The Green Card

Welcome to the Newsletter of the FBA's Immigration Law Section

Betty Stevens, Chair

Quote of the Month

Modern English, especially written English, is full of bad habits which spread by imitation and which can be avoided if one is willing to take the necessary trouble. If one gets rid of these habits one can think more clearly, and to think clearly is a necessary first step toward political regeneration: so that the fight against bad English is not frivolous and is not the exclusive concern of professional writers.

--- George Orwell, 'Politics and the English Language'

Message from the Editor

As of this issue, I am the new Editor of The Green Card. In Judge Lawrence O. Burman, I replace not just a previous Editor, but a venerated institution—a founding father who helped to shape today's ILS as we know it. I am now counting on the sustained, enthusiastic contributions from all of our members; for only together can we hope to fill those great but now vacant shoes of the past. The Green Card will continue to run membership news and announcements, general FBA information, and substantive contributions from our members. Unfortunately, as of this issue, we have lost the long-standing permission to re-print articles from EOIR's Immigration Law Advisor. I feel more than assured we can make up for it with contributions from members, starting with this month's "Cut to the Chase", our newest regular column. "Quotas" seem on everyone's mind as this year begins, and so, upon request, we have reprinted several thoughts on the issue—but note well that these are opinion columns that do not necessarily reflect the views of ILS as an organization. Finally, in member news, we have solicited the outgoing thoughts of Judge Charles Pazar, as he exits the Memphis bench, and enters the brave new world of retirement. I hope that all of you will enjoy the issue, and please accept my "welcome aboard" as we all embark on The Green Card, 2.0.

In This Issue

Cut to the Chase 2

Opinions on Immigration Court "Quotas" and Procedures 5

Fair Process in Name Only 9

Section News 10

Judge Pazar Reflects upon Retirement from the Bench 12

ILS Section Information 14

The First Circuit on Why All Evidence Must be Considered

By Hon. Jeffery Chase

In *Aguilar-Escoto v. Sessions*, No. 16-1090 (1st Cir. Oct. 27, 2017), the U.S. Court of Appeals for the First Circuit vacated the BIA's erroneous decision affirming an immigration judge's denial of withholding of removal. The circuit court employed an interesting approach that lawyers and judges may wish to examine.

In *Aguilar-Escoto*, the Board upheld the immigration judge's adverse credibility finding. However, the petitioner also provided significant documentary evidence. Although the IJ had considered and disposed of such evidence, the Board did not address it. On appeal, the First Circuit adopted the view of the Eleventh Circuit in holding that "an adverse credibility determination does not alleviate the BIA's duty to consider other evidence…" The court concluded that remand was required "irrespective of the supportability of the adverse credibility finding" in order for the Board to consider the previously neglected evidence. However, the court reached such conclusion in an unusual way.

Although the IJ had correctly noted that the application was for withholding of removal, the Board carelessly stated that the petitioner "failed to meet her burden of proof for asylum." As those of us who practice in this field all know, asylum and withholding have different burdens of proof. As the Board is fond of saying in its decisions, if the respondent did not meet her burden of proof for asylum, "it follows that she has not satisfied the more stringent burden that applies to withholding of removal." The Board used similar boilerplate in this case.

However, the circuit court here stated that in one way, the burden for asylum "may be more exacting." The court noted that asylum has a subjective and objective component: an applicant must establish both a genuine subjective fear, and then must show that such fear is objectively reasonable. Although withholding of removal requires a much greater probability of harm (more than 50 percent, as opposed to the 10 percent needed for asylum), the court observed that the focus is entirely on the objective; i.e. there is no inquiry into the applicant's own subjective fear. In other words, asylum applicants must first convince the adjudicator that they are genuinely afraid of being persecuted, and must then provide enough objective evidence to show that such fear is reasonable. Withholding applicants must show through objective evidence that there is a greater than 50 percent chance that they will suffer persecution; their own fear is irrelevant to the inquiry. The reason for this distinction is that asylum requires one to meet the statutory definition of "refugee," which involves a "well-founded fear of persecution." Withholding of removal does not incorporate the refugee definition, but rather prohibits removal to a country where the Attorney General decides that the individual's freedom would be threatened on account of a protected ground. Thus, in asylum, the adjudicator is reviewing the reasonableness of the applicant's own fear; in withholding of removal, the A.G. is the one determining the threat to safety.

The First Circuit explains the importance of this distinction: an adverse credibility finding impacts the genuineness of the applicant's subjective fear. However, it does not impact the independent objective evidence regarding the likelihood of the applicant suffering harm if returned to her country. The court noted that in mistakenly thinking it was affirming a denial of asylum based on adverse credibility, the Board then added common boilerplate language that, since the applicant did not meet the lower burden required for asylum, it follows that she did not meet withholding's higher burden. But the court said that logic only applies where the subjective fear element is satisfied, but the claim was denied due to a failure to provide sufficient objective evidence to support such fear. Here, as the adverse credibility finding precluded the petitioner from establishing a genuine subjective fear of persecution, the withholding of removal application required a separate inquiry as to whether the independent objective evidence was sufficient to establish the likelihood of persecution. The record was therefore remanded for such inquiry.

To illustrate by way of example, let's say an applicant applies for asylum and withholding based on her Christian religion. The applicant claims to be afraid to return to her country because she received multiple threatening phone calls and letters referencing her religion. The applicant also submits news articles and human rights reports detailing violent attacks on Christians in her hometown. Now, let's assume that the immigration judge believes that the respondent is in fact a practicing Christian. However, the IJ concludes that the claimed threats lack credibility. Asylum requires the applicant to first demonstrate a genuine subjective fear of persecution. The respondent testified that her fear was based on the threats. Under the First Circuit's holding, if the IJ finds that the threats didn't actually occur, the IJ can determine that the respondent did not establish a genuine fear of persecution.

However, what if the reports and articles believably establish that Christians run a high risk of being persecuted on account of their religion? The IJ did believe that the respondent was in fact a practicing Christian. According to the First Circuit, the IJ therefore just can't dispose of the withholding claim by stating that the respondent didn't meet the lower burden of proof for asylum, so therefore couldn't have met the higher burden for withholding. The IJ would instead have to apply a separate analysis as to whether the articles and reports independently establish that it is more likely than not the respondent would be persecuted on

account of her religion if removed to her country. If so, the respondent is entitled to withholding of removal (which is a non-discretionary form of relief).

Both immigration practitioners and government adjudicators should take note, and approach their arguments and drafting of decisions accordingly. As an aside, the nuances and degree of analysis that the circuit court's decision requires of adjudicators underscores the danger of the Department of Justice's stated intent to impose case completion quotas on immigration judges. As my good friend and fellow blogger Paul Schmidt recently wrote on the topic (and as this case clearly illustrates), immigration judges are not piece workers, and fair court decisions are not widgets (well said, Paul!).

IJs, Tiered Review, and Completion Quotas: Why IJs Should Not Be Judged on Numbers

EOIR recently announced its intent to subject immigration judges to tiered performance reviews. Most notably, EOIR plans to impose case completion quotas on the individual judges. The American Bar Association, American Immigration Lawyers Association (AILA) and the National Association of Immigration Judges (NAIJ) were among the many organizations to express their strong objection to the proposal.

Immigration judges have always been exempt from the tiered reviews that other Department of Justice attorneys undergo each year. The Office of the Chief Immigration Judge deserves credit for understanding that it is not possible to impose any type of review criteria without impeding on judges' neutrality and independence. To begin with, how many cases should a judge complete in a given period of time? Are the judges with the most completions affording due process to the respondents? Are they identifying all of the issues, spending enough time reviewing the records, and giving proper consideration and analysis to the facts and the law? Do their decisions provide sufficient detail for meaningful review? Are those at the other end of the scale completing less cases because they are working less hard, or to the contrary, because they are delving deeper into the issues and crafting more detailed and sophisticated decisions? Or is it because they are granting more continuances out of a sense of fairness to the parties, or to allow further development of the record in order to allow for a more informed decision? And regardless of the reasons, might they be prejudicing some respondents by delaying their day in court? How would management turn all of these factors into an objective grade?

In terms of completion quotas, all cases are not equal. A respondent who has no relief and simply wants to depart can have his or her case completed in minutes, whereas a respondent seeking relief in New York will presently be scheduled for a merits hearing in the Spring of 2020, at which time the lengthy testimony of multiple witnesses, disputes over the admissibility of evidence, the need to wait for DHS to adjudicate pending petitions for relief, etc. might result in months or even years of additional continuances. Decisions in some cases are delivered orally in just a few sentences; others require 25 written pages. Yet all count the same in EOIR's completion ledger.

I am pretty certain that the move for tiered review is not coming from the Office of the Chief Immigration Judge, but from higher up - either the new Acting Director of EOIR, or Main Justice. Even under more liberal administrations, the Department of Justice never really understood the IJs, who are the only judges within a predominantly enforcement-minded department. The need for neutrality and fairness is further lost on the present Attorney General, who has made his anti-immigrant agenda clear. IJs are in an interesting position: they represent the Attorney General (i.e. are acting as the AG's surrogates, where the statute delegates authority to make determinations or grant relief to the AG). Yet in spite of such posture, IJs often reach decisions that are at odds with the AG's own views. For example, does Jeff Sessions, who last month issued a memo allowing discrimination against LGBTQ individuals under the guise of protecting the discriminators' "religious liberty," approve of his immigration judges granting asylum claims based on sexual orientation or sexual identity? In light of Sessions' recent charges of widespread asylum fraud, does he agree with his judges' high asylum grant rates?

It is probably this tension that provides the impetus for the Department's present proposal. The tiered criteria and completion quotas are likely designed to pressure judges with more liberal approaches into issuing more removal orders. They would also provide the department with a basis to take punitive action against judges who resist such pressures. Given the high percentage of immigration judges who are retirement eligible, the department might be counting on judges targeted under the new review criteria to simply retire, allowing them to be replaced with more enforcement-minded jurists.

It should be noted that the changes are at this point proposals. The immigration judge corps is represented by a very effective union. As the present leadership within the Office of the Chief Immigration Judge is fair minded, there is hope that reason will prevail. However, in a worst-case scenario in which the plan is implemented, what should immigration judges do?

Having worked both as an IJ and a BIA staff attorney subjected to both quotas and tiered review, I can state that there are big differences. BIA staff attorneys draft decisions that Board members then have to approve, whereas immigration judges are in complete control of the case outcome. Furthermore, unlike BIA attorneys who are dealing with records of completed decisions, immigration judges are conducting proceedings in which the protection of due process must be safeguarded above all, as the Chief Immigration Judge pointed out in her July 31, 2017 memo on continuances. Circuit courts are not going to excuse due process violations because immigration judges have to meet

arbitrary completion goals.

Although the intent may be to create more removal orders, completion quotas can prove to be a two-edged sword. Should the ICE attorney not have the file at the first Master Calendar hearing, or should they lack a certified copy of the conviction record or proof of service of the NTA, will the IJ feel compelled to terminate proceedings (which constitutes a completion) rather than grant the government a continuance? Many hearings turn on credibility findings, but credibility findings take time to get right. The Second Circuit, for example, has held that an immigration judge should probe for additional details to clear up doubts about credibility.[1] As Deborah Anker has pointed out in her Law of Asylum in the United States, "Federal courts have overturned adverse credibility findings where an immigration judge has interrupted an applicant repeatedly, rushed the hearing, and then criticized an applicant's testimony for lacking specificity."[2] But won't completion quotas likely encourage exactly such prohibited behavior? In order to avoid reversal on appeal, judges who are forced to rush or curtail hearings will may need to give the benefit of the doubt to respondents and find them credible. Additionally, judges may no longer be able to continue cases to allow DHS to subject documents to forensic examination, or to conduct consular investigations in the applicants' home countries. Under pressure to complete cases, judges may be forced to credit witness affidavits as opposed to allowing DHS to subject those witnesses to cross-examination.

For the above reasons, it is not impossible that completion quotas might actually result in more grants of relief and terminations of proceedings, resulting in fewer removal orders. Like so many of the poorly thought out policies of the current administration seeking to erode individual protections, completion quotas (if implemented) may just be the latest that will fail to achieve its intended result. The proposal provides further evidence of the need for a truly independent immigration court.

Endnotes

[1]*Yang v. Board of Immigration Appeals*, 440 F.3d 72, 74 (2d Cir. 2006).

[2]Anker, Law of Asylum in the United States (2017 Edition) at 199.

Excerpted Statement of A. Ashley Tabaddor, President NAIJ Made to the House Subcommittee on Immigration and Border Security Hearing on "Oversight of the Executive Office for Immigration Review"

By A. Ashley Tabaddor

Daily Realities of Court Proceedings

The immigration courts are a high-stakes, high volume court system. For some who appear before us, their case is tantamount to a death penalty case, as some respondents face torture or death if returned to their homelands. For others, these proceedings can result in banishment and permanent exile from the only home they have known during years of lawful residence.

Moreover, immigration law is repeatedly characterized by federal circuit courts of appeal as being second only to the tax code in its complexity, and one court even stated: "[a] lawyer is often the only person who could thread the labyrinth."[1] Despite everyone recognizing the complexity of the law and procedure, 40% of the individuals who appear before our courts have no legal representation.[2] That number is surprising since even the Office of the Chief Immigration Judge recommends that all individuals in proceedings before the Immigration Court retain qualified professional representation in light of the "complexity of the immigration and nationality laws."[3] Removal proceedings are fundamentally asymmetrical for pro se litigants due to the fact that the United States is always represented by counsel.

Despite a highly complex body of law and many pro se litigants, an Immigration Judge lacks many of the tools traditionally available to judges. We have never been able to exercise the contempt authority statutorily authorized for us by Congress in 1996 because implementing regulations have never been issued. Last year, 90% of the cases in our courts were conducted in a language other than English, through a foreign language interpreter.[4] Most of the time, we have no bailiffs in the courtroom, no clerk and only access to half of a judicial law clerk's time. Notwithstanding these conditions, some judges routinely address 50 to 70 cases during a three- to four-hour time frame at the "master" (arraignment-type) calendar. With scarce resources, and frequently through use of a foreign language interpreter, Immigration Judges must obtain answers to critical questions that bear on an unrepresented respondent's legal status and possible eligibility for relief. For example, the Immigration Judge must determine whether the respondent is a citizen of the United States. This is more difficult than most imagine, as the inquiry does not end with place of birth alone; the Immigration Judge may also need to consider information about the person's parents and grandparents.[5] No one – not even children and mentally ill individuals – have a statutory right to a free attorney, and everyone is expected to navigate the court system and understand the how the complexity of immigration law applies to them. In most cases, the focus and time spent in court centers on the possibility of relief from removal or eligibility for one or more waivers or benefits provided by the Immigration and Nationality Act. Many of these remedies have complicated prerequisites which are unfamiliar to the general public, so the judge must advise an unrepresented person as to what steps they must take to pursue relief.

Immigration Court Caseload

Our nation's Immigration Courts are overwhelmed with cases.[6] There are currently more than 632,000 cases pending in the 58 court locations across the country.[7] In the last six years, the number of cases pending before the courts has more than doubled.[8] The Immigration Courts nationwide received 328,112 new cases in FY 2016 alone.[9]

As a result of the ballooning backlogs at the Immigration Courts, hundreds of thousands of immigrants will be left in a state of legal limbo for more than three years on average – some much longer. The many delayed courts experience wait times of five to six years.[10] These wait times leave families of asylum seekers stranded abroad for years in dangerous or difficult situations, undermine recruitment of pro bono counsel, and add to the emotional and psychological stress for respondents who live in uncertainty. This lengthy limbo increasingly impacts respondent's family members who are United States citizens or lawful permanent residents, as mixed status families abound. Their futures which are intertwined with respondents also remain in limbo awaiting Immigration Judges' decisions as well. Conversely, lengthy delays can create incentives for those whose cases lack merit to remain in the system in order to secure additional time in the U.S.

Despite the sharp rise in the number of cases received, the court system is currently staffed with only 314 Immigration Judges on the bench (as approximately 20 judges are primarily or exclusively managerial or supervisory), a number which has been widely recognized as inadequate for more than a decade.[11] To put this in perspective, since 2000, the number of Immigration Judges has risen from 206 to today's 336, while the court's caseload hovered at about 150,000 to 200,000 in FY 2001 and 2002, and today it has surpassed a staggering 632,000.[12] In 2009 Immigration Judges were found

to suffer more job stress and burnout than prison wardens and busy hospital doctors.[13] One can only imagine how much worse this situation has become since this study was conducted.[14]

Threats to Due Process and Judicial Independence Loom: Performance Quotas

Events at EOIR have taken a decidedly alarming turn with regard to the judicial independence of the judges. The Agency is now planning to evaluate judges' performance based on numerical measures or production quotas.

The most important regulation which governs immigration judge decision-making is 8 C.F.R. Section 1003.10(b). This regulation requires that immigration judges exercise judicial independence. Specifically, "in deciding the individual cases before them, and subject to the applicable governing standards, immigration judges shall exercise their independent judgment and discretion and may take any action consistent with their authorities under the Act and regulations that is appropriate and necessary for the disposition of such cases." 8 C.F.R. Section 1003.10(b).

When performance evaluations were created, the National Association of Immigration Judges negotiated in good faith with the Agency regarding how judges would be evaluated. A crucial aspect that the Agency consented to in the Collective Bargaining Agreement was a provision that prevented any rating of the judges to be based on number or time based production standards.

When a regulation allowing for the Director to set time frames was proposed, all public commenters expressed concerns with these provisions, specifically that "an official could direct the outcome of a specific case by setting an unyielding case completion goal which would prevent an immigration judge from taking the time necessary to adjudicate a case fairly" or that these priorities or time frames could abrogate the party's right to a full and fair hearing. 72 Fed. Reg. 53673 (Sept. 20, 2007). The Department responded that the use of time frames and priorities was "well established" and "individual judges set hearing calendars and prioritize cases. Within each judge's parameters for calendaring a case, that judge will take the time necessary for the case to be completed." *Id.* This response is misleading if time frames are now to be used to measure immigration judge performance. A judge's concern in getting a passing performance review may overcome his or her concern to take the time necessary to assure due process.

Tying numerical case completions to the evaluation of the individual judge's performance evaluation specifically interferes with judicial independence and clearly will put Immigration

Judges in a position where they could feel forced to violate their legal duty to fairly and impartially decide cases in a way that complies with due process in order to keep their jobs. In a recent case, the 7th Circuit Court of Appeals noted that focus on quantity would make quality of decisions decline. *Association of Administrative Law Judges, Judicial Council No. 1, IFPTE, AFLCIO & CLC et al v. Colvin*, No. 14-1953 (7th Cir. 2015) slip op at 5, 7 (giving an example of how drastically limiting hearing time could "dangerously diminish" the quality of justice). The court stated that "[w]e can imagine a case in which a change in working conditions could have an unintentional effect on decisional independence so great as to create a serious issue of due process." Adding any quantitative measure to performance review is counter-intuitive to the announced goals of such reviews to ensure "the highest professional quality" of decisions. Letter of February 23, 2007 to Barbara W. Colchao, Performance Management Group, OPM, from Rodney F. Markham, Deputy Director, Personnel Staff, JMD (Colchao Letter).

The U.S. Department of Justice Office of the Inspector General issued "Management of

Immigration Cases and Appeals by the Executive Office for Immigration Review" in October, 2012 (I-2013-001). As noted in this report, EOIR case completion goals are the standards against which to measure the courts' ability to process cases. I-2013-001 at 19. There is no mention that these case completion goals should be used to assess judicial performance.

If EOIR is successful in tying case completion quotas to judge performance evaluations, it could be the death knell for judicial independence in the Immigration Courts. Judges can face potential termination for good faith legal decisions of which their supervisors do not approve.

In addition, the nation's Circuit Courts will be severely adversely impacted as they were when Attorney John Ashcroft implemented streamlining measures at the Board of Immigration Appeals, thereby causing a flood of cases in the higher courts. Should judges be subjected to performance metrics, the result will be the same and appeals will abound, repeating a history which was proven to be disastrous. Rather than making the overall process more efficient, this change will encourage individual and class action litigation, creating even greater backlogs.

There is no reason for the agency to have production and quantity based measures tied to judge performance reviews. The current court backlog cannot be attributed to a lack of productivity on the part of Immigration Judges. In fact, the GAO report shows that Immigration Judge related continuances have decreased (down 2 percent) in the last ten years. GAO Report at 124. The same report shows that continuances due to "operational factors" and details of Immigration Judges were up 149 percent and 112 percent, respectively. GAO Report at 131, 133.[15] These continuances, where Judges were forced to reset cases that were near completion in order to address cases that were priorities of various administrations, have a tremendous impact on case completion rates.

The current backlog in cases is not due to lack of productivity of Immigration Judges; it is due to the Department's failure for over a decade to hire enough Judges to keep up with the caseload. Over a decade ago, in 2006, after a comprehensive review of the Immigration Courts by Attorney General Gonzales, it was determined that a judge corps of 230 Immigration Judges was inadequate for the caseload at that time (approximately 168,853 pending cases)

and should be increased to 270.[16] Despite this finding, there were less than 235 active field Immigration Judges at the beginning of FY 2015.[17] Even with a recent renewed emphasis on hiring, the number of Immigration Judges nationwide as of June 2017 stood at approximately 318 (298 who are actually in field courts), well below authorized hiring levels of 384.[18] From 2006 to 2017, while the caseload has quadrupled (from 168,853 to 629, 051), the number of Immigration Judges has not even doubled!

Not only would the imposition of quotas be unwarranted, it would damage the integrity of Immigration Court system and possibly contribute to a greater backlog. The imposition of quotas or deadlines on judges can impede justice and due process. For example, a respondent must be given a "reasonable opportunity" to examine and present evidence. Section 240(b) (4) (B) of the Act. Given that most respondents do not speak English as their primary language and much evidence has to be obtained from other countries, imposing a time frame for completion of cases interferes with a judge's ability to assure that a respondent's rights are respected. Even the perception that judges are "rushing" cases through the system will likely result in more appeals and remands, not to mention potential class actions, further bogging the courts down.

The public's interest in a fair, impartial and transparent tribunal will also be jeopardized by implementation of such standards, as mixed status families are on the rise and faith in the system will be undermined.

Practical Problems That Need to be Resolved First

Rather than placing the blame for the backlog in the Immigration Courts at the feet of the judges, the real causes need to be squarely addressed. Beginning in 2014 when the numbers of families and unaccompanied children from Central American began because to rise exponentially, control of their dockets was taken away from judges. As NAIJ predicted,[19] the process became less efficient and cases which were not ready for final determinations dominated judges' dockets, causing cases ready to be completed to be pushed back for years. This has occurred again as the recent surge of judges to the border resulted in older scheduled cases to pile up at the courts where judges were drawn from. The border detail assignments have been plagued by inefficiencies – insufficient numbers of cases to fill the dockets, immigration judges and support staff without access to computers and therefore unable to work effectively, and disruption in the dockets left behind.

It is universally agreed upon that more resources are needed for the Immigration Courts. While the pace of hiring has increased, retirements are plentiful as well, and unpleasant working conditions cause judges to retire at the earliest possible time, rather than working longer and mentoring new judges. Not only do more judges need to be hired, but all judges need increased access to training. One aspect of the slow pace of completions in recent years is due to an ever changing and increasingly complex body of law that judges must address. Greater numbers of cases present cutting edge legal issues such as the impact of various criminal convictions, highly nuanced standards like definitions of a particular social group, or voluminous documentation on country conditions and social, economic and living conditions in countries where applicants are from. In many instances immigration proceedings are becoming quasi criminal in nature. With such changes in the law, increased training is needed, not less. Deciding to forego training because of the belief that court time is too valuable to cancel with the large backlog is penny wise and pound foolish. When educated on the issues which we will face in advance, judges can more quickly and competently cut to the chase in court and move cases along more effectively and efficiently. When educated on the issues which we will face in advance, judges can more quickly and competently address the issues and more effectively and efficiently move cases to completion.

We are also plagued by disruptions to our dockets caused by increasing numbers of unavailable interpreters and equipment failure. The contract with our language services providers should be reviewed and improved so that court hearing time is not lost due to unavailability of interpreters. Even when it is working, our simultaneous interpretation equipment needs to be upgraded to service the demands of our Language Access program. We need improved video tele-conferencing and digital audio equipment, as frequent breakdowns cause delays or even outright cancellation of hearings on an unacceptably frequent basis. We need office space adequate to accommodate the increased size of our dockets, including courtrooms large enough for the dockets with greater numbers of respondents, as well as to provide workspace for the necessary support employees, including more judicial law clerks, necessary to meet this caseload.

Steps Backward

NAIJ is concerned by the limitations on relevant experience which apparently was just instituted in recent job announcements for judges. Rather than creating a broad pool of potential applicants by allowing seven years of relevant legal experience, the new requirement requires a very limited field of experience to prosecution or defense of cases initiated by the government. This change unnecessarily excludes law professors and expert immigration practitioners whose practice consisted of affirmative filings with USCIS. At a time when the judge corps is in desperate need of expansion, reducing the potential applicant pool is shortsighted and self-defeating.

The Solution

First step: Rather than avoiding the obvious and mundane flaws in our system which have created the backlog we have today, EOIR is planning steps to improperly narrow the discretion of judges to control their dockets. The priorities are the opposite of what is needed. First address the clear practical problems that interfere with productivity as outlined in the practical problems above. Then, and only then, will it be possible to see if increased managerial control of the dockets is warranted. As it stands now, judges firmly believe that such control is the very genesis of the problem itself. Procure the resources needed, fix what is broken and then

see what strides can be made to reduce the backlog.

Next step: Congress can act easily and swiftly resolve the threat to judicial independence caused by performance reviews with a simple amendment to the civil service statute on performance appraisals. Recognizing that performance evaluations are antithetical to judicial independence, Congress exempted Administrative Law Judges (ALJs) from performance appraisals and ratings by including them in the list of occupations exempt from performance reviews in 5 U.S.C. § 4301(2)(D). This provision lists ALJs as one of eight categories (A through H) of employees who are excluded from the requirement of performance appraisals and ratings.[20] To provide that same exemption to Immigration Judges, all that would be needed is an amendment to 5 U.S.C. § 4301(2) which would add a new paragraph (I) listing Immigration Judges in that list of exempt employees.

We urge you to take this important step to protect judicial independence at the Immigration Courts by enacting legislation as described above. Encroachments on the decisional independence of Immigration Judges will short circuit an already vulnerable system, leading to overwhelming numbers of individual appeals and class actions.

Final Step: While it cannot be denied that additional resources are desperately needed immediately, resources alone cannot solve the persistent problems facing our Immigration Courts. The problems highlighted by the response to the recent "surge" underscores the need to

remove the Immigration Court from the political sphere of a law enforcement agency and assure its judicial independence. Structural reform can no longer be put on the back burner. Since the 1981 Select Commission on Immigration, the idea of creating an Article I court, similar to the U.S. Tax Court, has been advanced.[21] In the intervening years, a strong consensus has formed supporting this structural change.[22] For years experts debated the wisdom of far-reaching restructuring of the Immigration Court system. Now "[m]ost immigration judges and attorneys agree the long term solution to the problem is to restructure the immigration court system...."[23]

The time has come to undertake structural reform of the Immigration Courts. It is apparent that until far-reaching changes are made, the problems which have plagued our tribunals for decades will persist. For years NAIJ has advocated establishment of an Article I court. We cannot expect a different outcome unless we change our approach to the persistent problems facing our court system. Acting now will be cost effective and will improve the speed, efficiency and fairness of the process we afford to the public we serve. Our tribunals are often the only face of the United States justice system that these foreign born individuals experience, and it must properly reflect the principles upon which our country was founded. Action is needed now on this urgent priority for the Immigration Courts. It is time to stop the cycle of overlooking this important component of the immigration enforcement system – it will be a positive step for enforcement, due process and humanitarian treatment of all respondents in our proceedings. ■

Endnotes: (Amended by the Editor)

[1]*Baltazar-Alcazar v. INS*, 386 F.3d 940, 948 (9th Cir. 2004).

[2]Exec. Office for Immigration Review, *FY 2016 Statistics Yearbook* at F1 (Mar. 2017).

3U.S. Dep't of Justice, *Immigration Court Practice Manua*l § 2.2(a).

[4]EOIR *2016 Yearbook, supra* note 2 at E1.

[5]Immigration and Nationality Act (INA) §§ 301(c)–(h), 8 U.S.C. §§ 1401(c)–(h).

[6]Human Rights First, *The U.S. Immigration Court: A Ballooning Backlog that Requires Action*, <http://www.humanrightsfirst.org/sites/default/files/HRF-Court-Backlog-Brief.pdf> (accessed Jan. 8, 2018).

[7]*Backlog of Pending Cases in Immigration Courts as of November 2017*, TRAC Immigration, <http://trac.syr.edu/phptools/immigration/court_backlog/apprep_backlog.php> (accessed Oct. 15, 2017).

[8]*Id.*.

[9]EOIR *2016 Yearbook, supra* note 2 at A2.

[10]*Despite Hiring, Immigration Court Backlog and Wait Times Climb*, TRAC Immigration, <http://trac.syr.edu/immigration/reports/468/> (accessed Jan. 8, 2018).

[11]Memorandum from Attorney General Alberto Gonzales, *Measures To Improve the Immigration Courts and the Board of Immigration Appeals,* Aug. 9, 2006, <https://www.justice.gov/archive/opa/pr/2006/August/06_ag_520.html> (accessed Jan. 8, 2018).

[12]TRAC, *id*..

[13]To better understand the personal toll these working conditions have wrought on immigration judges, *see Burnout and Stress Among United States Immigration Judges*, 13 BENDER'S IMMIGR. BULL. 22 (2008), available at <pdfserver.amlaw.com/nlj/ImmigrJudgeStressBurnout.pdf> (accessed Jan. 8, 2018); *see also Stuart L. Lustig, et al., Inside the Judges' Chambers: Narrative Responses from the National Association of Immigration Judges Stress and Burnout Survey*, 23 GEO. IMMIGR. L.J. 57 (Fall 2008 CQ ed.), available at <https://pdfs.semanticscholar.org/ac6b/3bd9651f6a274a0225c953d90c19797a6c4a.pdf> (accessed Jan. 8, 2018)

[14]Judicial Edge, *Nearly half of all judges have suffered from this condition*, National Judicial College (October 20, 2017), <www.judges.org/nearly-half-judges-suffered-condition> (accessed Jan. 8, 2018).

[15]For some unknown reason, EOIR has chosen to drop the code used for such continuances from the list of codes which can be used by Immigration Judges as of October 1, 2017. See OPPM 17-02, available at <https://www.justice.gov/eoir/file/oppm17-02/download> (accessed Jan. 8, 2018).

[16]Gonzales Memorandum, *supra* note 11.

[17]TRAC, *id.*.

[18]*See* TRAC, *id*..

[19]NAIJ letter to the House Speaker and Majority Leader (Jul. 22, 2014), available at <https://www.naij-usa.org/images/uploads/publications/NAIJ-position-ensuring-fairness-to-juveniles-House-7-23-14_1.pdf> (accessed Jan. 8, 2018).

[20]Pursuant to 5 C.F.R. §930.201(f)(3), administration law

judges are also exempt from monetary or honorary awards or incentives. DOJ already follows that protocol for Immigration Judges despite subjecting them to performance evaluations.

[21]COMM'N ON IMMIGRATION & REFUGEE POLICY, U.S. IMMIGRATION POLICY AND THE NATIONAL INTEREST: FINAL REPORT AND RECOMMENDATIONS OF THE SE<LECT COMMISSION ON IMMIGRATION AND REFUGEE POLICY WITH SUPPLEMENTAL VIEWS BY THE COMMISSIONERS (1981).

[22]Prestigious legal organizations such as the American Bar Association, Federal Bar Association, and American Judicature Society wholeheartedly endorse this reform. While not as certain as to the exact form of change desired, reorganization has also been endorsed by the American Immigration Lawyers Association, and increased independence by the National Association of Women Judges. See <https://www.naij-usa.org/publications/article-i-and-independence-endorsements> (accessed Jan. 8, 2018).

[23]Casey Stegall, *Long Lines, Suspended Lives: Statistics Reveal Immigration Courts Are Drowning*, FOX NEWS LATINO (Jan. 20, 2014), < http://www.foxnews.com/world/2014/01/30/long-lines-suspended-lives-immigration-court-system-in-desperate-need-its-own.html> (accessed Jan. 8, 2018).

Fair Proccess in Name Only

By Jill Family and Lenni Benson

Our legal system should not provide fair process in name only. On paper, our immigration system provides procedural protections in an administrative hearing where the outcome defines lives. For those facing the full weight of government power in immigration court, the whole process can be so riddled with problems, however, that it increasingly is only a façade of justice.

We are deeply concerned about our immigration courts. Already struggling to maintain standards in cases and under the thumb of the Attorney General, immigration judges now face the prospect of being evaluated based on numerical quotas. Immigration judges are not independent (they are just employees of the Department of Justice) and do not even have the protected terms of office of an Administrative Law Judge.

Efforts to remove foreign nationals have increased exponentially, but resources for immigration court have not kept pace. While enforcement officers receive more funding to place more individuals in immigration court proceedings, the immigration courts are expected to handle larger caseloads without an adequate increase in resources.

Beyond the lack of resources, the lack of decisional independence has been problematic for years. The Department of Justice Inspector General found that the second Bush administration used unlawful political hiring practices in filling immigration judge positions. Additionally, the Board of Immigration Appeals was reduced in size in an apparent attempt to remove adjudicators with decisional track records that then Attorney General John Ashcroft did not like.

And now the Trump Administration is planning to evaluate the job performance of its immigration judge employees based on "numeric performance standards." This means that an immigration judge's salary or retention would depend on meeting these centralized goals. This is a terrible idea. The problem is not that immigration judges are not working hard enough. The problem is that there are too many removal cases in immigration court and not enough immigration judges to hear those cases. A quota system would diminish even further the role of immigration judges and would further deteriorate the reputation of the immigration courts.

Should immigration judges prioritize due process or a need to please the boss and clear the docket? Shouldn't immigration judges at least have the independence to manage their own dockets? Immigration adjudication takes time because immigration law is intensely complex, often involves claims that someone will face death or other persecution if sent away, and involves respondents who do not speak English. For those in detention less than 15% have an attorney because our system does not provide a free defender and because the government puts most detention facilities far away from where defense attorneys live.

Both of us have written volumes on how to improve the courts and the efficiency of the courts. Counting cases and not counting quality and accuracy is a false start. We urge the Administration to rethink these case completion quotas and to reflect and to recognize that treasuring the rule of law includes providing meaningfully fair procedures. ■

Jill Family is the Commonwealth Professor of Law and Government at Widener University Commonwealth Law School. She also directs the law school's Law and Government Institute, which educates students and the public about government law.

YLD Webinar Series

The Younger Lawyers Division had a successful webinar series this fall. It kicked off to a great start on September 26 with a series on "Basics of Mandatory Detention" with panelists Christina Lee, founding partner of Becker and Lee, LLP and The Honorable Mimi E. Tsankov in her personal capacity. With a lot of positive feedback, YLD continued the series on October 24, increasing the number of participants for "Basics of Non-Immigrant Visas." The panelists were Jeff Joseph of the Joseph Law Firm based in Colorado and Alka Bahal, Partner and Co-Chair of Fox Rothschild's Corporate Immigration Practice Group.

As the webinar series gained momentum, YLD held its final webinar for the fall on November 28 on "Basics of Immigration Court Litigation" taught by Helen L. Parsonage of EMP Law based in North Carolina and Eliza Klein, a retired United States Immigration Judge who sat the bench in Miami, Boston and Chicago from 1994 to 2015. This final webinar attracted approximately 200 participants from all over the country!

The webinar series will resume in February 2018. YLD will continue to have one webinar each month until May 2018 when it will take a break for the summer. YLD is grateful for the fabulous, seasoned and knowledgeable speakers who have dedicated their time to be on our panels. With great feedback and participation, YLD is excited and looking forward to resuming the webinar series in the spring.

If you are interested in joining YLD or helping with the webinar series, please contact the Chair of the YLD committee, Robin Trangsrud at robin.trangsrud@gmail.com. Additionally, YLD's annual happy hour will be held at the FBA Immigration Law Section conference in Memphis, TN in May. More details to come. We look forward to seeing you there!

First Annual Federal Litigation Conference Held in Washington, DC

November 30, 2017 was the first annual one-day Federal Litigation seminar. It was presented by the Immigration Law Section, the Veterans and Military Law Section, and the D.C. Chapter of the Federal Bar Association. According to ILS Executive Officer Mark Shmueli, Betty Stevens produced, directed, recruited and navigated all unexpected developments, to guide the event to a stunning success.

Says Shmueli, "It was an incredibly engaging, intimate, conference with a true split of government and private bar attorneys along with former Judge Churchill who at this point comes to almost every event. The timing of the conference could not have been better either as many of these issues are very hot."

ILS looks forward to making the litigation conference an annual event.

Board Approves Diversity Surveys

The Diversity Committee is tasked with encouraging diversity within our Board, committees, programming, and section overall. Utilizing surveys, self-reported factors to be considered anonymously include: practice area/type, geographic location, age, gender identity, race, sexual orientation, etc. With this data, the committee hopes to identify trends and offer suggestions on how and where to place efforts to increase membership and programming diversity. For the goal of assessing the current status of diversity within ILS, the Committee has created two surveys, the Membership Demographics Survey and Conference Speaker Demographics Survey. After a year of fine-tuning, both surveys were approved by the Board in early December 2017.

The Membership Survey hopes to track the above-mentioned factors within the section as a whole. Having never formally embarked upon this effort, the Survey will provide a first-of-its-kind picture of our membership. This will help inform a number of other committees as well, such as the Young Lawyers Division, regarding impacted members. It will ensure that the ILS is addressing the variety of needs of the membership and is intended to lead to improved programming and events.

In addition, the Speaker Survey will assess the diversity of speakers and panelists at Section events. Such events should reflect the breadth and width of the Section. Assessing the diversity of panelists allows us to know whether our events are truly reflecting the diversity of the Section and the profession at large. For example, the survey will illuminate whether the membership is being presented with those who have not spoken recently at an ILS event, those who come from different geographic locations, and practitioners who work in a wide variety of practice types. Ultimately, the goal is to increase the diversity of speakers in order to provide the breadth of our members the opportunity to share their expertise and experiences, and also provide attendees with new perspectives.

Brought to you by the Diversity Committee: Tina R. Goel (Chair), Regina Germain, Rina Gandhi, Nandini "Dini" Nair-Thomas, Ana Villegas, and Buxton "Buck" R. Bailey

From the Editor

Contribute to the Green Card or *The Federal Lawyer*! If you wish to submit a contribution for consideration, please contact Publications Committee Chair, Dr. Alicia Triche, aliciatricheclc@gmail.com, or Chair Betty Stevens.

Annual NYLS Asylum Conference

The annual Asylum and Immigration Law Conference will be held at New York Law School on February 23, 2018. The program is sponsored by the following entities:

- Federal Bar Association Immigration Law Section;
- Federal Bar Association SDNY Chapter;
- Federal Bar Association International Law Section;
- New York Law School Safe Passage Project Clinic; and
- New York Law School Asylum Clinic.

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Here is some background on this wonderful event. At the last ILS Conference in Memphis back in 2015, Judge Harbeck and Amy Gell sat in the hotel bar, pushing the conference brochure back and forth. This brochure had a design of the Statue of Liberty on the front. The debate that ensued was the actual geographic location of the Statue— New York or New Jersey. And while that question was not resolved, the idea of an annual ILS CLE Conference in the shadow of Lady Liberty was born and has been in practice every since. Judge Harbeck and Ms. Gell enlisted Judges Khan and Tsankov and the initial conference was held at Ms. Gell's alma mater, Cardozo Law, in the fall of 2015. It was very successful and well regarded.

Last year, the conference moved downtown to Judge Khan's alma mater, New York Law School. With the addition of Professors Lenni Benson and Claire Thomas as conference planners, the event was even more well attended.

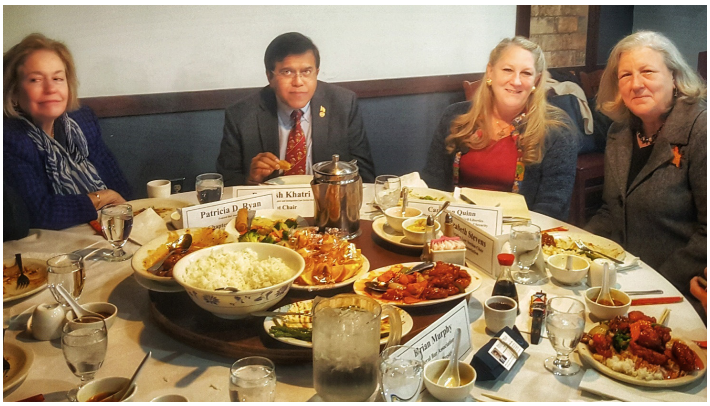
This year's event will be back at NYLS again. The focus is specifically on asylum and has a basic and advanced track. There will also be a skills section on the direct and cross of an expert witness. Speakers from UNHCR and UNICEF, as well as area law professors, have confirmed participation. ILS current chair Betty Stevens and former ILS chair Ray Fasano will also speak on a panel.

Ethics and diversity CLE credits will be covered also in this jam packed one day conference in February 23 at NYLS. Please Come!!!!

Event specifics can be found at: https://www.eventbrite.com/e/2018-new-york-asylum-and-immigration-conference-tickets-40215587906

December Leadership Luncheon

December 13, 2017, the ILS Leadership Luncheon series had another successful installment thanks to program chair Prakash Khatri. The speaker was Cameron Quinn, Officer for Civil Rights and Civil Liberties for the Department of Homeland Security. The luncheon was held at the China Garden restaurant in Northwest DC. Ms. Quinn gave an outstanding talk about her office, which is tasked with preserving individual liberty, fairness, and equality under the law. The attendees paid rapt attention and later had the opportunity to chat further with Ms, Quinn. Close to 60 people attended, with a mix of DC Chapter members, ILS members, and numerous non-members, as well. ■



From L to R: Patricia Ryan (DC Chapter), Prakash Khatri, Cameron Quinn, and Betty Stevens (ILS Chair).

Reminisces of a Retired Immigration Judge

By Charles E. Pazar

Our Mystery Reporter recently caught up with Charles Pazar, who retired from the Memphis Immigration Court in September, 2017. Judge Pazar had worked for the Federal Government for 37 years, 19 of them as an Immigration Judge. M.R. asked Judge Pazar some questions about his experiences in Memphis, and his hopes for the future of the Memphis Immigration Court.

M.R.: When did you first arrive in Memphis, and what was the court like then?

Judge P: Attorney General Janet Reno appointed me as the first full time permanent Immigration Judge in Memphis in 1998. Prior to my appointment, removal cases were heard through the Dallas Immigration Court. Immigration Judges came to Memphis from Dallas and other cities to hear cases.

Unlike my current portly self, I was thin and had black hair, and recently came from the Office of Immigration Litigation in the Civil Division of the Department of Justice. Originally, the Court was on the tenth floor of the Federal Building and was housed in space that Tom Davis, then and now the Memphis Court Administrator (and the best Court Administrator in the system, IMHO), described as having the charm of a bus terminal waiting room in Shreveport, Louisiana. The Court was in a crowded space with mismatched furniture; the "bench" was a Formica-topped table. The Court moved a few months later to the fourth floor of the Federal Building to space that looked like a real hearing room. The Court now hears cases in a commercial building in downtown Memphis.

During the early years of the Memphis Court, Immigration Judges visited from other Courts to help with the backlog of asylum cases. The docket in 1998 was comprised heavily of asylum cases from Mauritania and Somalia. Today, while most of the docket involves Respondents from Central America, the Memphis Court hears cases from all over the world. In the last fiscal year, there were cases in forty different languages. Then as now, the venue of the Court was Tennessee, Arkansas, and north Mississippi. Later, Immigration Judges heard Kentucky cases by video.

M.R.: How did you see the Memphis court change during your tenure as an Immigration Judge?

Judge P: When the Court opened I was the only Immigration Judge. In 2002, Judge Lawrence Burman[1] became the second Immigration Judge in Memphis. Now there are four Immigration Judges: Richard Averwater, Rebecca Holt, Matthew Kaufman, and Vernon Miles.

The caseload has ballooned. When I retired, I would have to ask, "Counsel, can you try this case on February 14, 2020 at 1:00?" Part of this exponential growth in caseload is due to the "Surge" of 2014, which added thousands of cases to an already overloaded docket. Immigration Judges have always been under quite a bit of professional stress (Immigration Judges report stress levels comparable to those of prison wardens and emergency room physicians) and I believe that this growth of cases has added to the stress of all court personnel.[2]

Of course all is not gloom and doom. Some years ago the Courts finally abandoned the 1970s era cassette tape decks for recording proceedings. Today the Court uses Digital Audio Recording, a (usually) reliable means of recording hearings. Memphis now has two Judicial Law Clerks, although the Court needs one for each judge. Security has been enhanced. A court security officer is present in each courtroom during every hearing.

One major difference has been the creation of a Disciplinary Counsel in the EOIR Office of General Counsel. Regulations promulgated in 2000 set out the bases for attorney discipline, and also set out a procedure that provides for a fair adjudication of claims of incompetence against lawyers in the Immigration Courts.

My advice to lawyers who appear in Immigration Court: treat going to Immigration Court the way you would treat going to any other court. Be prepared. Unless you and the Respondent have agreed that you will only represent the Respondent for a limited purpose, such as a bond hearing, do not accept a fee from a Respondent in Immigration Court if you do not intend to represent the Respondent through the individual hearing. Follow the Practice Manual, which is another innovation since I became an Immigration Judge, for

instruction on filing deadlines and the format of documents submitted. Always treat the Judge and Court staff with courtesy. Refrain from telling the Immigration Judge that he or she is "not a real judge" and the Immigration Court "is not a real court." (Yes, I have heard that). The Immigration Court is not – yet – an Article I court. This is a distinction without a difference to your client if you do not follow the Practice Manual and otherwise comport yourself professionally.

M.R.: Is there any legacy or tradition you left that you would hope to see continued?

Judge P: From the establishment of the Court, I have participated in Continuing Legal Education classes in Memphis and other cities, often hosted by the FBA. My colleagues continue that tradition. We hope to cut down on the number of suspended practitioners and improve the general quality of representation.

Another Memphis legacy is commitment to pro bono representation. In 1999, I wrote an article in the Memphis Bar Journal encouraging lawyers to take cases pro bono in Immigration Court. As you know, Respondents in Immigration Court are not entitled to appointed counsel. When the Memphis Court opened, the "List of Free Legal Providers" was a blank sheet of paper. Tom Davis, the Memphis Court Administrator, and I, reached out to the legal community to help advance the cause of pro bono representation. Over the years, the Court has worked with the Community Legal Center, Latino Memphis, the University of Tennessee Immigration Clinic, and the University of Arkansas Immigration Clinic, among other groups, to encourage representation of Respondents in Immigration Court. I am gratified to see that this commitment has continued since my retirement.

M.R.: What are your plans for retirement?

Judge P: At my retirement party, Chief of Staff to the Acting Director of EOIR Christopher Santoro noted that I had decided over 25,000 cases during my time on the bench. Judge Santoro noted my interest in family history and genealogy and pointed out that this number was equal to the population of Jurbarkas, Lithuania, where my maternal grandfather was born. He calculated the number of decisions I had made, including motions decided and cases heard, at over 1,000,000. No wonder I felt tired.

Judge Santoro mentioned my travel in pursuit of family history. I enjoy researching my family's history. I've visited Hungary, Slovakia, Romania, Germany and Lithuania in search of abandoned cemeteries and dusty church records. Connecting to my immigrant background is one way I coped with the stresses of being an Immigration Judge. My "people" got off the boat at Ellis Island. My maternal grandfather was 14 in 1906 when he came through Ellis Island with his sister. He arrived at Ellis Island speaking no English. Some immigration officer treated my grandfather with respect (I hope) and listened to what he had to say. Whether I granted or denied relief, I owed the same to the people who appeared before me. I hope to continue to travel in search of my roots. I might also pursue certification in genealogy.

I also will continue teaching as an adjunct professor at the University of Memphis. It will be great to teach during the day instead of after hearing cases all day. Since 2000, I have been teaching Immigration Law as an adjunct professor, first at the University of Mississippi and then at the University of Memphis. Why do I continue to do this? I want to imbue law students with a love of Immigration Law, and an understanding of the immigration tribunals and their operation. Immigration Court has been described as having traffic court volume and Supreme Court implications. There are times when the consequences in a case can really be life or death. With so much at stake, it is particularly gratifying to see a former student, whether with ICE or in private practice, represent their client well in Court. It is unusually gratifying to see a former student choose to specialize in Immigration Law. At least one of my former students is now an Immigration Judge.

M.R.: What are your hopes for the court as it continues in your absence?

Judge P: Wow. No wish list here, but I hope for adequate staffing and resources. The professionals at the Memphis Immigration Court, Judges and staff, work extremely hard to do the job that the American people expect them to do. It would be a shame for them to suffer burnout as the case loads climb and promised resources never arrive.

My hope is that the lawyers who appear in Immigration Court represent their clients well. It also requires work by

REMINISCES continued on page 15

FBA ILS Committee List with (Informal) Mission Statements

It is important for our membership to be aware of the wide range of activities conducting by the Immigration Law Section. Here is a list of the current committee membership, including informal descriptions of each mission statement. If you wish to become involved on any one of these committees, contact either Betty Stevens or one of the the listed committee chairs.

Awards: H. Dorothy Harbeck, Jan Pederson

Identify individuals and groups for both FBA and ILS awards and honors. Draft award submissions and presentations. Plan ILS award ceremony in connection with the annual conference.

Budget: Mark Shmueli, Chair, H. John Gossart, Kristin Kimmelman, Helen Parsonage, Kimberly Sutton

Develop annual budget before November Board meeting. Review monthly statements for accuracy and identify any areas where budget may need adjustment. Examine and discuss, and forwards requests for any non-budgeted ILS expenditures over $500, with recommendation as to whether the Board should approve the request.

Chapter/Section Liaison: Barry Frager, Betty Stevens, Shannon LaGuerre-Maingrette, Christina Fiflis, Buck Bailey , Carrie Pastor, Katherine Gasparian

Work to expand immigration programming, education, and information to FBA Chapters throughout the country, including ILS financial support for programs in areas. Reach out to sections and chapters to add immigration component to their programs. Coordinate with sections and chapters to identify speakers and panels

Communications & Publications: Dr. Alicia Triche, chair. Helen Parsonage, Brea Burgie, Christine Poarch, H. Amiena Khan, Mark Shmeuli, Kenneth Lemberg

Publish (and continue to improve the Green Card. Document all ILS activities in the Green Card, preferably with photos and captions

Ensure that quality articles are submitted to the Federal Lawyer, on time, including the Immigration Update Column
Coordinate with FBA National to keep FBA/ILS webpage updated.

Update and coordinate Facebook page and any other official FBA ILS social media

Diversity: Tina Goel, Chair, Regina Germain, Ana Villegas, Buxton Bailey, Nandini Nair-Thomas

Assess the status of diversity within the ILS Board, committees, section, and programming. Lead efforts to increase diversity within the section. Work with FBA Diversity Task Force. Work with YLD on the ongoing and vibrant webinar series.

Government Relations: Betty Stevens, H. Larry Burman, H. Dorothy Harbeck

Supervise the monitoring of legislation and the development of ILS positions. Respond in a timely fashion to requests for ILS positions. Work with FBA Government Relations Committee to further ILS and FBA positions.

Law Student: Sue Ann Balch, Dahlia French, Brian Johnson

Encourage law student participation in ILS. Serve as main law student liaison for ILS. Create and maintain a mentoring program for Law Student members with senior immigration attorneys

Membership and Sustaining Membership: Derek Julius, Barry Frager, Dahlia French, Danna Young

Work to attain a minimum 3% increase in Section membership. Develop and implement new Explore possibilities for increasing sustaining memberships, and determine method(s) of recognition for sustaining members.

Nominations: Justin Burton, H. Larry Burman, Ray Fasano, David Ware

Meet all required time frames for announcing the nomination process. Collect nominations for officer positions. Provide slate of officer candidates. Coordinate election process with FBA National. Certify election results to Chair on or before July 31.

Pro Bono: Shannon LaGuerre-Maingrette; Danielle Beach Oswald; Briana Carey

Develop programs to increase the availability and effectiveness of pro bono representation in the immigration courts.

Programs: Barry Frager, Chair

Annual Conference: Betty Stevens, co-chair, Barry

Frager, co-chair, H. Larry Burman, Gail Pendleton, Kate Goettel, David Ware, Jan Pederson, Lory Rosenberg, Bob Beer

DC Leadership Luncheon: Prakash Khatri, co-chair, Oz Barnard, co-chair

New York Asylum Conference: Amy Gell, chair; Dorothy Harbeck, H. Amiena Khan

West Coast Leadership Luncheon: Kelli Duehning, Chair

In Progress: CHICAGO and ROME programs

Rules & By-Laws: H. Larry Burman, chair, Elizabeth Stevens, Barry Frager, H. Dorothy Harbeck, Ray Fasano, Justin Burton

Examine current bylaws for compliance with all FBA National Policies, and propose any suggested amendments as needed.

Younger Lawyers: Robin Trangsrud, Chair, Tina Goel, Rachel Thompson, Andres Murguia, Brandon Lowy, Roseanne Milano, Alicia Morgan

Increase ILS membership amongst younger lawyers. Propose and implement programs that attract younger lawyers, including but not limited to an ongoing and vibrant webinar program. Consider (in conjunction with Law Student Committee) implementation of a mentorship program.

REMINICES continued from page 13

the already overextended Judges and staff, to participate in CLE programs and encourage pro bono representation.

I hope that the good relations among the Court, ICE, and the private bar will continue. From the time the Court was on the tenth floor of the Federal Building, the Court Administrator and Judges have worked to pursue good relations. One need not be disagreeable to disagree. My favorite saying in the law is, "Reasonable minds can differ." ■

Judge Pazar was born in the Bronx, New York and grew up in suburban New Jersey. He graduated from Boston University and Rutgers University School of Law. After completing a judicial clerkship in New Jersey, he and his wife Janice moved to the Washington, DC area. Judge Pazar has worked in the Drug Enforcement Administration Office of Chief Counsel, the Immigration and Naturalization Service Office of General Counsel, the Civil Division Office of Immigration Litigation, and maintained a private practice in Fairfax, Virginia. Since coming to Memphis he has served as an adjunct professor at the University of Mississippi School of Law and the University of Memphis Cecil C. Humphries School of Law. He is married to Dr. Janice Pond Pazar and they have two daughters. Now that he is retired Judge Pazar can devote even more time to hunting for ancestors, and reading murder mysteries

Endnotes

[1]Judge Burman is the Secretary-Treasurer of the National Association of Immigration Judges. He spoke on a panel before the Center for Immigration Studies in August, 2017, and his comments are on You Tube: https://www.youtube.com/watch?v=edOKpPKLHC0. They are an excellent description of the current state of the Immigration Courts.

[2]An excellent description of the parlous state of the Immigration Courts is a position paper prepared by NAIJ, "Snapshot of the Crisis Facing Our Immigration Courts Today, Salient Facts and Urgent Needs", June 2017. In turn, this paper cites the study concerning Immigration Judge stress: Stuart L. Lustig et al., Inside the Judges' Chambers: Narrative Response from the National Association of Immigration Judges Stress and Burnout Survey, 23 GEO. IMMIGR. L.J. 57 (2009). The position paper argues persuasively for the need of Article 1 Court Status for immigration courts.

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The Green Card

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