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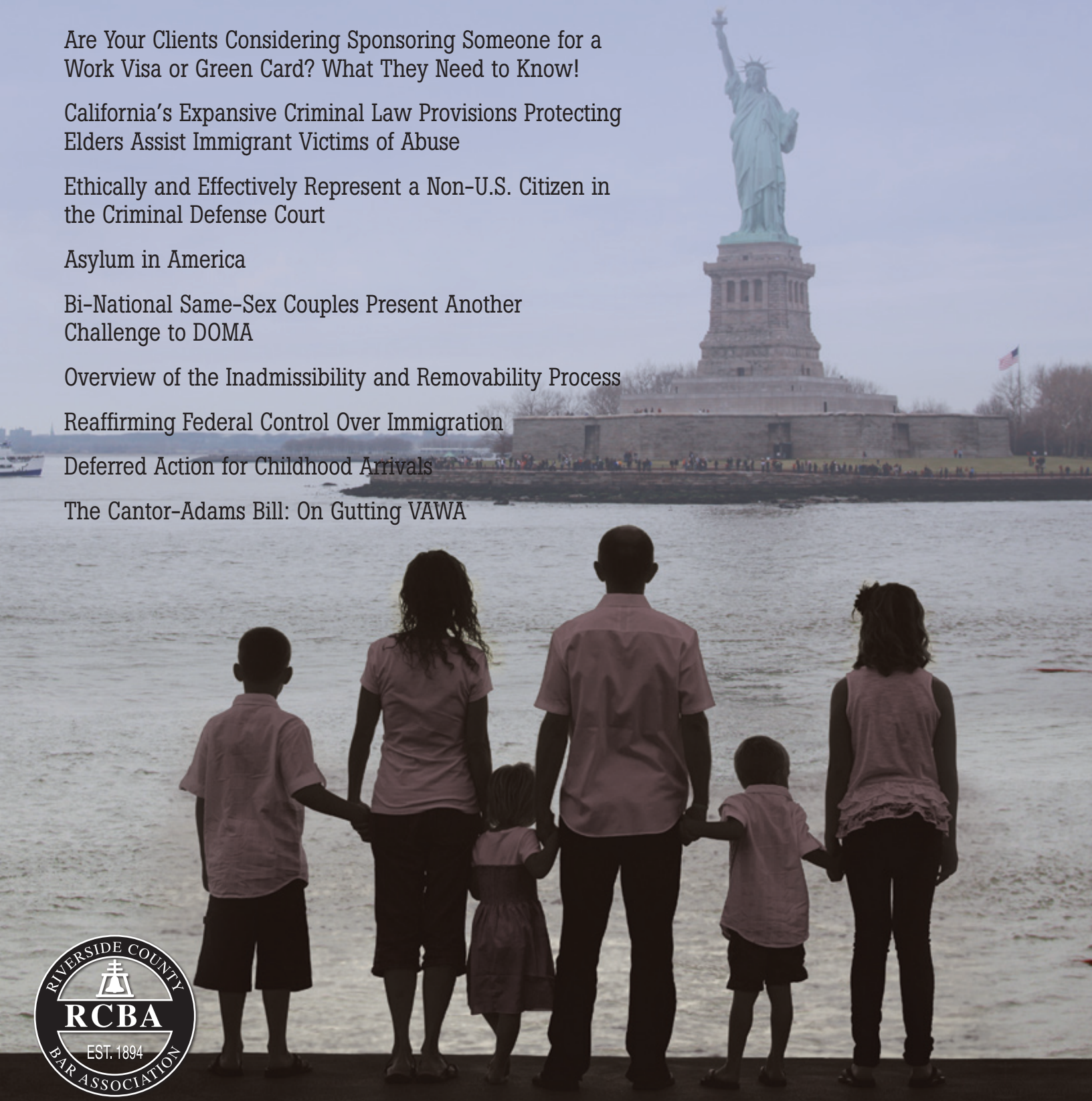

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Riverside County Bar Association
4129 Main Street, Suite 100
Riverside, California 92501

Telephone
951-682-1015

Facsimile
951-682-0106

Internet
www.riversidecountybar.com

E-mail
rcba@riversidecountybar.com

RIVERSIDE LAWYER
MAGAZINE

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Mission Statement

Established in 1894

The Riverside County Bar Association, established in 1894 to foster social interaction between the bench and bar, is a professional organization that provides continuing education and offers an arena to resolve various problems that face the justice system and attorneys practicing in Riverside County.

RCBA Mission Statement

The mission of the Riverside County Bar Association is:
To serve our members, our communities, and our legal system.

Membership Benefits

Involvement in a variety of legal entities: Lawyer Referral Service (LRS), Public Service Law Corporation (PSLC), Tel-Law, Fee Arbitration, Client Relations, Dispute Resolution Service (DRS), Barristers, Leo A. Deegan Inn of Court, Inland Empire Chapter of the Federal Bar Association, Mock Trial, State Bar Conference of Delegates, and Bridging the Gap.

Membership meetings monthly (except July and August) with keynote speakers, and participation in the many committees and sections.

Eleven issues of Riverside Lawyer published each year to update you on State Bar matters, ABA issues, local court rules, open forum for communication and timely business matters.

Social gatherings throughout the year: Installation of RCBA and Barristers Officers dinner, Annual Joint Barristers and Riverside Legal Secretaries dinner, Law Day activities, Good Citizenship Award ceremony for Riverside County high schools, and other special activities.

Continuing Legal Education brown bag lunches and section workshops. RCBA is a certified provider for MCLE programs.

MBNA Platinum Plus MasterCard, and optional insurance programs.

Discounted personal disability income and business overhead protection for the attorney and long-term care coverage for the attorney and his or her family.

Riverside Lawyer is published 11 times per year by the Riverside County Bar Association (RCBA) and is distributed to RCBA members, Riverside County judges and administrative officers of the court, community leaders and others interested in the advancement of law and justice. Advertising and announcements are due by the 6th day of the month preceding publications (e.g., October 6 for the November issue). Articles are due no later than 45 days preceding publication. All articles are subject to editing. RCBA members receive a subscription automatically. Annual subscriptions are $25.00 and single copies are $3.50.

Submission of articles and photographs to Riverside Lawyer will be deemed to be authorization and license by the author to publish the material in Riverside Lawyer.

The material printed in Riverside Lawyer does not necessarily reflect the opinions of the RCBA, the editorial staff, the Publication Committee, or other columnists. Legal issues are not discussed for the purpose of answering specific questions. Independent research of all issues is strongly encouraged.

Calendar

SEPTEMBER

3 **Holiday – Labor Day**
RCBA Offices Closed

5 **Bar Publications Committee Meeting**
RCBA Boardroom – Noon

11 **PSLC Board Meeting**
RCBA Boardroom – Noon

Landlord/Tenant Law Section
Cask 'n Cleaver – Riverside – 6:00 – 7:30 p.m.
Speaker: Eric Headstrom
MCLE

13 **CLE Event – RCBA**
John Gabbert Gallery
Check-in time - 11:45 a.m.
Elimination of Bias – Judge Jacqueline Jackson, Riverside Superior Court
12:00 – 1:00 p.m.
MCLE
"Top 10 (or so) Professional Responsibility Traps for the Unwary." – Speaker: Robert Hawley, Deputy Executive Director, State Bar of California
1:15 – 3:15 p.m.
MCLE

18 **Family Law Section**
RCBA 3rd Floor – Noon
MCLE

19 **Mock Trial Steering Committee**
RCBA Boardroom – Noon

Estate Planning, Probate & Elder Law Section
RCBA 3rd Floor – Noon
MCLE

27 **RCBA Annual Installation of Officers Dinner**
5:30 p.m. Social Hour, 6:30 Dinner & Program
Mission Inn, Music Room
Call (951)682-1015 to RSVP

OCTOBER

3 **Federal Bar Association/Inland Empire Chapter**
George E. Brown, Jr., Federal Court House - Noon
"The Psychology of Judging"
Speaker: Magistrate Judge Andrew Wistrich
Rsvp to Julius Nam at (951) 328-2245

16 **Red Mass**
St. Francis de Sales Catholic Church - Riverside
6:00 p.m.

President's Message

by Christopher B. Harmon

Joining the Riverside County Bar Association was probably the first thing I ever did as a lawyer and in many ways has been one of the most important. I have always believed that if you plan to practice law in a community you must become a part of it. You must get to know your colleagues, you must get to know the judges, you must get to know the issues that are affecting the community that you serve with your law degree, and most importantly you must get involved and give back. These are things that we, as lawyers, simply must do.

I often hear that question, "Why should I join the bar association, what's in it for me?" There are, of course, a lot of selfish answers to this question: referrals, MCLE, etc. But those are not the real reasons any of us have joined our association or why we choose to participate. The real answer is that our legal community and our profession need us to do this. Our profession needs us to get to know one another outside of the competitive arena of the courtroom. Our community requires that we come together during times of strife and difficulty and provide leadership and guidance to the function of the law.

Every period in time has their particular struggles and obstacles to overcome. If one looks back through the history of Riverside there are numerous examples of lawyers and judges giving of themselves to make our community better. I often think of Art Littleworth and the role he played in the desegregation of schools in our county, and I am inspired that being a lawyer can and should be more than simply winning battles in courtrooms for our clients. Our profession requires us to think and be bigger than that.

While Art Littleworth had tremendous challenges in his day, we now have our own very real and dire problems to face. We all know that Riverside County courts have traditionally been underfunded and that our courts have been handling far more cases per judicial officer than many other courts in the state. This is nothing new, and our judicial officers have soldiered on and are doing a marvelous job, despite one of the highest cases-per-judge ratios in the state. What is new and will prove to be a tremendous challenge to all of us is the state's current fiscal crisis and the accompanying effect this will have on our already overburdened courts. The governor's current budget includes unprecedented cuts to the courts, and Riverside, not having the political clout of some of the state's larger counties, is taking a very large hit. Courtrooms in Corona and Palm Springs have already been forced to close completely, and the allocation of retired and assigned judges whom our county has relied upon for several years to survive, has also been decimated by the court's new budget.

Why, you may ask, do I discuss all of this in my first column? Because these are the issues and problems facing us today, and it will require the efforts of all of us to make it through. The courts will have to continue to do more with less, as they have been so willing and able to do. But the rest of the legal community will also have to step up and do our share. As lawyers it will be up to us to do what we do best, and that is to use our skills to *advocate* on behalf of our very precious branch of government. It will be up to us to take the message of the perils of an underfunded judicial branch to our legislators, to our business colleagues, and to the public at large, so that they begin to understand how these issues will affect their lives, their businesses, and their well being. It will also be up to us to ensure access to our legal system for the underprivileged of our society, who will undoubtedly be affected when funding is further cut to legal assistance programs.

To this end, the RCBA along with others has formed several working committees to take on court funding issues. Robyn Lewis, Kira Klatchko, and County Counsel Pam Walls, recently attended a meeting of the Judicial Council's group on court funding and gave a presentation to the Council about our county and these particular issues. It is time for Riverside County and for our legal community to stand up and be heard on a statewide level. I implore all of you to get involved with these efforts on any level and offer your very special and unique skills. This, after all, is what a bar association and a legal community should and must do, and there is no better time to do it. So back to my original question: "What's in it for me?" The answer is, quite simply, everything.

Chris Harmon is a partner in the Riverside firm of Harmon & Harmon, where he practices exclusively in the area of criminal trial defense, representing both private and indigent clients.

Barristers President's Message

by Amanda E. Schneider

Participating in the Riverside County Barristers Association provides ample opportunities to learn about different areas of law, give back to the community, network with experienced and young attorneys alike, and form lasting friendships. The Barristers Association also supports young attorneys and their interests in the larger legal community. It is with great pride that I am able to serve this organization with an accomplished and energetic Board!

In my first message, I would like to congratulate this year's newly elected Board, Vice-President Luis Arellano, Treasurer Arlene Cordoba, Secretary Kelly Moran, and Directors-at-Large Reina Canale and Sara Morgan. I would also like to thank our Past President, Scott Talkov, for his leadership this past year as well as for his continued participation and insight in the Past President position. I am excited and honored to serve with all of you and look forward to a great 2012-2013.

The Barristers have had a number of very well attended and successful programs over the last few years and are looking to continue to invite exciting speakers on some of the issues facing both our legal and local community. Over the next year, the Board is interested in providing engaging forums and discussions on a range of topics including immigration, criminal law, family law and substance abuse. In addition, we are interested in developing skills workshops to assist young attorneys in both litigation and transactional practices.

The opening event of the 2012-2013 Barristers year was a "Municipal Bankruptcy Forum" on August 22, 2012, a discussion on how cities navigate the bankruptcy process and the ramifications on the community when a city files for bankruptcy. The Forum featured Hon. Mitchel Goldberg, retired bankruptcy judge from the Central District of California, as well as Mark Schnitzer (Reid & Hellyer) and Franklin Adams (BB&K).

In addition to informative programs, the Barristers Association is a great place to socialize and network. Through my involvement in Barristers, I have not only made connections that have aided me in my practice of law, but friends whom I will practice alongside for years to come. Barristers also give back to the community. In addition to some of our programs, individual Barristers members are all active in the community and bring their experiences to the group.

I'd like to encourage all young attorneys to become involved in the Barristers Association. Feel free to contact me directly or contact the Riverside County Bar Association for information on the Barristers Association or our monthly meetings. You can also find more information on the Barristers on our Facebook page ("Riverside County Barristers Association"), or on the Barristers website, www.riversidebarristers.org.

Amanda Schneider is the newly-elected 2012-13 President of Barristers, as well as an associate attorney at Gresham Savage Nolan & Tilden, where she practices in the areas of land use and mining and natural resources.

Are Your Clients Considering Sponsoring Someone for a Work Visa or Green Card? What They Need to Know!

by Mitch Wexler

An employer's role and obligations in the immigration sponsorship process are frequently misunderstood, not as a result of any deficiency of the employer, but because the process is counterintuitive and unnecessarily complex. Therefore, it is good for attorneys whose practice does not focus on employment-based immigration law to be at least familiar with the general process in order to spot preliminary issues for their clients.

The employment-based sponsorship scheme is bifurcated into "non-immigrant " (temporary) and "immigrant" (permanent) concepts and processes.

The more popular ones are as follows:

Non-Immigrant Visa Categories

H-1B: A professional-level visa for foreign nationals with the functional equivalent of a relevant, four-year university degree to perform a job that requires that degree. There are 65,000 new H-1Bs available per fiscal year (October 1 to September 30); the US Citizenship & Immigration Services (USCIS) usually runs out sometime during the year, which can create significant timing challenges for employers. This is a highly regulated visa category; it requires that the "prevailing wage" be paid, and it imposes strict document creation, posting and retention obligations. H-1B status can be extended for up to six years and is employer, job and job site-specific. An employer can laterally hire a foreign national already in the US in H-1B status, but would need to file its own petition for that lateral foreign national hire. Moreover, there is an employer obligation to pay for the reasonable cost of sending the worker (though not the worker's family) home upon termination or completion of the assignment. Enforcement of this obligation is a matter of state law.

L-1: For intra-company transferees coming to work in the US from an appropriately affiliated entity abroad. The candidate must have worked for the qualifying entity abroad for at least one year in either a managerial and executive capacity (L-1A) or in a position requiring "specialized knowledge" of the company's products or processes (L-1B). The prospective job in the US must also be as above. L-1As can be extended for up to seven years and L-1Bs for five years. A nice feature of the L-1 visa program is that spouses (L-2s) can apply for a work permit. Spouses of H-1Bs (H-4s) cannot apply for a work permit incident to their status.

O-1: For those of "extraordinary ability" in virtually any field of endeavor. Although the standard varies for some types of positions, it is always a relatively high standard, reserving this elite visa category for those at the top of their field. O-1 spouses (O-3s) cannot apply for a work permit incident to their status. As with the H-1B, there is a "return home" obligation upon termination or completion of the assignment.

TN (Trade NAFTA): The North American Free Trade Agreement (NAFTA) has an immigration component permitting the entry of certain Mexican and Canadian nationals into the US if certain education and/or experience requirements are met and the job in the US is on a schedule of authorized occupations. TN status is issued in three-year increments, with no technical cap on the number of extensions permitted. Spouses of TNs (TDs) cannot apply for a work permit incident to status. This can be a fast immigration status to apply for, as application for Canadians is made at the port of entry and a petition filed by the employer well in advance is not required. The process for Mexican TN applicants is more rigid.

B-1: For business visitors. This is not an employment-authorized visa status, but one that is integral to the business of many US employers. A foreign national in B-1 status can perform such activities as attend meetings, conventions, and trade shows, give testimony at trial, observe operations, etc. He or she must remain on a foreign payroll, and the need in the US must be for a short duration. "B-1 abuse" is a real problem that employers must watch out for. It is much simpler to apply for a B-1 visa, so some US employers are tempted to go this route, even when it is not appropriate. Application is made directly to the US consulate nearest the place of residence of the applicant.

Immigrant Visas

Unlike the non-immigrant visa application process, the employment-based immigrant visa application process

usually involves a labor market test. The process is typically in three phases, as follows:

Labor Certification: This is an employer-driven, affirmative application to the US Department of Labor (DOL), seeking to prove there is a shortage of qualified and available US workers for the particular position in the area of intended employment. Often, the foreign national "beneficiary" is already in the US and employed by the company on one or another non-immigrant, employment-authorized status. A comprehensive recruitment program must be undertaken, and only if that fails to locate a qualified and available US worker can the application be filed.

Immigrant Visa Petition: Depending on the minimum qualifications for the job, the position will be classified in either the second employment based category (EB-2) or EB-3. As the result of quotas, the EB classification, along with the country of birth of the applicant, dictates when the final stage of the process, adjustment of status, can be filed. The backlog can be from zero to ten or so years.

Adjustment of Status: This is the actual application by the foreign national for permanent residency (green card). Spouses and unmarried children under the age of 21 are included at this stage.

Depending on the immigrant visa classification and the country of birth of the applicant, the process can take anywhere from one to ten or more years.

Employers should also be aware that there are a few "elite" immigrant or permanent categories that get to avoid the Labor Certification stage. The more popular ones include those of "extraordinary ability" (similar to the O- 1), "intra-company managerial or executive transferees" (similar to the L- 1A), and "outstanding researchers".

Employers should be made aware that many of these processes take time and are challenging, and success is not guaranteed. Caution should be given to good-natured employers seeking to assist known unlawful employees; such applications necessarily indicate that the foreign national beneficiary does not have a green card and is currently working for the sponsoring employer. Employers should be cognizant of the fact that application is made to the federal government, and those are the folks who enforce work authorization compliance laws.

Mitch Wexler is a specialist in immigration and nationality law, certified by the State Bar of California, Board of Legal Specialization. He has been practicing immigration law for over 27 years and is a senior partner with Fragomen, Del Rey, Bernsen & Loewy, LLP, the largest immigration law firm in the world, with 2,100 employees and 39 offices around the world. He is based in the firm's Irvine, California office and can be contacted at mwexler@fragomen.com.

California's Expansive Criminal Law Provisions Protecting Elders Assist Immigrant Victims of Abuse

by Heather L. Poole

The County of Riverside has prosecuted multiple elder abuse cases and the perpetrators have been incarcerated and lives and fortunes have been saved. But to prosecute these cases, the victims have to be willing to come forward to the police and report the crime. This obstacle gives rise to a constant struggle, not only in identifying the victims, but also in convincing victims it is safe to turn to law enforcement for help, especially when many are undocumented immigrants threatened by their caretakers or their adult sons and daughters with deportation or worse if they report the crime.

The U Visa

Local law enforcement agencies have acknowledged that the trust of their local communities is essential to detect and stop criminal activity that happens in secret, helping ensure that the police keep the community safer as a whole. Immigrants typically fear the police. Many have past experiences with police in their home country who were corrupt or failed to respond to crime reports. Other immigrants fear that reporting the crime to the police in the U.S. will result in their deportation, because the police will call U.S. Immigration and Customs Enforcement (ICE).

In 2002, to counteract such fears and to foster cooperation with law enforcement while offering protection to victims of violent crimes, including various forms of elder abuse, Congress created the U nonimmigrant visa by amending the Violence Against Women Act provisions of the Federal Immigration and Nationality Act.[1] The U visa was meant to strengthen the ability of law enforcement agencies to detect, investigate, and prosecute cases of abuse, domestic violence, sexual assault, human trafficking, and other related crimes.[2] To foster even more cooperation from scared victims, the U visa application process has been made completely confidential. Immigration officers who decide these cases for the U.S. Citizenship & Immigration Services (USCIS), the federal agency that adjudicates the benefit, are prohibited from disclosing any information that relates to the immigrant who applied for the U visa to anyone (other than a sworn officer or employee of the Department of Homeland Security or a bureau or agency thereof, for legitimate bureau or agency purposes).[3]

A U visa grants the victim the legal right to work and live in the U.S. For violence victims who have been deterred from leaving an abusive relationship because of the inability to find work or apply for a driver's license or California ID without proper immigration papers, the visa allows these victims to truly evolve into survivors and begin running their own lives again.

Who is a Victim?

The U visa has the potential not only to protect the direct victim with its broad range of qualifying criminal activity, but, due to its flexible definition of victim, the U may also protect others who have witnessed or reported a crime or directly helped a victim.

The unique attributes of this visa create a larger potential victim pool. The victim does not have to possess valid immigration status (i.e., he or she can be "undocumented").[4] Similarly, the immigration status of the perpetrator or the person committing a criminal act is irrelevant.[5] The perpetrator does not have to be a family member or related to the victim in any way. The perpetrator can be a complete stranger (as in stranger rape, mugging, or even extortion) to the victim. In the elder abuse context, this could easily encompass a nursing home attendant or a nurse in a managed care facility. The immigration status of the perpetrator is also not at issue. And, since the relational status of the perpetrator is irrelevant, the U visa also encompasses gay and lesbian partner-on-partner violence.

Perhaps to encourage more reporting of violent crimes, the U visa can also be granted to the indirect victims of the criminal activity against the victim – the spouse, children under the age of 21, or siblings under the age of 18 of an incapacitated or murdered victim or the spouse or children under 21 of a direct, living and competent victim.[6] The visa may also be granted to a "next friend," which is defined as the person who appears in a lawsuit who acts for the benefit of the abuse victim if the abuse victim is incapacitated or deemed incompetent. The "next friend" is not a party to the legal proceeding and is not appointed as a guardian. Lastly, a U visa may be granted to any victim bystander who was so traumatized (suffered unusually direct injury) as a result of

1 INA § 101(a)(15)(U); Battered Immigrant Women Projection Act of 2000, Pub. L. No. 106-386, § 1513, 114 Stat. 1464, § 1533-37, part of Victims of Trafficking Protection Act of 2000 (VTVPA).

2 VTVPA § 1513(a), 114 Stat. @ 1533-34.

3 Any employee who willfully uses, publishes, or causes any information about the U victim to be disclosed in violation of the Immigration and Nationality Act Section 384 (contained in IIRIRA) is subject to civil fines of up to $5,000 for each violation and disciplinary action.

4 INA § 248(b).

5 INA § 101(a)(15)(U).

6 INA § 101(a)(15)(U)(ii)(II).

witnessing one of the qualifying crimes happen to another person who is the direct victim. This could potentially encompass an elder who witnessed the beating of an adult child whom the elder lives with by the adult child's partner and suffered a stroke from the stress or fear it induced or an elder who witnessed a friend being mugged and suffered a heart attack.

Legal Requirements

To qualify for the U visa, the immigrant must: (1) have suffered substantial physical or mental abuse as a result of being the victim of a listed criminal activity; (2) possess information concerning a listed criminal activity; and (3) have been helpful, be helpful, or be likely to be helpful in the investigation or prosecution of a listed criminal activity.[7] Typically, the most difficult elements to prove in elder abuse U visa cases are that the crime fits within a listed criminal activity and that the victim has been helpful or is likely to be helpful to the investigation or prosecution.

Qualifying Criminal Activity

The criminal activity must either have occurred in the U.S. (or a territory of the U.S.) or have violated the laws of the U.S.

The list of criminal activity in the statute is not exhaustive. Any activity that is "substantially similar" may be covered:

Federal Listed Criminal Activity	**Related California Crimes**
Rape, incest, sexual assault, abusive sexual contact	Rape (Pen. Code, § 261), sexual battery (Pen. Code, § 243.4), incest (Pen. Code, § 285), lewd act by caretaker (Pen. Code, § 288), sexual penetration (Pen. Code, § 289), sodomy (Pen. Code, § 286)
Domestic violence, felonious assault, female genital mutilation	Battery (Pen. Code, § 242), assault (Pen. Code, § 240), elder abuse (Pen. Code, § 368), criminal threats (Pen. Code, § 422), poisoning (Pen. Code, § 347), stalking (Pen. Code, § 646.9), violation of criminal restraining order/ civil elder abuse order (Pen. Code, § 273.63, Welf. & Inst. Code, § 15657.03); robbery (Pen. Code, § 211)
Unlawful criminal restraint, being held hostage, false imprisonment	Isolation as elder abuse (Pen. Code, § 368, Welf. & Inst. Code, § 15610.43), false imprisonment (Pen. Code, § 236)
Peonage, involuntary servitude, slave trade, trafficking	Kidnapping for purposes of slavery (Pen. Code, § 207, subd. (c)), human trafficking (Pen. Code, § 236.1)
Prostitution, sexual exploitation	Pimping (Pen. Code, § 266h), pandering (Pen. Code, § 266i), human trafficking (Pen. Code, § 236.1)
Kidnapping, abduction	Kidnapping (Pen. Code, § 207), abduction as elder abuse (Pen. Code, § 368, Welf. & Inst. Code, § 15610.06)
Murder, manslaughter, torture	Murder (Pen. Code, § 187), manslaughter (Pen. Code, § 192), torture (Pen. Code, § 206)
Blackmail, extortion	Extortion (Pen. Code, § 518)
Witness tampering, obstruction of justice, perjury	Witness intimidation (Pen. Code, § 136.1), obstruction of justice (Pen. Code, §§ 96.5, 182), perjury (Pen. Code, § 118)
Solicitation to commit any of the above crimes	Solicitation (Pen. Code, § 653f)
Conspiracy to commit any of the above crimes	Conspiracy (Pen. Code, § 182)

Where do other forms of elder abuse crimes not listed above fit in to the listed criminal activity? Elder abuse can take many forms, whether it's physical or financial abuse or mental cruelty. Elder abuse can be prosecuted either under the Penal Code's specific elder abuse provisions or its general criminal provisions (such as battery).

Elder abuse can also encompass crimes that the state considers abuse that do not on their face appear to qualify as a crime similar to those that do qualify for the U visa. But advocates should not count these crimes out. Advocates and attorneys representing elder victims should argue that these crimes by their nature and in their elements are substantially similar to the criminal activities listed in the U visa statute and have the same purpose of protecting the elderly victim if the victim is either directly harmed or could qualify as a bystander victim of the criminal activity. These additional California crimes include: failure to provide for a parent (Pen. Code, § 270), disturbing the peace (Pen. Code,

7 INA § 101(a)(15)(U).

§ 415), racial, religious or ethnic terrorism (Pen. Code, § 11411), unlawful discharge of a firearm (Pen. Code, § 246), and arson (Pen. Code, § 451).

Neglect (Welf. & Inst. Code, § 15610.57) and abandonment (Welf. & Inst. Code, § 15610.05) are prosecuted as elder abuse under the California Penal Code (Pen. Code, § 368) , and it should be argued that they are substantially similar to battery, because they involve reckless disregard for the safety of the adult.

The criminal conduct listed in the U statute limits the U visa's potential use for the elderly victim. When elder abuse comes to mind, a common scenario is the adult child's coercive tactics to take over the estate or the bank accounts and misappropriate the elderly parent's money even though the elderly parent is competent and legally capable of handling his or her own affairs. This kind of conduct is usually prosecuted as a theft crime. These crimes include embezzlement (Pen. Code, § 503), larceny (Pen. Code, § 484) and forgery (Pen. Code, § 470). Forgery can happen in the elder abuse setting when an adult child takes funds from the elderly parent by signing the elderly parents' checks over to the adult child. This can cause substantial harm, especially if a parent can no longer provide for him or herself if the bank account is depleted. In this modern age of technology, elderly victims are also becoming more susceptible to identity theft and false personation, both crimes that are prosecutable under the California Penal Code. A victim of false personation (impersonating another through electronic means or the Internet) may have a chance at qualifying for the U visa because the statute contains an actual element of intent to harm, intimidate, or threaten the victim. But identify theft, the fastest growing crime against the elderly, is not recognized as a qualifying crime for the U, even though it can leave devastation in its path. However, if the perpetrator engaged in intimidation through witness tampering, perjury or obstruction of justice in the investigation or prosecution of the identity theft that victimized the elderly person, this may qualify for U visa protection, as those are specifically listed criminal acts in the statute.

Even if USCIS will not recognized the crime as a listed criminal activity under the U statue, if during the course of the investigation or prosecution of that crime against the elder, a battery, assault, or any clearly identifiable U-type criminal conduct is also revealed (even though not prosecuted), the regulations allow the certifying officer to sign the U visa certification based on the qualifying crime since the law does not require prosecution of that particular crime. The victim was helpful in an investigation or potential prosecution of that newly discovered crime, as well.[8]

Substantial Harm

The victim also must have sustained substantial physical and/or mental harm as a result of the qualifying criminal activity. USCIS considers the following factors in analyzing whether the harm sustained rises to the level of "substantial": (a) the nature of the injury inflicted or suffered; (b) the severity of the perpetrator's conduct; (c) the severity of the harm suffered; (d) the duration of the infliction of the harm; (e) the extent to which there is permanent or serious harm to the appearance, health, or physical or mental soundness of the victim; and (f) the existence of a pre-existing condition that was aggravated by the criminal act.[9]

No one factor is more important than the others, and any credible evidence will be considered. USCIS reviews the allegation of substantial harm in its totality to determine whether the abuse is substantial, including taking into account various abusive events that happened over time.

Police incident reports, restraining orders, pictures of bruises and injuries, medical records, therapy records, financial statements, pictures of destroyed belongings and uninhabitable housing conditions, criminal transcripts, and witness statements all help to establish substantial harm. The Division of Victim Services of the Riverside County District Attorney's Office has referrals for counseling, shelters, and provides restitution assistance when elders are stripped of money for basic life needs as a result of elder abuse. They also provide court advocates who attend hearings alongside the elder in criminal matters. Most courts also provide restraining order assistance for elders through local community organizations. Attorneys should utilize these resources to help substantiate the substantial harm argument.

Helpfulness

The victim must possess information concerning the criminal activity and must have been, potentially be, or currently be helpful to an investigation or prosecution of that criminal activity. Being helpful may be difficult if the victim has signs of dementia, Alzheimer's, or other memory problems that interfere with the ability to cooperate. This is where the conservator, spouse, or "next friend" of the incapacitated or incompetent victim can provide information on the victim's behalf to assist in the prosecution or investigation.[10]

Whether a victim is helpful is a determination left to the law enforcement official investigating or prosecuting the crime. The law requires that a federal, state, or local law enforcement official must provide a certification for the victim who files a U visa application.[11] The law enforcement official authorized to sign is determined by the law enforcement agency itself, and can be a supervisor designated by that agency or the head of the agency.[12] In elder abuse cases, it may be possible to obtain a certification

8 72 Fed. Reg. 53,014, 53,018 (Sept. 17, 2007).

9 8 CFR § 214.14(b)(1).

10 INA § 101(a)(15)(U).

11 Form I-918, Supplement B, available at uscis.gov/files/form/i-918supb.pdf.

12 8 CFR §§ 214.14(a)(3), 214.14(c)(2)(i).

from more than one source, in the event that records, response, or cooperation is lacking from any particular agency that had a hand in the criminal case. Law enforcement agencies may include police departments, sheriff's offices, federal marshals, the Highway Patrol, adult protective services agencies, district attorney's offices, the State Department of Mental Health, the State Department of Developmental Services (which investigates state mental hospitals and state development centers), a department of social services, the State of California Long-Term Care Ombudsman Program, the State Bureau of Medi-Cal Fraud & Elder Abuse, the State Insurance Commissioner's office, and the California Attorney General, among others. Even a probate judge, criminal judge, or a civil judge who heard an application for a civil elder abuse protective order could qualify as a signer.[13]

The law does not require that helpfulness must lead to either an investigation or a prosecution and a conviction to qualify for the U visa. Congress recognized that victims cannot control whether a charge is brought, an arrest is made or a prosecution results in a guilty verdict. These events are outside of the victim's control and are based on many factors (such as the disappearance or deportation of the assailant, the destruction of key evidence, unwilling witnesses, statute of limitations problems, the caseload and resources of the prosecuting agency, the death of the victim, a judge's ruling, etc.).

The most difficult part for immigration attorneys of assembling a U visa case is obtaining cooperation from law enforcement in providing the law enforcement certification. Some agencies and some police departments are much more cooperative and willing to help victims than others. All hope may not be lost, however, if the police are nonresponsive to a certification request. In 2005, the Violence Against Women Act was amended to include immigrant parents of abusive adult U.S. citizen children in the class of self-petitioners who could apply for an immigrant visa and a green card based on that abuse, extending a benefit previously available only to abused spouses of U.S. citizens and permanent residents.[14] To be eligible, the parent must have an U.S. citizen adult child, the parent must have resided with the U.S. citizen child, the parent must be a person of good moral character, and lastly, the parent must be able to demonstrate that he or she has suffered battery or extreme cruelty from the U.S. citizen child.[15] This self-petitioning process creates a path to residency much faster than the U visa and does not require law enforcement certification, two main benefits of the process. Of course, this option it is very limited as to whom it covers: only parents of U.S. citizens, whereas the U visa can cover a wide range of potential victims. In addition, there may be other immigration options besides the U visa or VAWA self-petitioning that may be available to the abused parent or abused elder. A competent immigration attorney should always be consulted as to any and all options.

The Approval of the U Visa

The U visa cannot be approved in many circumstances without the filing of a nonimmigrant visa waiver application to waive grounds of immigration inadmissibility. The most common of these is waiving a prior illegal entry. The victim must demonstrate to USCIS that it serves the public or national interest to grant the waiver.[16]

If approved, a U visa may be issued for a period of up to four years.[17] After three years in U visa status, a U visa holder may apply for permanent residence (a "green card") if the holder can demonstrate that his or her continued presence in the U.S. is justified on humanitarian grounds, to ensure family unity, or is otherwise in the public interest.[18] Permanent residency is not guaranteed. The U visa holder must also prove to immigration that he or she has not unreasonably refused to provide assistance in a criminal investigation or prosecution during the time since the initial U visa grant (i.e., ongoing cooperation with law enforcement during the three-year period).[19]

There are only 10,000 U visas available annually nationwide to cover so many types of violent crimes.[20] But the cap is not the biggest problem. Educating and getting the word out to victims that options are available remains a constant struggle. All that many victims hear all day are the threats of an abusive family member or caretaker telling them that they have no rights, the police will deport them, and the courts won't help them because they have "no papers" or are "illegal." Getting through to victims faced with this constant barrage can be tough.

Attorney Heather L. Poole's practice is based in Southern California and focuses solely on complex family-based immigration law. She is a frequent lecturer and attorney trainer and is a nationally published author on immigration law topics. She may be reached at heather@humanrightsattorney.com or 877-HUMAN-RTS (486-2678).

13 "New Classification for Victims of Criminal Activity – Eligibility for U Nonimmigrant Status. Revisions to Adjudicator's Field Manual (AFM) Chapter 39, AFM Update AD08-12)," Interoffice Memorandum HQORPM AD08-12, HQ 70/8, US Citizenship & Immigration Services, March 27, 2008, at p. 2, available at uscis.gov/USCIS/Laws/Memoranda/Static_Files_Memoranda/Archives%201998-2008/2008/afmupdate_ch39.pdf.

14 INA § 204(a)(1)(A).

15 *Id.*

16 INA § 212(d)(14); Waivers are usually not granted for those victims who themselves have committed violent or dangerous crimes or who pose a security concern.

17 INA § 214(p)(6).

18 BIWPA, § 1513(f).

19 *Id.*

20 INA § 214(p)(2).

Ethically and Effectively Represent a Non-U.S. Citizen in the Criminal Defense Context

by Ginger E. Jacobs and Linda Pollack

Introduction

To represent a non-U.S. citizen in the criminal defense context ethically and effectively, you must understand the immigration consequences of criminal convictions. The U.S. Supreme Court has emphasized this critical obligation "[w]hen the law is . . . succinct and straightforward."[1] Additionally, in the realm of plea bargains it held that counsel should attempt to craft a plea to avoid negative immigration consequences, if possible.[2]

To be effective, you must either understand the immigration consequences yourself or employ an immigration attorney on your defense team. This short article is but a mere introduction to this complicated and ever-changing area of the law.[3] Experts to assist can be found in the immigration bar and the many organizations dedicated to defending immigrants in criminal proceedings.[4]

As a criminal defense attorney, you have a duty to mitigate an immigration disaster (i.e., a plea deal that leads to the client being deemed deportable)[5] as well as to preserve relief for your client in Immigration Court, which requires understanding the forms of relief for which your client might be eligible and preserving that eligibility. As important as knowing the age of your client if your forum is juvenile court, you must know your client's complete immigration and criminal history, as well as his or her family's, in order to analyze the appropriateness of a proposed plea bargain. This in itself can be challenging, as our clients do not always know the full details. Therefore, you will need to speak to family members or a spouse to obtain this information and immigration documents.[6] This information will help you determine the potential relief available to your client once in Immigration Court. If you know your client can get relief (e.g., a once-in-a-lifetime pardon), more freedom and flexibility can be brought to the plea-bargaining table.

Overview of Immigration Consequences of Criminal Convictions

The Immigration and Nationality Act (INA) (8 U.S.C. § 1101 et seq.) contains the immigration-related consequences of criminal convictions, although a practitioner must also look to ever-evolving case law. There are three main groups of offenses a defense attorney must understand: aggravated felonies, criminal grounds of deportability and criminal grounds of inadmissibility. While aggravated felonies carry the most severe consequences and are considered to carry the immigration equivalent of the death penalty (i.e., mandatory deportation and a lifetime bar to re-entering the U.S.), understanding the immigration consequences of less severe offenses is no less critical to effective representation.

A. Aggravated Felonies

"Aggravated felony" is defined in INA section 101(a)(43). Convictions for aggravated felonies bring the most severe consequences to non-citizens, including deportability, the barring of most forms of relief from removal, and a lifetime bar from naturalization (becoming a U.S. citizen). Further, an individual who enters the U.S. after being ordered removed for an aggravated felony conviction

1 See *Padilla v. Kentucky* (2010) ___ U.S. ___ [130 S. Ct. 1473], holding that failure to investigate immigration consequences of a felony guilty plea and to advise a defendant of the risk of deportation constituted ineffective assistance. "Counsel who possess the most rudimentary understanding of the deportation consequences of a particular criminal offense may be able to plea bargain creatively with the prosecutor in order to craft a conviction and sentence that reduce the likelihood of deportation, as by avoiding a conviction for an offense that automatically triggers the removal consequence."

2 *Ibid.*

3 Former Director of the U.S. Citizenship and Immigration Services, Eduardo Aguirre, testified to a subcommittee of the United States House of Representatives on the complexities of immigration laws: "We are saddled with administering what my legal friends tell me is the most complicated set of laws in the nation. I am told it beats the tax code . . . . [E]ach application we receive seems to be slightly or largely different from the other. Six million to seven million applications have to be administered – adjudicated – against a body of law that is very complex and sometimes contradicting each other."

4 Particularly helpful organizations include the National Immigration Project of the National Lawyers Guild (nationalimmigrationproject.org), the Immigrant Legal Resource Center (ilrc.org) and the Immigrant Defense Project (immigrantdefenseproject.org).

5 Deportable and removable are interchangeable. However, the correct term is removable.

6 Sometimes a client is fortunate enough to be a U.S. citizen, although born abroad, by deriving citizenship through a parent or grandparent. This is a complicated analysis replete with charts particularized to fixed dates and requirements for derivative citizenship. Consult an immigration expert.

commits illegal re-entry (18 U.S.C. § 1326) and will more than likely be prosecuted.

Despite the name, aggravated felonies include certain misdemeanors and other offenses that might not normally be considered "aggravated" by defense practitioners.

Aggravated felonies can be thought of as a tree with many branches; each branch is an aggravated felony. Some crimes are aggravated felonies because of the sentence imposed, whether served or suspended. Among the most common aggravated felonies are:

- Obvious crimes: murder, rape, kidnapping, drug trafficking, sexual abuse of a minor, and child pornography, among others;
- Fraud where the amount of loss to the victim exceeds $10,000. If the record of conviction states the loss is $9,999, the conviction is not an aggravated felony. The client may still be removable on other grounds, but not the aggravated felony ground, and thus eligible for relief from removal;
- Theft, obstruction of justice, or a crime of violence with a sentence of one year or longer.

This list is not exhaustive. Please note that with all aggravated felonies defined by the sentence imposed (one year or longer), the "sentence" includes a suspended sentence; the only way to ensure a non-aggravated felony is to obtain a sentence of 364 days or less.

B. Criminal Grounds of Deportability

As stated above, an aggravated felony conviction is one ground of deportability, but there are other convictions as well that will render a non-citizen, *lawfully* present, deportable:

- A "crime involving moral turpitude" (CIMT) within five years of admission, for which a sentence of one year or more may be imposed;
- Sustaining multiple convictions for CIMTs not arising out of a single scheme of criminal misconduct, regardless of whether confined therefor.

Unlike aggravated felonies, CIMTs are *not* listed in the INA, but they include any crime that involves a mens rea of more than negligence, including intent to commit fraud or theft or to cause great bodily injury.

Other crimes rendering a non-citizen deportable are enumerated in INA section 237(a)(2), including high-speed flight, failure to register as a sex offender (federal), offenses related to controlled substances, certain firearm offenses, and certain offenses involving domestic violence.

C. Criminal Grounds of Inadmissibility

Although some overlap exists, the criminal grounds of inadmissibility are different from the criminal grounds of deportability. Inadmissibility comes into play when a non-citizen, outside the U.S., applies to enter, or, within the U.S., applies to change status (i.e., applies for permanent resident status, a "green card"). Even lawful permanent residents (LPRs) who are not deportable must consider whether or not they are "admissible" to the United States if they travel abroad. While merely avoiding deportation is the primary goal of most clients, preserving their ability to travel in and out of the U.S. or to change their status to obtain legal status or citizenship may be an important priority for some.

One CIMT (unless the offense falls within the "petty offense exception") or crime related to controlled substances will make the client inadmissible. The petty offense exception to a CIMT applies only when the maximum possible sentence does not exceed one year *and* the sentence actually imposed was not more than 180 days. Other relevant criminal grounds of inadmissibility include multiple criminal convictions for which the aggregate sentence to confinement was five years or more.

D. Crimes That Bar Common Forms of Immigration Relief

Understanding convictions that can lead to deportability and inadmissibility is critical to adequately advising your client. You must also understand eligibility for relief in Immigration Court. Different forms of relief have their own disqualifying criminal grounds. The two most critical concepts to master are the aggravated felony and the CIMT.

When an LPR ("green card" holder) is in removal proceedings, the most commonly sought form of relief is "cancellation of removal for certain permanent residents."[7] To be eligible for cancellation of removal, the alien must not have an aggravated felony.

Similarly, non-permanent residents (no "green card") may apply for relief from removal known as "cancellation of removal for certain non-permanent residents."[8] To qualify for this relief, the client must not have any CIMTs.

This brief article can only touch upon the most common forms of relief. You should confer with immigration counsel whenever representing a non-U.S. citizen to fully explore all potential forms of relief and to understand what convictions will bar that relief.

7 INA § 240A(a).
8 INA § 240A(b).

Conclusion

While institutional defenders are already overburdened and underfunded, this will not justify a deaf-and-dumb approach to immigration issues. Management at defender offices must recognize the need for and allocate resources to supporting their personnel in implementing *Padilla*'s mandates (*Padilla v. Kentucky* (2010) ___ U.S. ___ [130 S. Ct. 1473]). Leaving each defender to fend for him or herself regarding this is not appropriate. In many offices, however, this appears to be the norm, irrespective of the fact that a large percentage of clients are non-citizens.

Each case involving a non-citizen takes extra time to handle. Additionally, it makes sense that more cases will be tried once clients are advised of the true consequences of a proposed plea bargain. Defense and immigration attorneys need to continue to partner to formulate the most effective plea deals for their common clients and to avail themselves of each other's expertise.

Ginger Jacobs is a founding member of Jacobs & Schlesinger LLP, a full-service immigration and appellate law firm in San Diego. Her practice specializes in employment, family, investor-based, asylum, and Violence Against Women Act cases, removal cases in Immigration Court, and consular processing through U.S. embassies and consulates abroad.

Linda Pollack is a former public defender and is now a sole practitioner in San Diego, focusing on post-conviction work to eliminate immigration consequences of criminal convictions. Her practice also includes criminal defense, personal injury and part-time work for FEMA, deployed to disasters as an attorney.

Bench to Bar

by Barrie J. Roberts

Riverside Mediators Appointed to State Bar Alternative Dispute Resolution (ADR)

I am happy to announce that four members of the court's Civil Mediation Panel have been appointed to the State Bar's ADR Committee for three-year terms.

The appointees are Robert Andersen, J.E. Holmes, James Spaltro and Madeline Tucci Tannehill. Their terms begin on October 14, 2012, at the conclusion of the 2012 State Bar Annual meeting. For background information on our new appointees, please see adr.riverside.courts.ca.gov/adr/civil/panelist.php.

The committee is made up of approximately 25 members and has six subcommittees, including Standards and Ethics, Legislation, Appointments, Education, International and National Issues.

It meets about nine times a year to:

- analyze and comment on proposals relating to ADR;
- draft proposals relating to ADR for consideration by the Board of Governors;
- identify issues concerning the relationship of ADR to the practice of law, the administration of justice and improving access to justice;
- plan and administer educational programs relating to ADR; and
- encourage lawyers involved in ADR to become active participants in the State Bar.

Bob, J, Jim and Madeline will be joining Tim Corcoran, who has served on the committee for the past year and who, as of August 1, is now a full-time neutral in JAMS' Ontario office.

According to Tim, the committee's current issues include mediation confidentiality and continuing education in ADR for the courts and the bar. Confidentiality is an especially delicate issue, and new legislation on this issue is working its way to the governor.

Asked why they applied to this committee, all four new members said they look forward to representing Riverside's growing ADR community and raising concerns that affect Riverside.

J.E. Holmes looks forward to "giving voice" to the concerns of part-time volunteer mediators who support the court and bar settlement programs and to sharing information about Riverside's programs as examples for consideration statewide.

Jim Spaltro is particularly interested in how budget cuts could create a more important role for ADR: "This is going to be a crucial time for ADR issues and education."

And Madeline Tucci Tannehill spoke for all four by saying, "I look forward to contributing to the bar's vision and future for mediation."

Bob, J, Jim, Madeline and Tim have generously agreed to meet this fall with Judge Gloria Trask, the court's ADR Chair, court ADR panelists, and attorneys interested in the committee's work. I will announce the date and time of that meeting in the court's ADR newsletter. Please contact me if you would like to be added to the newsletter mailing list.

Congratulations and thanks to Bob, J, Jim and Madeline!

Barrie J. Roberts is the ADR Director of the Riverside County Superior Court. She can be reached at barrie.roberts@riverside.courts.ca.gov.

Asylum in America

by Adriana Sanchez

Every day, men and women from all over the world flee their homelands due to political, social, religious, or ethnic persecution. Many of them set out for America, the land of the free, with the intention of finding safety, hope, and opportunity in the form of asylum. As soon as asylum-seekers set foot in the U.S., they must convince immigration officials that they have a credible fear of returning to their native countries or face immediate deportation. If they are able to clear the credibility hurdle, the likely next step is for them to be arrested and immediately taken to a detention facility. What follows next is often months of paperwork and legal hearings.

In order to be granted asylum, an asylum-seeker has the burden of proof to establish past persecution or a well-founded fear of future persecution. (8 C.F.R. § 208.13(b).) Although "persecution" is not defined in the Immigration and Nationality Act, case law "characterizes persecution as an extreme concept, marked by the infliction of suffering or harm . . . in a way regarded as offensive." (*Li v. Ashcroft* (9th Cir. 2004) 356 F.3d 1153, 1158 [en banc] [internal quotation marks omitted]; see also *Li v. Holder* (9th Cir. 2009) 559 F.3d 1096, 1107.) In addition to establishing persecution, the asylum-seeker must show that the source of the persecution is the government, a quasi-official group, or persons or groups that the government is unwilling or unable to control. (See *Avetovo-Elisseva v. INS* (9th Cir. 2000) 213 F.3d 1192, 1196.) Asylum-seekers make their case through credible and detailed testimony and objective, third-party research and documentation. Sometimes, their case is supplemented by medical and psychological evaluations and reports.

There are many examples of past persecution that an asylum-seeker can show in order to be granted asylum, the most obvious being physical harm and threats to one's life or freedom. However, in the past decade or so, there has been an often-seen, but not often-talked-about, form of persecution prevalent among women seeking asylum. This persecution is a practice called female circumcision, also known as female cutting and/or female genital mutilation (FGM). This practice is defined as "all procedures that involve partial or total removal of the external female genitalia, or other injury to the female genital organs for non-medical reasons." ("Female genital mutilation," World Health Organization, February 2012, available at who.int/mediacentre/factsheets/fs241/en.) FGM is typically carried out on girls from a few days old to puberty, without anesthesia, using a knife, razor, or scissors; the procedure is sometimes performed by women in the family, village, or tribe. According to the World Health Organization, FGM is practiced in western, eastern, and northeastern Africa and parts of the Middle East. ("Eliminating Female Genital Mutilation" World Health Organization, 2008, pp. 4, 29-30, available at whqlibdoc.who.int/publications/2008/9789241596442_eng.pdf.) Many of the women who end up at our borders seeking asylum hail from these parts of the world and have endured this horrific procedure.

Any attorney representing a female asylum-seeker who has endured FGM should be aware that it is well-settled in the Ninth Circuit that female circumcision constitutes past persecution sufficient to warrant the granting of asylum. (*Benyamin v. Holder* (9th Cir. 2009) 579 F.3d 970, 974.) "There is no doubt that the range of procedures collectively known as female genital mutilation constitutes persecution sufficient to warrant asylum relief." (*Id.* at p. 976.) Many of the other circuit courts have agreed. (See *Haoua v. Gonzales* (4th Cir. 2007) 472 F.3d 227, 231-232 [affirming that female genital mutilation constitutes persecution within the meaning of the Immigration and Nationality Act]; *Niang v. Gonzales* (10th Cir. 2005) 422 F.3d 1187, 1197-1198 [same]; *Abay v. Ashcroft* (6th Cir. 2004) 368 F.3d 634, 638 [same]; *Abankwah v. INS* (2d Cir. 1999) 185 F.3d 18, 23 [same].) Since past persecution alone is sufficient for a grant of asylum (*Matter of Chen* (BIA 1989) 20 I&N Dec. 16), the case should be considered a nearly automatic win.

Though the particular type of persecution suffered by an asylum-seeker will vary, asylum-seekers are united in their need for help. Many of these men and women have no concept of what immigration laws are or what the immigration process entails. Unlike the American criminal process, wherein an indigent defendant has a Sixth Amendment right to have a free lawyer, free legal counsel is not provided to an asylum-seeker. A fortunate few have contacts in America who can retain private legal counsel; however, most asylum-seekers are indigent and alone and have little or no access to free legal representation. Many of them do not speak English and would find it impossible even to fill out the forms required for a grant of asylum, let alone to make sophisticated legal arguments about the merits of their case. Making a successful asylum claim without an attorney is virtually impossible, particularly for those who remain detained.

Despite this grim picture, there is a source of light for asylum-seekers, and it comes in the form of pro bono legal representation. There are various organizations

(including Casa Cornelia Law Center based in San Diego, casacornelia.org) that provide free counsel to those seeking asylum at each step of their immigration proceedings, from the initial screening interview to a merits hearing, at which the ultimate decision is made regarding whether or not asylum will be granted. These organizations also provide training for private attorneys who want to assist in representing asylum-seekers pro bono. The need for pro-bono attorneys is great, so once attorneys have been trained, they are soon thereafter handed their first prescreened client, and off they go. Though it may seem daunting to enter a new field of law, the experience is unparalleled and the reward is great – oftentimes life-changing.

Adriana Sanchez is a litigation associate in the Special Districts practice group at Best Best & Krieger LLP in San Diego, California. She has handled two pro bono cases through Casa Cornelia, both of which resulted in grants of asylum.

Volunteers Needed

Experienced Family Law and Criminal Law Attorneys are needed to volunteer their services as arbitrators on the RCBA Fee Arbitration Program.

If you are a member of the RCBA and can help, or for more info, please contact Lisa at (951) 682-1015 or feearb@riversidecountybar.com.

Bi-National Same-Sex Couples Present Another Challenge to DOMA

by Christopher J. Buechler

Of the 1,138 federal benefits bestowed upon married couples that are denied to same-sex married couples because of the Defense of Marriage Act (DOMA), perhaps the one with the potential to cause the most heartbreak is the inability of a citizen spouse to sponsor a non-citizen spouse for immigration benefits. If the federal government were so inclined, it could commence deportation proceedings against the non-citizen spouse and leave the couple without an easier way to resolve the situation that is available to their married heterosexual counterparts. Of course, as with so many other federal and state benefits denied to married or partnered same-sex couples, these couples often have to turn to attorneys, either to challenge the law on equal protection or due process grounds, or to develop legal workarounds to these dilemmas to solve the problems at hand as they occur.

Keep in mind that hiring an attorney is a costly solution for a group that is already on the brink of economic peril. With no federal employment protection extended to LGBT individuals, it is still legal in 29 states to discriminate against someone in employment based on sexual orientation.[1] These people are also vulnerable to gift and inheritance tax when their spouse or partner dies. And without marriage equality in many states, there is a significant lack of divorce equality, which can have devastating impact on a same-sex partner who puts him or herself in an economically vulnerable position for the sake of the relationship. This is all on top of the immigration issue, which is preventing one spouse from working in this country legally.

But even with all these legal and financial troubles lurking around every corner for same-sex couples throughout the nation, recent changes and challenges to federal policy from the executive and judicial branches are letting bi-national same-sex couples breathe a small sigh of relief.

DOMA in Executive Limbo

In February 2011, President Obama took a very rare course of action and announced that the Justice Department would no longer defend DOMA against constitutional challenges. In those rare cases where the President declines to defend a federal law, the House of Representatives can step in. In this case, the House has stepped in and retained outside counsel to defend the law in court. So far, the outside counsel has not been very successful, as federal courts keep agreeing with the Obama administration and striking down DOMA as unconstitutional.

Along with defending federal laws in court, though, the president is also charged with enforcing these laws through various executive agencies. In this area of executive power, too, there is also a glimmer of hope for bi-national same-sex couples, because around the time the Obama administration announced it would not defend DOMA in court, it was also handed another policy setback when Congress declined to pass the Development, Relief and Education for Alien Minors (DREAM) Act, which would have provided permanent residency to certain illegal aliens who grew up in this country and met certain requirements. In June 2012, President Obama announced that his administration was shifting immigration enforcement priorities to essentially relieve the intended beneficiaries of the DREAM Act from deportation. This is keeping in line with the administration's stated priority of pursuing and deporting immigrants who commit other crimes and pose a real danger to our nation's security, rather than go after otherwise law-abiding immigrants. Although US Citizen and Immigration Services is still turning away same-sex spousal applications, it is fair to predict that same-sex partners who fit into the latter category of immigrants would also enjoy the same enforcement foot-dragging as seen with the DREAM Act as the constitutional challenge against DOMA goes forward.

DOMA in Judicial Limbo

DOMA has faced many challenges in federal court on issues relating to one or more of the 1,138 federal marriage benefits, including immigration, bankruptcy, military and veterans' benefits, federal employee benefits, and federal estate tax for surviving spouses. Massachusetts (where there is marriage equality) has argued that DOMA oversteps the federal government's limited powers and intrudes upon state authority to define marriage. These cases have produced mixed results, but the most recent federal cases show a trend: district courts are striking

1 Human Rights Campaign, "Employment Non-Discrimination Act" at hrc.org/laws-and-legislation/federal-legislation/employment-non-discrimination-act.

down DOMA on the grounds that Section 3, which defines marriage as between "one man and one woman," violates the equal protection clause of the Fifth Amendment and does not stand up to even rational basis scrutiny. Because of the wide variation in district court rulings, both sides have been pressing the Supreme Court to take up the issue, and we could expect to see the issue addressed in the upcoming term.

While all of this executive and judicial action (or inaction) is providing some reprieve to bi-national same-sex couples, there is still a cloud of uncertainty looming overhead. I do not know if anyone expects DOMA or similar legislation to lead to the eradication of homosexuality or the dissolution of already existing same-sex couples, but it is putting LGBT people through the emotional and economic wringer when it comes to immigration or any of the other 1,137 federal benefits denied to them.

Christopher J. Buechler, a member of the publications committee, is a sole practitioner based in Riverside with a focus on family law.

Overview of the Inadmissibility and Removability Process

by Kelly O'Reilly

Despite many misconceptions about immigration law, it is one of the most complex and vibrant parts of the American legal system. With the influx of immigrants coming to the United States during the past 200 years, the government has gradually become leery of the undesirable byproducts of immigration: poverty, crime, health concerns, illiteracy, security threats, and violations of the immigration laws and regulations. Over time, the government has had to come up with reasons for keeping aliens from coming to the United States or removing those who could not obey the laws. These are known as inadmissibility or removability grounds.

In their most basic form, inadmissibility grounds are reasons for preventing undesirable aliens from entering the United States. Some of the inadmissibility grounds include health issues, criminal record, security concerns, and immigration violations. The inadmissibility grounds can be invoked against non-immigrants and green card holders alike. Removability grounds, on the other hand, apply to individuals who have been admitted to the United States but who later violated some aspect of the immigration laws and regulations. Many of them are similar to the inadmissibility grounds.

The laws governing removability and inadmissibility are complex and subject to change, especially in light of ever-developing immigration case law. Existing legal precedent cases vary, depending on the jurisdiction where the specific violation is committed. This is particularly true when dealing with criminal violations. The time when the offense was committed, the nature of the crime, and the actual sentence and the term of imprisonment can make the difference in whether the violator gets to stay in the United States or is ordered to return to his or her native country. In fact, a person sentenced to 364 days in jail may have relief available in removal proceedings, but a person sentenced to 365 days in jail may not. In some instances, a relatively benign misdemeanor offense for which the perpetrator received an insignificant jail sentence may nonetheless subject the person to harsh immigration consequences because of the nature of the underlying offense. This is especially true when the crime involves domestic violence, child abuse, controlled substances, or alien smuggling or harboring.

The commission of a crime involving moral turpitude is the most common criminal ground of inadmissibility or removability. A crime involving moral turpitude is a crime that is innately base, vile, morally reprehensible, or depraved. Crimes of moral turpitude go against the accepted mores of the society – they are per se wrong ("malum in se"). Crimes involving moral turpitude (depending on the law of the jurisdiction in question) include: (1) crimes against the person (child or spousal abuse, kidnapping, murder or voluntary manslaughter, aggravated battery), (2) sexual crimes (rape, incest, lewdness), (3) crimes against property (arson, blackmail, receiving stolen property, grand theft, larceny), and (4) crimes against the government (bribery, false statements, perjury, welfare fraud, tax evasion, mail fraud). In addition, practically all drug offenses, other than simple possession of 30 grams or less of marijuana, are inadmissibility grounds, regardless of whether they are crimes of moral turpitude.

Individuals subject to inadmissibility or removability may be able to apply for a waiver or relief from removal. These can be sought either before the Department of Homeland Security or, if the person is already in removal proceedings, before an immigration judge. Many applications will be predicated on factors such as having a close relative who is a U.S. citizen or lawful permanent resident, lengthy residence in the United States, conditions in the alien's homeland, and prior immigration history.

In some instances, aliens will have to demonstrate what is known as extreme hardship to their qualifying relatives before they are allowed to stay in the United States. Many crimes involving moral turpitude can be waived or forgiven through a showing of extreme hardship. In determining whether the requisite extreme hardship has been shown, the immigration judge or immigration officer will balance negative and positive factors in the alien's life. Negative factors may include criminal record, prior immigration violations, other evidence of poor moral character, and overall undesirability. Positive factors, as defined by case law, include family ties, evidence of employment, property and community ties, hardship to family members, long-term residence in the United States, service in the U.S. armed forces, and evidence of rehabilitation.

A few words about the immigration court proceedings, which are administered by the Executive Office

for Immigration Review, a part of the Department of Justice. A removal proceeding commences when the Department of Homeland Security serves upon the court a Notice to Appear (NTA). The NTA is a document that informs the alien, among others, of the nature of proceedings, the alleged immigration violations, the right of representation (at no expense to the government), the time and place of hearing, and the consequences of failure to appear for hearing (which are severe). The NTA also includes the alien's name or alias and the alien's administrative number, commonly referred to as "A" number.

Once the allegations and charges listed on the NTA are resolved and it is determined that the alien is in fact subject to removal from the United States, the alien may apply in the removal proceedings for any relief that may be available to him or her, including permission to depart voluntarily. If no relief is available, the alien will be ordered removed. As part of the relief process, the alien can present documentary and testimonial evidence. At the alien's final hearing (known as the "merits" or "individual" hearing), the immigration judge will determine the alien's statutory and discretionary eligibility for the requested relief. The average immigration court case consists of three to five hearings and will last about two and a half years.

Please see Mr. O'Reilly's profile on page 24.

Reaffirming Federal Control Over Immigration

by Erwin Chemerinsky

In one of the most important and closely watched cases of the term, the Supreme Court declared unconstitutional key portions of Arizona's controversial immigration law, SB 1070. In doing so, the court sent a clear message to the states: immigration is controlled by the federal government, and efforts by states to deal with illegal immigration are likely preempted by federal law.

SB 1070, titled, "Support Our Law Enforcement and Safe Neighborhoods Act," was enacted in 2010. The preamble to the law states that its purpose is to decrease the number of undocumented immigrants in Arizona. The preamble also says that the goal is make "attrition [of undocumented aliens] through enforcement the public policy of all state and local governments in Arizona." The legislative history makes clear that Arizona believes that illegal immigration imposes substantial costs on the state and that it should be able to assist the federal government in enforcing federal immigration enforcement efforts.

In the summer of 2010, United States District Court Judge Susan Bolton issued a preliminary injunction as to four key provisions of SB 1070. One provision of SB 1070 that was enjoined, Section 2, requires state and local officers to verify the citizenship or alien status of people arrested, stopped, or detained. Section 2(B) provides that "[f]or any lawful stop, detention or arrest made" by Arizona law enforcement, "where reasonable suspicion exists that the person is an alien and is unlawfully present in the United States, a reasonable attempt shall be made, when practicable, to determine the immigration status of the person."

The second provision that Judge Bolton found to be preempted, Section 3, makes it a crime in Arizona for a person to be unlawfully in the United States and to fail to register with the federal government. It requires that non-citizens carry registration papers showing that they are lawfully in the United States.

The third provision before the Supreme Court, Section 5, makes it a crime in Arizona for a person who is not lawfully in the United States to work or seek work in the state. Section 5(C) makes it a misdemeanor for "a person who is unlawfully present in the United States and is an unauthorized alien to knowingly apply for work, solicit work in a public place or perform work as an employee or independent contractor in this state."

The final provision found to have been preempted, Section 6, authorizes state and local police to arrest without warrants when "the officer has probable cause to believe . . . [t]he person to be arrested has committed any public offense that makes the person removable from the United States."

In 2011, the United States Court of Appeals affirmed Judge Bolton in a 2-1 decision. On Monday, June 25, 2012, the Supreme Court, in a 5-3 ruling, affirmed almost all of Judge Bolton's preliminary injunction. Justice Kennedy wrote for the majority and was joined by Justices Roberts, Ginsburg, Breyer, and Sotomayor. Justice Kagan was recused.

Justice Kennedy began by accepting the argument of the United States that immigration is solely in the control of the federal government. Anything done with regard to immigration has foreign policy implications, and states cannot have their own foreign policy. The court quoted its 1941 ruling, in *Hines v. Davidowitz*, 312 U.S. 52, that states cannot "contradict or complement" federal immigration efforts.

The court affirmed three parts of Judge Bolton's preliminary injunction, finding unconstitutional as preempted by federal law the provisions of SB 1070 that require non-citizens to carry papers at all times showing that they are lawfully in the country, that prohibit those not lawfully in the country from seeking or receiving employment in Arizona, and that allow police to arrest individuals without warrants when there is probable cause that they are deportable.

The court reversed the preliminary injunction as to the provision that allows police to question individuals about their immigration status if they are stopped for other reasons and if there is reasonable suspicion that they are not lawfully in the United States. Even this provision was substantially narrowed, as the court held that police cannot extend the duration of a stop to check immigration statute and also that state and local police cannot arrest individuals whom they determine to be illegally in the country. Moreover, the court left open the possibility of an "as applied" challenge to this provision of SB 1070 if it could be shown that it was being applied in a racially discriminatory fashion.

The decision is a clear message to state governments that laws like SB 1070 are unconstitutional because they intrude on the federal government's exclusive power to control immigration. The one part of the preliminary injunction reversed by the Supreme Court has potentially

very troubling implications. Realistically, it seems inevitable that police will decide whom to question about immigration status based on surname and skin color. A white person named Chemerinsky is not going to get asked to show immigration papers, but a person with brown skin named Lopez or Hernandez seems sure to be asked to show that he or she is lawfully in the country. But that challenge, which was expressly left open by Justice Kennedy's opinion, will need to wait until another case.

Many states have adopted laws like Arizona's, including Utah, Indiana, Georgia, South Carolina, and Alabama. Many of these statutes were directly patterned on Arizona's SB 1070. *Arizona v. United States* makes clear that these laws are unconstitutional. Immigration is for the federal government, not the states, to control.

Erwin Chemerinsky is Dean and Distinguished Professor of Law, University of California, Irvine School of Law.

Project Graduate Needs Volunteers to Mentor Foster Youth

With the start of the new school year, Project Graduate, an official program of the Riverside County Bar Association, needs volunteers to serve as mentors and educational representatives for 20 foster youth attending high school in the Riverside area who are at risk of not graduating. Last year, Project Graduate's RCBA volunteers worked with four students. Three of them are making substantial progress; one has graduated and is now enrolled in college. To find out how you can help a high school student in the foster system complete high school and develop a plan for her or his future, contact Brian Unitt at (951) 682-7030 or brianunitt@holsteinlaw.com, or Mona Nemat at (951) 826-8215 or Mona.Nemat@bbklaw.com.

The process of becoming a mentor or educational representative for these students is straightforward, involving a background check, a short training program, and appointment by the judicial officer who oversees the Education Court program.

If you can't take on the role of a mentor or an educational representative, there are also opportunities to help out on the steering committee, including helping to organize and present special activities such as Career Day, keeping track of resources to help education representatives do their work, coordinating volunteer recruiting and training, raising funds for the student incentive program, and many other activities.

Opposing Counsel: Kelly Shane O'Reilly

by L. Alexandra Fong

Helping the American Dream

Kelly O'Reilly, the son of Michael and Lavern, was born in Fresno, in Central California, where he grew up working in his father's restaurant. He graduated from Lemoore High School, just south of Fresno, and embarked on a two-year mission to Hong Kong for his church, the Church of Jesus Christ of Latter-Day Saints.[1] While in Hong Kong, he learned to speak Cantonese, which he can still speak to this day.

Kelly O'Reilly

After returning from his mission, he attended Brigham Young University, where he graduated with a degree in psychology. While at BYU, he decided to become an attorney, and he returned to his California roots by attending the University of La Verne College of Law.

While in law school, Mr. O'Reilly began working for the Immigration and Naturalization Services (INS) as a District Adjudications Officer in Orange County.[2] As a District Adjudications Officer, he interviewed applicants seeking permanent residency through family and employment-based applications, as well as those seeking U.S. naturalization. Based on this work experience, he grew to enjoy immigration law and decided to practice exclusively in this field upon graduation.

After graduating from the University of La Verne College of Law and passing the bar exam in 1999, he began looking for an attorney position at a firm specializing in immigration law. He received a job offer from Reeves & Associates in Pasadena, which he immediately accepted. He considers himself fortunate to have worked for such a large, established firm, as the managing partner allowed him to perform all facets of immigration law, from client intake and consultation to the administrative side of running a law firm.

For four years, Mr. O'Reilly commuted daily from Corona, where he continues to reside, to Pasadena. He worked with many attorneys at Reeves & Associates, including his current business partner, Richard Wilner, who was commuting similarly from Tustin to Pasadena. After growing tired of the commute and the time spent away from their respective families, they began plans for their own firm and found an ideal location on the border of Orange and Los Angeles Counties.

In 2003, Wilner & O'Reilly opened in Cerritos, bringing together two top-rated attorneys recognized for their knowledge and ability in the field of immigration law to create one of the finest Southern California immigration law firms. Together, they lead a team of established lawyers and legal professionals serving clients on a local, national, and international level. In 2005, the firm expanded and opened two new offices in Riverside and Santa Ana. In 2011, it expanded further and opened an office in Salt Lake City, Utah.[3]

Mr. O'Reilly believes that "immigration law is a dynamic area of law and deceiving to most practitioners, in that most practitioners think of immigration law as a couple who crosses the border and comes to the office and needs help, which is a simplistic view of our field." In fact, "immigration law embraces multiple areas of law, i.e., corporate, business and even family law." The work includes "foreign labor requests and individuals who work and need a visa, employer compliance issues, I- 9's, wage and hour claims, and claims for asylum." In immigration law, one works with multiple administrative agencies, the Department of Justice, Department of Homeland Security, Department of Labor, State Department, and more.

Mr. O'Reilly also believes that "immigration law is a win-win situation. When helping a client, no one has to lose in order for the client to get what he needs."

Wilner & O'Reilly is very popular in the entertainment and film industry, as well as the fight leagues. The firm represents families seeking the American dream, corporate clients, from small business owners to Fortune 500 companies, and prominent figures of extraordinary ability in the arts, entertainment, and athletic fields. Representative clients include Fisher & Paykel Appliances, KSL Resorts, Affliction Clothing, Explosion Entertainment, LLC, Manny Pacquiao, Fedor Emelianenko, Gracie Barra, M- 1 Global, Fabricio Werdum, the Black Eyed Peas, Cypress Hill, USA Triathlon, Team Subaru, Ultimate Fighting Championship, and Mixed Martial Arts. The firm also provides pro bono legal services on behalf of active duty members of the United States military and members of law enforcement.

1 Throughout its history, over one million missionaries have been sent on missions.

2 The INS is now called the U.S. Citizenship and Immigration Services (USCIS).

3 The firm also had an office in Burbank, staffed by an associate. The office closed when the associate opened his own firm.

Professionally, Mr. O'Reilly is the chair of the RCBA's Immigration Section and a member of the J. Reuben Clark Legal Society and the American Immigration Lawyers Association, and he is involved with Provisors, a networking group.

He enjoys spending time with his wife and five children. When they travel to various foreign locales, he acts as the travel agent and tour director, booking airfare, determining which hotels to stay at, and deciding on an itinerary. They have travelled to the Caribbean, China, Ireland, Italy, and Korea. He is eagerly planning a trip to England and Turks and Caicos for 2013.

The firm currently has three offices in California and one office in Utah. Additional information about the firm may be found on its website: http://www.wilneroreilly.com.

L. Alexandra Fong, a member of the Bar Publications Committee, is a deputy county counsel for the County of Riverside.

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Deferred Action for Childhood Arrivals

by Michael Wang

On June 15, 2012, the Department of Homeland Security (DHS) announced that certain people who came to the United States as children and meet several key guidelines may request consideration of deferred action. DHS began accepting applications on August 15, 2012. There is no deadline presently set to file the applications. This initiative allows persons who came to the United States as children before their 16th birthday to remain in the United States. Young people who do not present a risk to national security or public safety and meet key criteria will be considered for relief from removal from the U.S. Additionally, DHS will grant work authorization in two-year increments.

Eligibility for deferred action requires that an applicant:

1. Entered the United States before reaching his/her 16th birthday;

2. Resided continuously in the United States from June 15, 2007 to the present;

3. Was under the age of 31 as of June 15, 2012;

4. Entered without inspection before June 15, 2012 (or that his/her lawful immigration status had expired as of June 15, 2012);

5. Is currently in school, graduated or obtained a certificate of completion from high school, obtained a GED, or was honorably discharged from the U.S. military or Coast Guard;

6. Has not been convicted of a felony, a significant misdemeanor (including a DUI), or three or more misdemeanors and does not otherwise pose a threat; and

7. Was present in the U.S. on June 15, 2012 as well as at the time of making the request for deferred action.

"Our nation's immigration laws must be enforced in a firm and sensible manner," said Secretary Napolitano. "But they are not designed to be blindly enforced without consideration given to the individual circumstances of each case. Nor are they designed to remove productive young people to countries where they may not have lived or even speak the language. Discretion, which is used in so many other areas, is especially justified here."

Deferred action applications must be accompanied by a $465 filing fee. This fee will include the fee for the employment authorization. While a grant of deferred action does not excuse previous immigration violations, persons who are granted deferred action will be eligible to apply for advanced parole, a travel document that allows them to return to the United States after international travel. Even persons who are subject to final orders of removal (deportation) are eligible to apply for this relief, if otherwise eligible.

USCIS Director Mayorkas has emphasized that persons who submit fraudulent applications and/or misrepresent their eligibility will be treated with the highest enforcement priority and subject to criminal prosecution. Detailed information regarding deferred action can be found at uscis.gov/childhoodarrivals.

Michael Wang is as an associate attorney at Wilner & O'Reilly. Mr. Wang is responsible for preparing clients and accompanying them to USCIS for both family and employment-based adjustment of status interviews, naturalization interviews, and N- 336 appeals. In addition, he prepares motions to reopen/reconsider and waivers and appeals to USCIS, the Administrative Appeals Office, and the Board of Immigration Appeals.

The Cantor-Adams Bill: On Gutting VAWA

by Sara Mostafa-Ray

On April 26, 2012, the Senate passed the Violence Against Women Reauthorization Act by a vote of 68 to 31. The Act made several changes to the Violence Against Women Act (VAWA), expanding protections for Native American, lesbian, gay, bisexual and transgender (LGBT), immigrant and other victims of domestic violence (DV). On April 27, 2012, House Republicans introduced their own version of VAWA reauthorization that left out the protections promulgated by the Senate's version of the bill and undermined many of the hard-won protections that the current law provides. This Cantor-Adams version of VAWA (the "Cantor-Adams" bill), named after House Majority Leader Eric Cantor and the bill's sponsor, Congresswoman Sandy Adams, marks the first time that a VAWA reauthorization rolls back, rather than expands, protections for DV victims. This article discusses some of the ways in which the Cantor-Adams bill undercuts immigration law protections for noncitizen DV survivors.

Normally, if you are a spouse, child or parent of a U.S. citizen (USC) or a spouse or child of a legal permanent resident (LPR), the USC or LPR has to file a petition on your behalf with United States Citizenship and Immigration Services (USCIS) and must accompany you to an interview with immigration authorities for you to obtain lawful permanent resident status in the U.S.

If you have been married for less than two years when your spouse files a petition on your behalf, you become a "conditional permanent resident," and the condition may not be removed, such that you become a full LPR, until you and your spouse file a joint petition to remove the condition within 90 days after the end of two years of marriage.

In abusive relationships, these requirements for participation of the USC or the LPR are used by batterers as a form of abuse, allowing batterers to wield power and control over their victims by threatening to jeopardize their victims' immigration statuses. Enacted in 1994, VAWA allows victims of abuse (women and men) who are not citizens of the U.S. to self-petition for legal status without any involvement of their abusers. These VAWA petitions are adjudicated at USCIS's Vermont Service Center by highly-trained DV specialists.

The Cantor-Adams bill would allow an accused abuser to submit evidence in rebuttal of the victim's evidence during adjudication of the VAWA petition. This would be allowed despite the fact that (i) a VAWA petition does not lead to prosecution of the abuser, (ii) it is exclusively for the benefit of the victim, and (iii) this contravenes USCIS's current effective fraud detection measures. The bill reverses VAWA's confidentiality provisions and exposes victims to danger by having officials contact abusers, tipping them off to the fact that their victims are filing VAWA petitions and are likely preparing to leave.

The Cantor-Adams bill would have local USCIS service centers adjudicate VAWA petitions and require victims to undergo interviews at such local offices, consigning a job that has been the exclusive province of the DV experts at the Vermont Service Center to immigration officers with no DV training.

The U visa, created by the Victims of Trafficking and Violence Protection Act of 2000, provides lawful status to noncitizen crime victims who are assisting or are willing to assist the authorities in investigating crimes. To be eligible for a U visa, you must have a certification from law enforcement or another authority responsible for the investigation or prosecution of crime that you have been, are, or are likely to be helpful in the investigation or prosecution of one of the categories of crimes listed in the U visa statute, including murder, rape, torture, trafficking, slavery and kidnapping. You must also show that you suffered substantial physical or mental abuse from the crime certified.

The Cantor-Adams bill would erect unnecessary barriers to the U visa process, including a requirement that the crime currently be under investigation or prosecution. Law enforcement opposes the restrictions created in the bill, which would subvert the U visa's purpose of encouraging victims to identify covert criminal activity and would thereby reduce prosecutions of dangerous crimes.

The Cantor-Adams bill would abrogate the current law allowing recipients of U visas to apply for lawful permanent residence after three years in the United States with U visa status and subject to various stringent requirements, including a requirement that the applicant's continued presence in the U.S. is justified on humanitarian grounds, to ensure family unity, or is in the public interest. Eliminating the opportunity for survivors to apply for LPR status will deter countless victims of crime from stepping forward, resulting in fewer prosecutions.

VAWA was reauthorized in 2000 and 2005 without fanfare. This is the first time that the bipartisan law, which has historically united lawmakers in the common goal of

protecting DV survivors and encouraging their cooperation with law enforcement, has been saddled with politics. Congressmen and women have ceased to represent their constituents when a political power struggle, embodied in a bill fraught with injustice towards immigrants and certain minority groups, attempts to subvert a law that has, for nearly two decades, protected the public from dangerous crimes with great success and no prevalence of fraud or misuse.

Sara Mostafa-Ray has served as a legal educator for a domestic violence legal agency, training the personnel at various institutions on the Violence Against Women Act. She earned her law degree from the UCLA School of Law and her bachelor's degree, magna cum laude, from the University of Pennsylvania. Licensed to practice law in California and Hawaii, Sara is a freelance attorney affiliated with Montage Legal Group, a national network of former Biglaw attorneys.

Membership

The following persons have applied for membership in the Riverside County Bar Association. If there are no objections, they will become members effective September 30, 2012.

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Riverside County Bar Association
4129 Main St., Ste. 100, Riverside, CA 92501
RCBA 951-682-1015 LRS 951-682-7520
www.riversidecountybar.com rcba@riversidecountybar.com