but have instead identified fourteen areas listed below that are worthy of implementation or serious exploration. They will guide our evolving efforts to meet our unambiguous goal of providing a fair hearing and just outcomes for the immigrant poor, and we hope that they guide other groups seeking to expand immigrants' access to justice.

A. *Public Awareness*

- Raise awareness of the issues and importance of expanding representation that the Study Group on Immigrant Representation has expressed, through local government, ongoing activities, professional journals, and other media.
- Explore local governmental publicity and promotion for the programs that exist or will be created, including the granting of certificates and awards and use of surplus funds to coordinate and administer expansion of services.

102. See *Our Centers*—The City University of New York, <http://web.cuny.edu/about/citizenship/about-us/centers.html> (last visited Oct. 11, 2009) (CUNY maintains nine centers on its campuses in each of the five boroughs of New York City).

B. *Funding*

- Explore the possibility of voluntary federal government agency funding for a New York LOP and appointed attorneys in immigration detention facilities and removal proceedings.
- Consult with public and private philanthropies, New York Interest on Lawyers' Trust Accounts (IOLTA), and business organizations on funding and impediments to funding, for the expansion in immigration services through nonprofit organizations and pro bono programs.

C. *Law Firms and Lawyers*

- Greatly expand mentorship and training for matters outside the asylum and VAWA realms through creating relationships among the AILA Pro Bono Committee, law firm pro bono coordinators, public interest law organizations, and bar associations.
- Seek leadership from top law firm management to engage in the issues, expressly supporting pro bono representation by attorneys within their firms; seek to involve lawyers in corporation law departments and in public service.
- Promote criminal lawyer involvement to volunteer to mentor immigration lawyers whose clients have criminal issues (particularly in the raid context).
- Suggest reduced rate or pro bono services from organizations like the Vera Institute for Justice to help define and organize an immigration needs assessment for the New York area for existing matters and, in the event of comprehensive immigration reform legislation, propose strategies to meet them.

D. *Bar Associations*

- Foster joint programs and planning between and among the bar associations serving New York City, Westchester, Northern New Jersey, and Long Island for increased immigration pro bono staff and promote legal services from the private bar.

E. *Law Schools and Clinics*

- Consult with public and private university officials on programs to promote immigration pro bono and use of law school facilities for training and meetings.

F. Immigration Court Accommodations

- Study a limited-representation rule for master calendar and bond hearings so that firm lawyers have a self-contained avenue to represent immigrants in proceedings.
- Discuss a presumption in the Immigration Court against transferring detainees who have secured representation or, at the very least, against transferring the venue of their proceedings.
- Explore a rule enabling lawyers to more easily withdraw from representation where a detainee's case is moved to a far-off venue that is not practicable for the attorney, in order to encourage increased representation in detained cases.
- Foster a rule permitting telephonic appearances at master calendar hearings.

ANNEX A: FEDERAL BAR COUNCIL PUBLIC SERVICE COMMITTEE MEMBER
TESTIMONIALS*

The following is a list, compiled by the Federal Bar Council, of pro bono cases undertaken and completed by lawyers, many of whom are not litigators and most of whom do not practice immigration law, at some of the larger New York area law firms. Each case is evidence of a life or lives rescued from likely deportation had the legal representation provided not been available. Each case gave the lawyers an insight into the workings of our immigration justice system, particularly its strengths and weaknesses, and resulted in immense satisfaction in directly providing the needed skill and confidence for the client. Many of these lawyers have subsequently undertaken additional immigration cases for counseling or litigation.

These testimonials are included with the hope that others reading these real life experiences will be inspired to volunteer. Through various support organizations a willing volunteer can find that the needed skills can be learned, and resources and mentors are available to guide the way.

Cleary Gottlieb Steen & Hamilton LLP

- Cleary Gottlieb successfully represented Mr. C, a Salvadoran national, in winning a grant of asylum from the BIA. Mr. C had fled El Salvador due to the severe persecution he suffered on account of his sexual and gender identity, including repeated rapes and brutal assaults at the hands of the Salvadoran police and military. Mr. C had previously been denied asylum by both the immigration judge and the BIA, which had held that the abuse Mr. C had suffered did not constitute persecution and that he had not shown that the El Salvadoran government was unable or unwilling to control the abuse. The case was then referred to the firm by Immigration Equality and the Cleary Gottlieb team represented Mr. C in his appeal to the Ninth Circuit. Cleary Gottlieb argued to the Ninth Circuit that the many incidents of rape and assault did constitute persecution, and that because government actors had perpetrated the persecution, no “unable or unwilling” showing was necessary. In an unusual turn of events, the Department of Justice agreed with Cleary Gottlieb’s position and moved to remand the case to the BIA for reconsideration. On remand, Mr. C, who was detained in a prison facility for two and a half years while his case was pending, finally won relief when the BIA reversed its prior decision and granted asylum.
- Cleary Gottlieb successfully obtained asylum for Ms. B on December 3, 2007, before an immigration judge in New York City. Ms. B is a twenty-year-old native of the Ivory Coast who was subjected to female genital mutilation (FGM) when she was six

* All the names in the testimonials have been changed to protect the identity of the clients.

years old. Because the procedure was not completed, the client stood the chance of suffering a repeated FGM and her claim was therefore based on both past and likelihood of future persecution. Ms. B fled Côte d'Ivoire and came to the United States in 2001, but did not apply for asylum until 2006, in violation of the requirement that asylum-seekers apply for asylum within a year of arrival in the United States. However, the attorney representing the Department of Homeland Security, upon hearing witness testimony regarding the likelihood of repeated FGM and the psychological impact of the client's prior experiences in the Côte d'Ivoire, made a recommendation for a full grant of asylum. The immigration judge agreed with that recommendation and the final order for asylum was signed that same day.

- Cleary Gottlieb successfully represented Mr. X, an asylum seeker from Colombia, before the Arlington, Virginia asylum office. The Revolutionary Armed Forces of Colombia (FARC) had kidnapped Mr. X, a part of a politically active family, but released him after Mr. X paid a ransom. The FARC also made ongoing death threats to Mr. X and his family and murdered some of his relatives. Mr. X had arrived in the United States in 2001 and timely applied for asylum pro se. While an asylum officer agreed that Mr. X had a well-founded fear of future persecution, the asylum office put Mr. X's asylum application on hold while it determined whether Mr. X's payment of the ransom to secure his freedom from the FARC constituted financial support of a terrorist organization, which would bar a grant of asylum. After Mr. X's asylum claim languished in the asylum office for four years, Mr. X retained Cleary Gottlieb in 2006 to assist in moving his application forward. In 2007 the Department of Homeland Security issued an order excluding payments made under duress from the terrorism bar in certain situations. Cleary Gottlieb then briefed the asylum office on the applicability of this exclusion to Mr. X's ransom payment. On March 18, 2008, the asylum office approved asylum for Mr. X.
- Cleary Gottlieb represented Ms. G, an asylum seeker from El Salvador who was referred to the firm by the Tahirih Justice Center in Falls Church, Virginia. Ms. G was brutally persecuted for almost a decade by her partner/boyfriend, a retired high-ranking officer in the Salvadoran military who took Ms. G from her family in exchange for protection when Ms. G was thirteen years old. Although the story of Ms. G's persecution was both credible and compelling, her case faced significant legal difficulties in that she had missed the one-year asylum application deadline by almost six years and had returned to El Salvador in the interim in order to care for her mother undergoing cancer surgery. With the assistance of a psychologist who identified Ms. G as suffering from posttraumatic stress disorder, Cleary successfully persuaded the asylum office that because engaging with recollections of the abuse as necessary for an asylum application would have effectively retraumatized her, Ms. G's past persecution constituted "extraordinary circumstances"

excusing compliance with the one-year deadline, and that her temporary return did not negate her well-founded fear of future persecution.

Covington & Burling LLP

- Covington successfully represented Mr. M, a citizen of Uzbekistan, in an application for asylum before the U.S. Citizenship and Immigration Services. Mr. M had fled Uzbekistan after being tipped off that the Uzbek security services were preparing to falsely charge him with spying for the U.S. government. Mr. M attracted the ire of the Uzbek government because of his work for opposition-oriented, U.S. government-funded media outlets and organizations, including Radio Free Europe/Radio Liberty and the International Broadcasting Bureau. The Covington team worked with Mr. M to prepare his application for asylum, including obtaining affidavits and statements from family members, former coworkers, regional experts, and a U.S. Congressman. After a contentious interview with the asylum officer assigned to Mr. M's case and a significant delay by the asylum office in making a decision on his application, Mr. M was granted asylum. Covington attorneys continue to work with Mr. M to reunite him with his family in Uzbekistan.
- Covington successfully represented Ms. B and her husband, Mr. M, in obtaining asylum. Ms. B is a Russian national and ethnic Chechen. She came to the United States from Chechnya in 2006 on a work and travel visa. Subsequently, she learned that her mother, who works for the Chechen Ministry of Education, had received numerous death threats from Chechen separatists. In these letters, the separatists threatened to kill Ms. B, an only child, and her mother if her mother continued to work for the government. In a disturbingly bizarre twist, at the same time that she was receiving death threats from the separatists, Ms. B's mother also was being investigated by Russian and Chechen authorities for allegedly having supported the separatists. Given the abysmal human rights record of the Chechen authorities under current President Ramzan Kadyrov, Ms. B feared that the government's interest in her mother would lead it to persecute her as well.
- Covington successfully represented Mr. Q, a citizen of Colombia, in an application for asylum before the U.S. Citizenship and Immigration Services. Mr. Q had fled Colombia in December 2003 after experiencing nearly two years of death threats and assaults, including several attempted abductions, a stabbing, and a severe beating with metal pipes by members of the paramilitary group, Nutibara (BCN), all on account of Mr. Q's work denouncing government corruption, fraud, and mismanagement. Mr. Q was referred to Covington in February 2006, after his initial application

for asylum was denied by an immigration officer. The Covington team filed an extensive amended application for asylum and prepared Mr. Q, a country conditions expert, and a medical expert for the hearing. After two days of contentious trial proceedings, the court found in Mr. Q's favor, describing his case as the "most well-documented" case for political asylum that he had presided over in his twelve years on the bench.

Davis Polk & Wardwell LLP

- Davis Polk lawyers represented Ms. T, a Malian citizen, in her claim for asylum. She was persecuted throughout her life on account of her opposition to forced marriage, FGM, and her refusal to accept Mali's traditional gender roles. Ms. T grew up in an abusive environment in which she and other female family members were beaten brutally by the men in the family if they were perceived as breaking with customary gender norms. Later, Ms. T was forced to marry a man almost fifteen years her senior who abused her physically and emotionally for ten years. She was treated this way because she asserted her views and rejected sexist practices and objected to her ex-husband's strict cultural and religious norms. In 2003, Ms. T, fearing for her safety, fled the home of her abusive husband and made her way to the United States, where she applied for asylum. After affirmative application was denied, Ms. T sought assistance from Sanctuary for Families, which referred her to Davis Polk. Davis Polk refiled Ms. T's asylum application and represented her at a merits hearing on December 16, 2008, before Immigration Judge Margaret McManus. Her petition for asylum was granted on February 24, 2009.
- Davis Polk lawyers represented Mr. B, a Chadian national, in his claim for asylum. He had suffered persecution at the hands of government soldiers and security agents who falsely accused him of supporting armed Chadian rebels. Mr. B worked part-time for his father's fuel importing business while also pursuing a degree in accounting and finance. During a routine business trip in 2006, Mr. B, his brother, and four employees were arrested by government soldiers after being accused of selling fuel to armed rebels. Mr. B was detained in a closet-sized cell for approximately two weeks and was frequently beaten unconscious, interrogated, and tortured. While Mr. B's father-in-law eventually secured his release from detention, government soldiers and security agents continued to threaten his wife and family with bodily harm unless Mr. B agreed to return to government custody. As a result of these threats, his wife and family were forced into hiding. He suspects that his brother, whom he has not seen since their arrest, was executed by government soldiers. Fearing for his own safety, Mr. B fled to the United States and sought assistance with his petition for asylum

from Human Rights First, which referred him to Davis Polk. Initially, his petition for asylum was denied by an asylum officer, but his petition was granted by an immigration judge after a full hearing on January 12, 2009.

- On September 26, 2008, at a hearing in San Francisco Immigration Court, a Davis Polk team succeeded in obtaining cancellation of removal on behalf of their client, Mr. J, a citizen of Jordan and longtime permanent resident of the United States whom Davis Polk had represented for three years. Mr. J arrived in the United States as a student in 1983 and became a lawful permanent resident in 1987. This case went from the U.S. Court of Appeals for the Ninth Circuit to the BIA to the Immigration Court, with a detour along the way for a collateral attack on a criminal conviction in California state court. At the end of the day, the immigration judge ruled from the bench that the hardship faced by Mr. J and his fiancée, as well as the overall balance of equities, warranted cancellation of removal. The government waived appeal of the decision, bringing the removal proceeding to a close.

Fried, Frank, Harris, Shriver & Jacobson LLP

- Chadian Fried Frank client Mr. K was granted asylum on March 31, 2009, despite vigorous opposition from the U.S. government. Mr. K was a reporter for the Chadian League of Human Rights. His uncle, a prominent former military officer who had served in the current government's ministry, joined the rebellion on the border of Chad and Sudan in late 2007. Mr. K had lived with his uncle and was suspected by the current President Déby of collaborating with the rebellion and of harboring knowledge of the rebels' future plans. He was also pursued by the government for publicizing human rights abuses in connection with politically motivated disappearances, torture, and public corruption. After he was detained and tortured more than once, Mr. K went into hiding and his brother was killed by security forces searching for him. In addition, his mother and girlfriend were raped and beaten by officers seeking Mr. K. Mr. K fled Chad in December 2007 and was referred to the firm by Human Rights First.
- Fried Frank client Mr. H was granted asylum on March 27, 2009, in Immigration Court in Harlingen, Texas. Fried Frank represented Mr. H through its summer associate externship program with the South Texas Pro Bono Asylum Representation Project (ProBAR). Mr. H is a Somali citizen and minority clan member whose family was attacked during the 1991 civil war when majority clan-led rebels suspected that they had supported the deposed President. Mr. H was an eleven-year-old child at the time and was beaten and tortured with a red hot knife during the attack. He also witnessed the murder of his nine-year-old brother whose head was

deliberately run over with a truck by the rebels. The attackers were attempting to learn the whereabouts of the boys' father. The family's land and home were confiscated and they fled to a refugee camp in Kenya where Mr. H remained for several years. When Mr. H arrived in the United States in March 2008 and asked for political asylum, he was detained without bond. Fried Frank summer associates worked on Mr. H's trial, which took place in July and September 2008. The immigration judge found Mr. H credible and held that he had suffered past persecution, but nevertheless initially denied asylum. Fried Frank appealed, arguing that the immigration judge had committed a clear error of law in concluding that clan membership had not played any role in the client's persecution. The BIA reversed and remanded the case to the immigration judge. On rehearing, the immigration judge granted asylum and Mr. H was released after spending a full year in detention.

- Fried Frank won a grant of asylum in June 2007 for Mr. P and his family, who are from Nepal. Mr. P was a police officer in Nepal and was assigned to work in districts with heavy Maoist activity. The Maoists warned him to quit his job and join their cause, and, when he refused, they threatened his life and confiscated his family's home, land, and animals, forcing his wife and sons to move to the capital. Under continuing Maoist threats to his family members' lives, Mr. P resigned from his job with the police. That did not stop the threats, and eventually Mr. P fled to the United States, followed by his wife and sons. Mr. P's affirmative application for asylum was granted.
- Fried Frank won a final grant of asylum for a woman from Senegal. Ms. T is from the Casamance region of Senegal, where a civil war has been ongoing for decades. Ms. T was involved with a charity for children orphaned by the war, which the government suspected aided the rebels. She was arrested for her activity with the charity and suffered multiple rapes at the time of her arrest and during her six-month detention. In addition to her political persecution claim, Ms. T was a victim of gender persecution, having been subjected to FGM at the age of eight. When she arrived in the United States, Ms. T suffered from tuberculosis that she contracted in the Senegalese jail. Due to that and due to posttraumatic stress, Ms. T failed to file her asylum application within one year of entering the United States and was therefore subject to the one year bar to asylum relief. The court granted asylum on the gender persecution claim, which was proved by a medical report and by her testimony, and excused the one year bar based on evidence of her hospitalization and treatment for tuberculosis.
- Fried Frank successfully obtained a green card under the Violence Against Women Act for client Ms. G. Ms. G first came to Fried Frank for a divorce from her husband, who was in jail for sexual abuse of a minor. Ms. G's parents had brought her to the United

States from Honduras as an infant and she had Temporary Protected Status, but wanted to permanently legalize her immigration status if at all possible. After an interview with Ms. G it was determined that she qualified for lawful status under VAWA. Her application was granted, and she now holds Lawful Permanent Resident status. Ms. G, who was raised and educated entirely in the Bronx, no longer lives in fear that she will be removed to a country that she has never known.

- Fried Frank won a grant of asylum for Mr. S, a gay, HIV-positive man from Venezuela. Mr. S suffered from pervasive discrimination and violent persecution by police officers and others. He was detained for having been in a nightclub frequented by gay men, and he and his boyfriend were shot at by a passing pedestrian who saw them holding hands. When he reported this incident to the police, they laughed at him. Mr. S was also fired from four jobs because his sexual orientation was “questionable” and once he was HIV-positive Mr. S became unemployable because a health certificate showing HIV status is required for employment in Venezuela. The government does not provide consistent access to HIV medications for people who cannot afford them, placing people like Mr. S, who have a manageable disease, in mortal danger of developing full-blown AIDS. Mr. S fled to the United States and was referred to the firm by the City Bar Justice Center. A voluminous application was prepared for Mr. S, including a lengthy expert affidavit on conditions in Venezuela for gay people, affidavits and letters from people who knew Mr. S in Venezuela, medical records, and reams of country conditions reports. The immigration judge issued a final grant of asylum for Mr. S at his hearing.
- Fried Frank won pro bono client Ms. V a final grant of asylum at Immigration Court in Manhattan. Ms. V is from Togo, where she is a member of a family related to the opposition leader, Olympio Gilchrist. Ms. V’s brother was also an opposition leader before he was murdered by the despotic government of President Eyadema. Ms. V was first detained after she gave a speech urging that the Eyadema government be toppled at a speech during her brother’s funeral and later was detained and beaten as a result of other political activities.

O’Melveny & Myers LLP

- O’Melveny won political asylum for a Nepali man who was forced to flee his country. The client was a former police officer who was kidnapped and beaten by Maoist rebels after they discovered he had been gathering intelligence against them as an undercover officer. The Maoists ultimately came after his family, threatening his parents at their home and making repeated threatening calls to his

wife. Realizing that neither he nor his family was safe as long as he remained in Nepal, he fled to the United States. With O'Melveny's assistance, the client filed for asylum. After his application was denied by an asylum officer, O'Melveny represented him before the Immigration Court, culminating in a two-day hearing that included several hours of direct testimony and cross-examination by the government. The judge ultimately ruled that the client's direct examination left no doubt as to his credibility and that the expert testimony O'Melveny presented tipped the scales on the issue of whether he reasonably feared returning to Nepal. The judge granted him asylum, ending a year-and-a-half long process.

- O'Melveny won political asylum for a Bangladeshi man, along with his wife and their children. The case was remarkable because the client first applied for political asylum in 1994 and withdrew his application after receiving poor legal advice. In 1993, after leading an opposition rally in Bangladesh, the client was arrested and tortured. He went into hiding as soon as he was released on bail. Within days of his disappearance, Bangladesh National Party officers and police raided his home and held his wife and young daughters at knifepoint. After this incident, the client and his family fled Bangladesh for the safety of the United States. They applied for political asylum in 1994. However, that application was mishandled by a private attorney who missed the first hearing and, after arriving late to the second hearing, convinced the client (who speaks limited English) to withdraw his application and waive all appeal rights. When the family was supposed to leave the United States, the client's wife delivered a premature baby, who was kept in an intensive care unit of a New York hospital. The family submitted an appeal letter, requesting to stay in the United States because of the baby. The family did not receive a response denying the request and stayed. After the terrorist attacks on September 11, 2001, the U.S. government arrested many undocumented immigrants working at New York and New Jersey airports, including this client, who was held at the Elizabeth Detention Facility. O'Melveny took over the case in 2005 and represented the client at his deportation hearings in Immigration Court. After a hearing, the Immigration Court judge ruled from the bench, granting the client full asylum. "The family is extremely relieved and thankful to have reached such a happy end to a long and difficult process," Alexandra Lewis, an O'Melveny associate, said. "Our client and his wife can continue their lives here, watch their children graduate from college, and start their own families without fear of deportation or politically motivated persecution."
- O'Melveny assisted an Ecuadorian man in obtaining asylum in the United States based on his fear of persecution in his home country because he is gay and had been diagnosed with AIDS. The client suffered persecution from an early age because of his sexual orientation. He experienced abuse by schoolmates, the priest who

directed his high school, and several of his own family members. He also endured frequent persecution by the police, including sexual abuse and extortion. When he was diagnosed with AIDS, he determined that he had to flee Ecuador because he could not obtain needed medical care due to discrimination against gay people and AIDS patients. His case was referred to O'Melveny by Immigration Equality. O'Melveny helped the client prepare his application, which documented the abuse he had endured and established his well-founded fear of persecution in Ecuador. They also assisted in gathering supporting affidavits and submitted a country report detailing the conditions he faced in Ecuador. The client received final approval of his asylum application from the director of the New York asylum office—a quick and completely successful result. “I think we all felt humbled by our experience with our client,” Clara Pugsley, an O'Melveny associate, said. “He is very thankful to have the right to stay in the United States and receive the medical care he desperately needs, without the fear of persecution that he faced in Ecuador.”

Wilmer Cutler Hale Pickering & Dorr LLP

- WilmerHale represented an eighteen-year-old immigrant from Senegal who landed in deportation proceedings after he and his high school teammates won a regional robotics competition. The client tried to board a plane to attend the competition finals, but was unable to produce acceptable identification. His story—that he had fled Senegal, traveled to the United States to pursue his education and a better life, and achieved academic success—was compelling. After WilmerHale's team pled the young man's case with elected officials and members of the Executive Branch, the Department of Homeland Security dropped the deportation proceedings, paving the way for their client to obtain a student visa and continue his education in the United States.
- WilmerHale successfully represented Ms. F, a thirty-year-old woman from Dominica, whose husband, Mr. F, had abused her verbally, emotionally, physically, and financially. Mr. F had been arrested numerous times and served time in jail, while Ms. F was the primary caretaker and provider for their son and for Mr. F's daughter from a prior marriage. In August 2005, Mr. F filed a relative petition and application for adjustment of status, but when he failed to follow through on the application, it was denied. The family separated in August 2006, and Ms. F sought services from Greater Boston Legal Services (GBLS) as part of the Battered Immigrant Women's Project to obtain legal status on her own through VAWA. WilmerHale attorneys stepped in to assist Ms. F with all the necessary applications for employment, adjustment of status, and with the Boston police after Mr. F broke into Ms. F's apartment and made threats against her. By January 2009,

WilmerHale was pleased to celebrate their success in obtaining an Alien Registration Card for Ms. F.

- Ms. S is a French national and first met her U.S. citizen husband in the Congo while he was in the military. They married in September 2006. After their marriage, his behavior changed dramatically. He would get angry when she went out with friends or interacted with neighbors. When they got into fights, he would take her keys, pull the phone cables out of the wall, and take her cell phone and hide it from her for two or three days at a time. He called her names like “useless, pig, slut and bitch.” After she got a job, he threatened to report her employer to immigration for hiring someone without status, and consequently, she was fired. He also threatened to call immigration and tell them that she was taking Valium and was therefore unfit to take care of her son. On three or four occasions, he would grab her during fights and shake her violently, on one occasion giving her an asthma attack induced by an anxiety attack. He told her because she was his wife, she must do as he wished sexually, making her feel pressured to engage in humiliating acts. In November 2008, Ms. S’s VAWA self-petition was approved.

Sullivan & Cromwell LLP

- On April 20, 2009, Sullivan & Cromwell (S&C) pro bono client Mr. M was granted political asylum by USCIS. Mr. M is a refugee from the Democratic Republic of Congo (DRC), where he had been persecuted, jailed, and tortured for his Tutsi ethnicity and imputed political opinion opposing the DRC’s current dictatorial government. As an asylee, Mr. M is now eligible to work and stay indefinitely in the United States.
- On March 5, 2009, the BIA dismissed an appeal by the Department of Homeland Security of an Immigration Court decision granting asylum to a pro bono client represented by S&C lawyers. The client is a Honduran lesbian, gay, bisexual, transgender, and women’s rights activist who had been persecuted by paramilitary forces in Honduras. Judge Margaret R. Reichenberg of the Immigration Court in Newark granted the client asylum following a full trial in November 2007, but the Department of Homeland Security appealed the ruling arguing that the client’s fear of harm was not objectively reasonable. In the BIA’s recent decision, it affirmed the Immigration Judge’s grant of asylum, finding no error in her conclusion that the client had established past persecution on account of her sexual orientation and activism on behalf of women and homosexuals in Honduras and that the Honduran government is unable or unwilling to protect her from harm. As a result, the client is eligible to stay indefinitely in the United States and can petition for derivative asylum status for her son and daughter, whom she has not seen since her departure from Honduras in 2002.

- On February 9, 2009, Judge Sandy Hom of the Immigration Court in New York granted asylum to a pro bono client advised by lawyers from S&C. The client, a Togolese man who was a member of an opposition political group and a transporter's union, had been imprisoned, tortured, and harassed because of his political opinions and ethnic affiliation. He fled Togo when a military squad known for committing political assassinations came to his home searching for him.
- On May 20, 2008, pro bono client Mr. K was granted political asylum by USCIS. Mr. K is a refugee from Côte d'Ivoire, where he had been persecuted, jailed, and tortured for his political views opposing Côte d'Ivoire's current dictatorial government. As an asylee, Mr. K is now eligible to work and stay indefinitely in the United States.

Akin Gump Strauss Hauer & Feld LLP

- Akin Gump represented Mr. D, a gay man from Colombia who is HIV-positive, in obtaining asylum in the United States. In Colombia, Mr. D experienced life in an oppressive, prejudiced society that is intolerant of gay people and similarly intolerant of those infected with HIV. The extremely violent civil war that has wracked Colombia for the past decades has exacerbated the hostility toward gays and toward HIV-positive people, as the political and paramilitary groups attempting to dominate Colombian society have attempted to cleanse that society of those people they consider to be social misfits. Mr. D suffered repeated incidents of physical abuse and harassment. In July 2009, Akin Gump won asylum for him in an Immigration Court proceeding.
- Akin Gump won asylum for a refugee who fled forced marriage in Guinea. The client, Ms. B, lost her father at a young age and suffered physical and emotional abuse at the hands of her uncle, who forced her to undergo FGM and practice an extreme form of Islam that Ms. B did not believe in. Despite these setbacks, Ms. B was able to obtain an advanced degree and establish an independent life for herself. Several years after she left her uncle's home, he trapped her and forced her into marriage with a friend of his. Ms. B was able to escape her new husband's house and returned to her own home. Her uncle and husband repeatedly visited her there, however, attacking her and threatening to kill her if she did not observe the marriage. She knew that the government of Guinea would not protect her from further persecution—in fact, human rights reports confirm that there is a lack of effective state protection for women who refuse forced marriages in Guinea. Fearing for her life, Ms. B fled to the United States where she sought to apply for asylum. Akin Gump represented Ms. B in

making an affirmative application for asylum, which was granted after her asylum office interview in March 2009.

- Akin Gump represented Ms. S, a Nigerien woman with a young child who fled to the United States to avoid FGM and a forced marriage. The representation was complicated by the fact that, for a number of reasons, including serious health problems and prior bad legal advice, Ms. S had been in the United States illegally for four years without applying for asylum before immigration agents came to her home and initiated deportation proceedings against her. As a result, Akin Gump worked tirelessly to prepare briefing and testimony that made clear the horrific abuses Ms. S suffered in Niger entitled her to asylum. In January 2009, when Akin Gump arrived in court for the hearing, the judge indicated that after reading the papers it was clear to him that Ms. S had suffered terrible persecution in Niger and that she would be in grave danger if returned there. The judge also stated that the government was willing to stipulate that Ms. S was entitled to withholding of removal status, which would allow her to remain in the United States indefinitely. As a result, without having to testify, Ms. S was able to go home to her daughter without being in fear that she would be taken away and deported.
- After months of litigation, Akin Gump secured the release of Mr. J from the Elizabeth, New Jersey detention center after winning withholding of removal, which allows him to stay in the United States and avoid persecution in his homeland of Somalia. Mr. J grew up in a small town in southern Somalia and belongs to a minority clan known as the Gaboye. Over the course of five years, Mr. J and his family were victims of numerous severe attacks by members of powerful local clan militia, including murders, rapes, and kidnappings. Most recently, members of the militia attacked and beat Mr. J and his pregnant wife, who lost their baby as a result. After that attack, Mr. J obtained travel documents on the black market that he used to escape to the United States. Upon his arrival at JFK Airport in August 2008, immigration officials recognized Mr. J's travel document as fake and sent him to the Elizabeth detention center to await asylum proceedings. Mr. J's asylum case was complicated by the "REAL ID Act," which had been interpreted by some judges to require asylum applicants to provide government-issued documentation to prove their identity. Because Somalia has not had a functioning government since 1991, Mr. J arrived in the United States without any valid identification. The trial extended over three days, and, in January 2009, the judge ultimately granted Mr. J withholding of removal status after tough negotiations between Akin Gump and the Department of Homeland Security.
- In October 2008, Akin Gump won asylum for Ms. K, a Guinean mother of three who has lived her entire life in fear of a man who was identified as her future husband when she was just five years

old. Ms. K's husband is a revered extremist Islamic leader and powerful businessman in her community, who was able to control almost all aspects of her life. The list of physical and emotional pain that he inflicted on Ms. K is unthinkable—arranging for her to be subjected to FGM when she was eleven years old, brutal beatings, repeated rapes, and constant threats and emotional abuse. Despite this, Ms. K was somehow able to hold on to her progressive views about religion and gender roles, obtain a master's degree in accounting, and begin a new life in New York. Akin Gump represented Ms. K over a two-year period to steer Ms. K's case through three hearings and a number of legal and factual challenges, including a challenge to the one-year deadline for application, that at times left serious doubt about whether Ms. K would be granted asylum.

- Akin Gump represented Ms. F, a forty-six-year-old lesbian woman and national of Honduras, in her asylum application for her and her son. Ms. F was a high-profile, outspoken social activist on behalf of unpopular causes such as protection of women from domestic violence and support for those suffering with HIV/AIDS. Ms. F suffered severe persecution as a result of her political activity and her sexuality, including being threatened at gun point in her hotel room. In March 2008, a judge granted Ms. F asylum after a contested trial. In issuing his ruling, the judge quoted heavily from Akin Gump's written submissions. In addition, Akin Gump has continued to assist Ms. F's daughter in obtaining legal status in the United States.
- Akin Gump represented a West African political refugee, Mr. P, in his claim for asylum. Mr. P came to the United States after receiving death threats, escaping an attempt on his life, and finally going into hiding. He had been targeted in retaliation for his activities as a member of the opposition party promoting a free and democratic Togo. Mr. P's initial application to the Department of Homeland Security was denied and referred to the Immigration Court. After a contested hearing in September 2006, the judge ruled from the bench, granting Mr. P's request for asylum.
- Akin Gump represented a sixty-year old asylum applicant from Pakistan, Mr. B. While in Pakistan, Mr. B was kidnapped and his family members were arrested and harassed because of their affiliation with the Awami League, a political party that supports a moderate ideology. After he complied with the law and participated in special registration, he was put in removal proceedings. Akin Gump represented him throughout the proceedings and helped him win political asylum in November 2005. After he gained asylum, Akin Gump then worked with him to obtain derivative asylum for his wife and five children. In February 2007, Akin Gump received notice from the USCIS that derivative asylum had been granted.

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- A team of three Skadden associates and a summer associate secured political asylum for Mr. F, a gay man and native of Jamaica. While living in Jamaica, Mr. F was attacked by a violent anti-homosexual mob; the attack left him with permanent scars on his left wrist, inflicted by a machete. Mr. F also was repeatedly beaten with sticks and stones, discriminated against in the housing and employment arenas, and ridiculed because of his sexuality. In addition, Mr. F had numerous friends that were murdered in Jamaica because they were gay. *Time* magazine suggested in an April 2006 article that Jamaica might be “The Most Homophobic Place on Earth” and the culture of homophobia is fostered by the Jamaican government and police force.¹⁰³
- A pro bono team from Skadden recently won asylum for Mr. H, a citizen of Armenia, based on his sexual orientation. Mr. H is a well-known artist who has exhibited his videotaped works internationally. He grew up in the former Soviet Union in Armenia, where there is a strong cultural animosity toward homosexual men. When Mr. H was living in Armenia, the police brutalized him on the street in front of his friends, brought him to the police station, and interrogated him throughout the night about whether he was gay. He was also questioned by the Armenian KGB. During the KGB interrogation, Mr. H was questioned in particular about an American-Armenian artist friend and whether that friend was gay. Thereafter, a KGB chief’s son broke into Mr. H’s apartment in the middle of the night and brutalized him and his partner. Upon being informed that he was on a “blacklist” of gay men that was maintained by the police, Mr. H. and his partner applied for visas to enter the United States, indicating that they would be attending art events. He and his partner arrived in the United States in June 2007. A few weeks afterward, his American-Armenian artist friend was attacked, tortured, and died in Armenia. Mr. H.’s case was referred to Skadden by Immigration Equality. The case presented challenges because there is little published about Armenia’s homophobic culture and potential experts of Armenian descent are reluctant to speak out about their culture in favor of gay men. Ultimately, the team filed an affirmative application on behalf of Mr. H and supported his application with six different affidavits from four different countries, including affidavits from a Columbia University professor, a professor at the American University of Armenia, an eyewitness to Mr. H’s beating from Germany, and an Armenian gay man who suffered similar assaults and subsequently fled to France. These affidavits and

103. Tim Padgett, *The Most Homophobic Place on Earth*, *TIME*, Apr. 12, 2006, <http://www.time.com/time/world/article/0,8599,1182991,00.html>.

application convinced the judge to rule in favor of granting Mr. H asylum.

- After a five-year battle, Skadden client Ms. C, a native Tibetan who, along with her family, suffered horrendous persecution because of her political opinions, religion, and nationality, was granted political asylum. She was severely beaten, imprisoned, and brutally raped for allegedly being involved in the political movement for the liberation of Tibet. To escape persecution, she embarked on an arduous journey to Nepal and then sought refuge in the United States. Despite attempts by U.S. government lawyers to discredit Ms. C's account and call her identity into question, and after a battle of experts over the reliability of the opinions and conclusions contained in a forensic report, the immigration judge found Ms. C credible and ruled that there were no adverse factors preventing the grant of asylum.
- A Skadden team recently won political asylum for Professor W, a citizen of the People's Republic of China persecuted there because of his political activities and beliefs. Professor W was a constitutional law professor at the prestigious Peking University in China and cofounder of the Liberal Democratic Party of China (LDPC), a peaceful democratic opposition party, and the Free Labor Union of China. As a result of his participation in LDPC activities, in 1992 he was confined in a detention facility for two years. He was then tried, convicted, and sentenced to five years in prison for counterrevolutionary activities. He spent the remaining three years of his sentence in a maximum security prison. During his five-year detention and imprisonment, Professor W was repeatedly abused, threatened, and tortured by both guards and other cellmates. Upon his release, as a way to prevent him from being politically active, Professor W was denied household registration (essential for establishing residency and securing employment in China) in Beijing and banned from teaching and publishing, resulting in severe hardship in attempting to earn a living or establishing a residence. Since his release from prison in 1997, Professor W has been under constant monitoring and surveillance by Chinese security police, periodically placed under house arrest, and "escorted" out of Beijing during politically sensitive periods. In 2006, Professor W obtained a passport, after which he was selected by Scholar Rescue Fund to receive a fellowship as a persecuted scholar and its help in finding temporary refuge at an academic institution outside China. Professor W arrived in the United States in January 2008, cosponsored as a visiting scholar by the Center for Human Rights at Columbia University and Northwestern University. On May 6, 2009, Professor W's application for political asylum was granted. His wife and child have since joined him to begin their new lives in the United States.

- Skadden associates represented Mr. G, a Jamaican citizen who fled to the United States in 2001 after his partner was killed in a homophobic attack. Mr. G had also been the victim of homophobic attacks in Jamaica and suffered severe emotional trauma as a result. Notwithstanding the overwhelming reports documenting the unbearable conditions that gay men and women face in Jamaica, Mr. G's asylum application was complicated by the facts that he had missed the statutory one-year filing deadline by several years, and that he had had several arrests in the United States for prostitution and theft. While such facts are often fatal to an asylum application, the Skadden team worked diligently to uncover details that could strengthen his case. After more than eighteen months of interviewing country experts, therapists, other attorneys, and Mr. G's family and friends in the United States and Jamaica, it was discovered that Mr. G was taking hormone pills in an effort to change his sex and become a woman. With more questioning, the team discovered that Mr. G had begun living as a transsexual. Armed with this new information, the team argued that Mr. G's changed circumstances overcame the one-year filing deadline and convinced the immigration officer to grant Mr. G asylum after his first interview. Mr. G plans to enroll in continuing education courses and hopes to become a doctor.
- A team from Skadden recently won political asylum for Mr. D, a citizen of the Central African Republic who was persecuted there because of his political activities and beliefs. He was an active member of a political party, the Movement for the Liberation of the Central African People (MLPC). Because of his political affiliation and participation in the MLPC's activities, Mr. D was severely beaten more than once and was tortured and imprisoned under extremely inhumane conditions in April 2006. He was later released and left to die, but he survived thanks to spending a month in a local hospital. Fearing for his own and his family's safety, Mr. D arranged for his wife and children to seek refuge in the mountains and decided to flee to the United States. He spent six months journeying to neighboring Cameroon. Once there, he arranged to come to the United States on a visitor visa. He arrived in the United States on February 20, 2007, and filed his application to obtain political asylum within the requisite year, on February 19, 2008. His case was referred to Skadden by Human Rights First. Skadden attorneys took on Mr. D's representation in late March 2008. They conducted several interviews with Mr. D to ascertain important factual details. On May 13, 2008, Mr. D received a notice scheduling his interview date with the asylum office for June 3. In just under three weeks, the Skadden team prepared a memorandum of law in support of Mr. D's application, obtained medical records and affidavits, and prepared Mr. D for the asylum interview. Mr. D's application for political asylum was granted on June 17, 2008.

- The Immigration Court recently granted asylum to Mr. and Mrs. S, represented by two Skadden corporate associates. Mr. and Mrs. S are Baptists from Russia. They fled Russia in 2006 and sought asylum in the United States because they feared for their lives and the safety of their minor son. In Russia, they had been subjected to multiple beatings, wrongful detention by the police, threats, and multiple evictions. They had been forced to live in squalor and had their homes burglarized and firebombed because of their religious beliefs. In support of their asylum application, the team submitted an expert declaration from a psychological examiner who determined that Mrs. S suffered from posttraumatic stress disorder. They also submitted over fifteen articles and reports from various sources, including the U.S. Department of State, demonstrating that Baptists and other minority religious groups in Russia are routinely subjected to acts of discrimination and violence. After a nearly three-hour hearing, the court found Mr. and Mrs. S to be refugees and granted them asylum.