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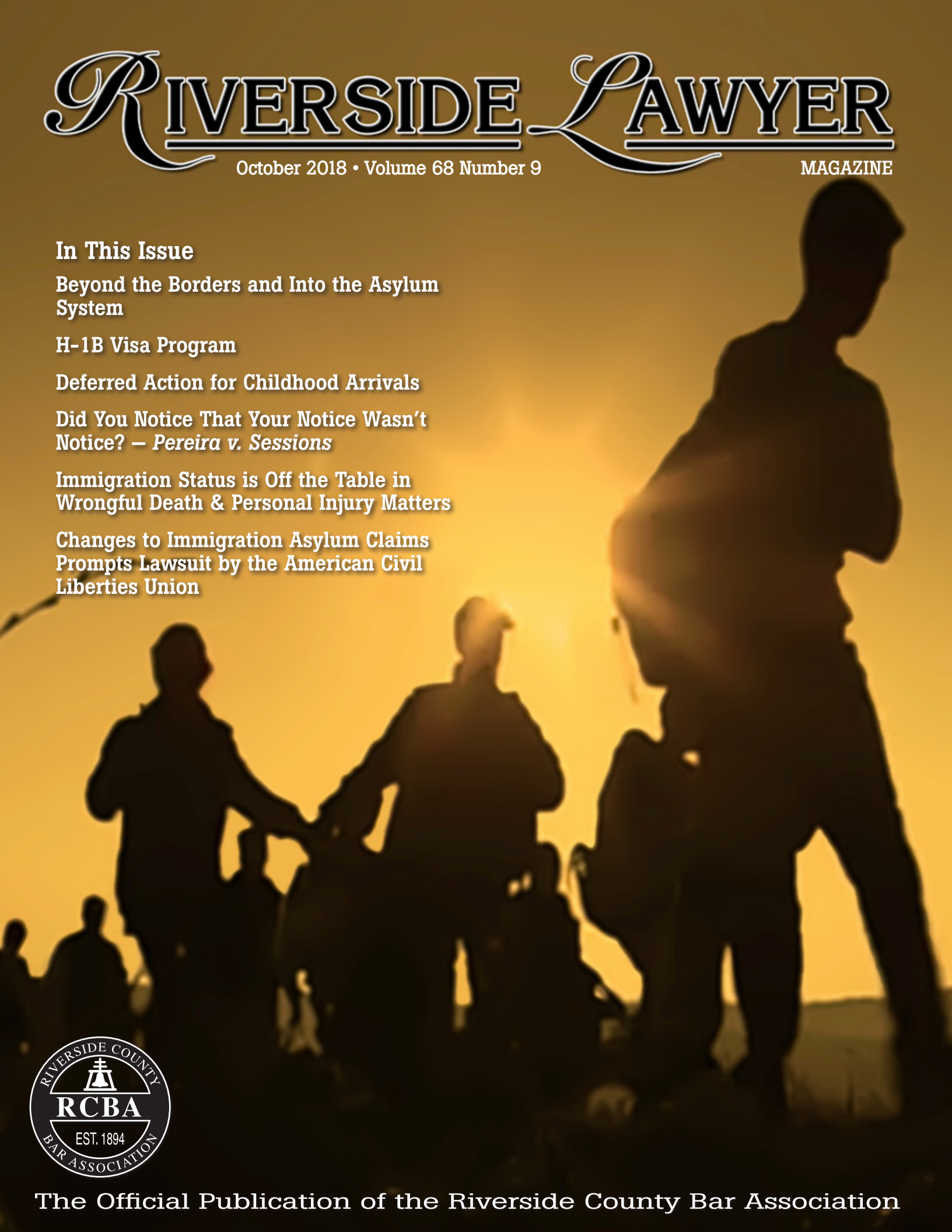
MAGAZINE

In This Issue



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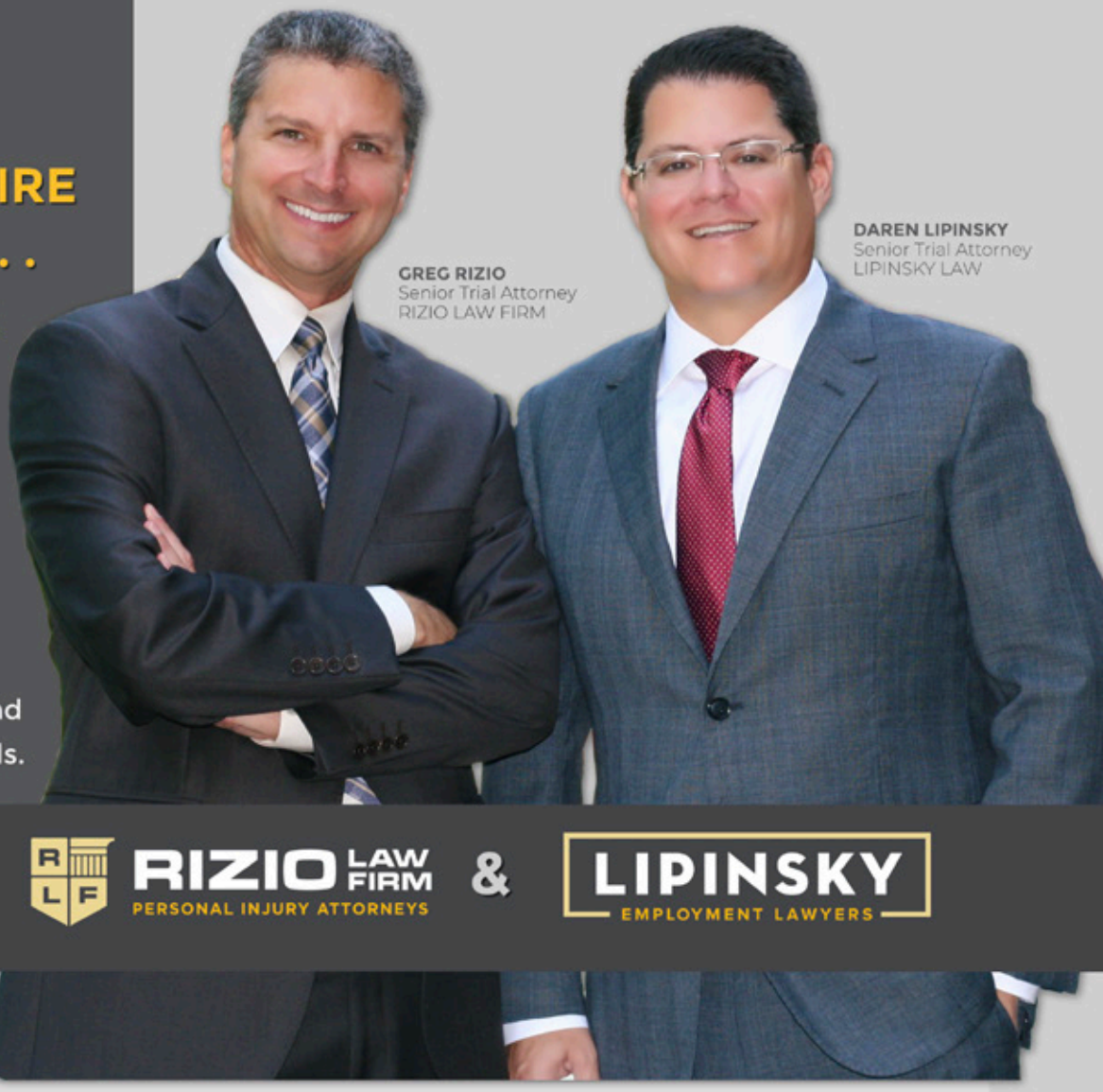

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RIVERSIDE LAWYER MAGAZINE

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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), Riverside Legal Aid, Fee Arbitration, Client Relations, Dispute Resolution Service (DRS), Barristers, Leo A. Deegan Inn of Court, Mock Trial, State Bar Conference of Delegates, Bridging the Gap, and the RCBA - Riverside Superior Court New Attorney Academy.

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, 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.

The 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 the* Riverside Lawyer.

The material printed in the 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

October

9 **Civil Litigation Section**
Noon – 1:15 p.m.
RCBA Gabbert Gallery
Speaker: Kelly Allen, CPA
Topic: "Business Valuation in a New Tax Era"
MCLE – 1 hour General

10 **Criminal Law Section**
Noon – 1:15 p.m.
RCBA Gabbert Gallery
Speaker: Darryl Exum
Topic: "Elements of an Excellent Closing"
MCLE – 1 hour General

12 **General Membership Meeting**
Noon – 1:15 p.m.
RCBA Gabbert Gallery
Speaker: Gerald Fineman, Chief Deputy District Attorney
Topic: "Strangulation Matters"
MCLE – 1 hour General

Project Graduate Educational Representative Training
2:00 p.m. to 4:00 p.m.
RCBA Offices
RCBA Boardroom (1st Floor)
Information-Contact Brian Unitt at 951.682.7030
or brianunitt@holsteinlaw.com

16 **Family Law Section**
Noon – 1:15 p.m.
RCBA Gabbert Gallery
Speakers: Judge Gail O'Rane and NaKesha Ruegg
Topic: "Ethics Update: New & Revised Rules of Professional Conduct"
MCLE – 1 hour Legal Ethics

18 **Solo Small Firm Section**
Noon – 1:15 p.m.
RCBA Gabbert Gallery
Speaker: Judge Randall Stamen
Topic: "Tips on the Road to the Bench from a Former Solo"
Topics include "How to Prepare Yourself to Become a Judicial Officer"
MCLE – 1 hour General

25 **Dispute Resolution Service CLE Course**
11:30 – 1:30 p.m.
RCBA Gabbert Gallery
Speaker: Dr. Carlos Cortes, UCR Professor Emeritus
Topic: "Privilege and Diversity"
DRS Panelists – Free
Others - $40
Lunch Provided
MCLE – 1.50 hour Recognition & Elimination of Bias

EVENTS SUBJECT TO CHANGE.
For the latest calendar information please visit the RCBA's website at riversidecountybar.com.

President's Message

by Jeff Van Wagenen

I have a confession to make.

When I first heard that the topic for this issue was immigration, I asked myself (facetiously), "What could go wrong?"

Addressing such a controversial and divisive topic — in 2018, (one month before hotly contested national, state, county, and city elections) with readers who get paid to argue for a living — seemed to me to be an idea fraught with peril. I worried that wandering into this area, no matter how deftly handled by our talented publication committee, was just asking for trouble.

But, then I realized that this was the wrong question. The better one to ask (earnestly) was, "What could go right?"

From the earliest days of our republic, we have been regulating immigration in one way or another. The laws enacted have always reflected the politics and migrant flows of the times and have usually been controversial. Relying heavily on the work of the Pew Research Center, I was reminded that, before our time:

- 1790 saw the first laws to define who could become a citizen, limiting that privilege to free whites of "good moral character" who had lived in the U.S. for at least two years.
- In 1870, the right of citizenship was extended to those of African origin.
- Starting in 1875, a new series of restrictions on immigration were enacted, including bans on criminals, people with contagious diseases, polygamists, anarchists, beggars, and importers of prostitutes. Other restrictions targeted the rising number of Asian immigrants, first limiting migration from China and later banning immigration from most Asian countries.
- By the early 1900s, the nation's predominant immigration flow shifted away from northern and western European nations and toward southern and eastern Europe. In response, laws were passed in 1921 and 1924 to try to restore earlier immigration patterns by capping total annual immigration and imposing numerical quotas based on immigrant nationality that favored northern and western European countries.

And, proving once again the truth of the maxim "what is past is prologue," during our lifetimes we have seen landmark immigration litigation passed in every decade since the 1960's, and always enacted with the goal of solving the challenges of their respective times.

The one constant in the immigration debate, other than the fact there is always debate, is that advocates on the ever-evolving sides have worked to find balance and improve upon the laws that came before them. Regardless of where one sits on the current discussion, we all recognize that the pendulum will continue to swing. And, if 200 years of history has taught us anything, we will continue to get it wrong. (At least future generations will think so, no matter what we do.) But, I take comfort in the fact that there are passionate people on both sides of the argument that will never stop trying to get it right.

Speaking of getting it right — this month the Riverside County Public Defender's office took the extraordinary step of asking the County's Board of Supervisors to create two new positions to better improve their ability to provide legal assistance to non-citizen clients. In 2010, the United States Supreme Court decided *Padilla v. Kentucky,* 559 U.S. 356 (2010), which held that constitutionally adequate assistance of counsel includes giving specific and accurate advice to clients about the immigration and deportation consequences of criminal convictions. In 2015, this obligation was codified in California in Penal Code section 1016.3(a), requiring that defense counsel must "provide accurate and affirmative advice about the immigration consequences of a proposed disposition, and when consistent with the goals of and with the informed consent of the defendant, and consistent with professional standards, defend against those consequences." While the Public Defender's office had a protocol in place that designated a specific attorney in each of its branch offices to research and advise other attorneys on immigration issues, they recognized that they needed to bolster their immigration expertise. The board agreed and appropriated additional funding to add one attorney and one position each dedicated specifically to immigration law.

So, what could go right by addressing such a controversial and divisive topic in 2018, one month before hotly contested national, state, county, and city elections with readers who get paid to argue for a living? The possibilities are endless.

Jeff Van Wagenen is the Assistant County Executive Officer for Public Safety, working with, among others, the District Attorney's Office, the Law Offices of the Public Defender, and the Courts.

Barristers President's Message

by Megan G. Demshki

I will never forget visiting Plymouth with my family as an elementary school student. Always a museum and historical site geek, I dragged my family to all tourist stops. Most memorable for me was Plymouth Rock. Upon our arrival, I was met with such disappointment. "Is that all?" I wondered to myself.

I suppose this was a time when I only knew the simple story of the Pilgrims' arrival in 1620. A happy tale of freedom, promise, and ultimately a Thanksgiving meal. I think I expected a huge hunk of stone sitting majestically on the shore calling the Pilgrims to the promise of freedom.

Reality is tough like that. In an attempt to move Plymouth Rock from its original resting place, it broke in two. Half was left on the shoreline, the other half was moved from place to place, further fractured and pillaged along the way. A part of it was even found serving as a doorstep on a historic home.

In 1880, the traveling portion of Plymouth Rock was returned to its base and mortar was used to put humpty dumpty back together again. Today, Plymouth Rock is estimated to be only a third to half of its original size.

While to a seven-year-old, this rock preserved in a cage-like enclosure was disappointing and underwhelming. Today, I think it tells a more realistic story of the trials and triumphs of our society. Many individuals in our community have the best intentions as they work hard for the betterment of society. Without fail, new struggles and hardships muddle and compromise those plans. We piece things back together in the hope of a better tomorrow. We look for ways to rectify the fractures and do better next time.

In these troubling divisive times, I hope that one day we are able to narrow the divide amongst our citizens and our elected representatives for the collective good. From national topics like immigration, to local concerns like homelessness or MICRA caps, political divisiveness without a willingness to compromise undermines the ideals we hold dear as Americans. Similar to Plymouth Rock, our pieces may not fit back together exactly as they once did. However, our scars will tell our story.

Barristers enjoy Happy Hour at ProAbition

From our founding fathers to leaders on both the right and the left, I hope we can all agree that seeking solutions to managing issues like immigration in a dignified and responsible fashion is paramount to preserving our principles and ensuring our continued success.

Upcoming Events:

- Happy Hour at W. Wolfskill on **Friday, October 12** at 5:30 p.m. We look forward to welcoming Barristers and members of the New Attorney Academy at this Happy Hour following the first academy session of the year.
- Barristers have been invited by the Corona Chamber of Commerce to a young attorney mixer on **Tuesday, October 16** at 5:30 p.m. This event will take place at the Metro at Main Apartments in Corona. Register at www.mychamber.org.
- Barristers and JAMS are teaming up to offer a MCLE event at the JAMS Ontario office (3800 Concours St., Suite 320, Ontario, CA 91764 USA) on **Thursday, October 25** at 5:30 p.m. Hon. Joseph Brisco (Ret.) will be speaking on elimination of bias in the legal profession. Food, drinks and one hour of elimination of bias credit will be offered.
- Learn more about upcoming events by following @ RCBABarristers on Facebook and Instragram, or by visiting our website, www.riversidebarristers.org.

Looking to get involved?

Whether you are eager to start planning the next great Barristers gathering, or just looking to attend your first event, please feel free to reach out to me. I would love to meet you at the door of a Happy Hour, so you don't have to walk in alone, or grab coffee with you to learn more about how you want to get involved. The easiest ways to get ahold of me are by email at Megan@aitkenlaw.com or by phone at (951) 534-4006.

Megan G. Demshki is an attorney at Aitken Aitken Cohn in Riverside where she specializes in traumatic personal injury, wrongful death, and insurance bad faith matters.

Beyond the Border and Into the Asylum System

by Seth Ashton

Recent news has flooded the national media regarding the treatment of people who are attempting to seek safety in the United States. Most of the coverage is dedicated to the family separation and detention of children occurring on the border. For many practitioners in immigration law, however, the news coverage often feels like an important part of an incomplete conversation about an asylum seeker's plight. Getting to the United States is only part of the battle and those who make it beyond the detention centers and into the asylum legal process face a steep, up-hill process; one that will ultimately decide whether they are actually afforded the protection that they seek.

Take, for example, a Guatemalan woman who suffered extreme domestic violence throughout her marriage to a man that would not allow her to leave the relationship. When she sought protection from the authorities in her country, law enforcement refused to help because the problems were viewed as domestic issues between a husband and wife. Since she could not find any meaningful protection in her country, the woman determined that traveling to the United States was the only way to escape without her husband finding her and inflicting further harm. This was the situation for the applicant in the highly litigated and publicized case *Matter of A-R-C-G-*, 26 I. & N. Dec. 388 (B.I.A. 2014). After a long legal battle, she was granted asylum. This very case, however, was overturned by Attorney General Jeff Sessions in a published decision in *Matter of A-B-*, after determining that the case was "wrongly decided."[1]

For years, immigration attorneys have seen similar types of cases; clients who face severe abuse or worse in their countries and who cannot find meaningful protection there. The basic requirements that an applicant must prove begin with a demonstration that the applicant has a subjective and objective fear of direct harm. Even a demonstrable fear of a real and present danger is, however, insufficient by itself to win an asylum claim. The danger must also be one that qualifies as "persecution."

In other words, an applicant cannot relay the terrible circumstances they fled. Instead, the danger that the person fears must be on account of a specific protected ground. This "nexus" between the harm and the protected ground requires that an applicant prove that there is a direct connection between their attacker's motive and a specific trait held by the applicant. An applicant does not just have to prove that an attack happened or could happen; rather they must also show *why*. If an applicant strays too far from this part of the narrative, they will likely find themselves sent back to the country they just fled. As the United States Court of Appeals for the Seventh Circuit stated so eloquently in *Cece v. Holder*, "it is the nexus requirement where the rubber meets the road."[2]

The other half of the nexus equation is that the trait, or characteristic of the victim, cannot be just anything. It must qualify as a "protected ground" for asylum purposes (i.e., race, religion, nationality, political opinion, or membership in a particular social group.) If a person is successful in demonstrating all the above, they still must prove several negatives. For example, if the applicant's government is not itself the persecutor, the applicant must prove that the government is unable or unwilling to protect them, and that they are unable to relocate within their own country.

Most of the asylum requirements are, of course, far more complex. But the complexity is precisely the point. If a person fleeing life-threatening circumstances does not recount their personal history in a specific manner, they are often found ineligible for protection regardless of the realities of the dangers they face in their home country.

So, returning to the recent decision of the Attorney General, the overarching reasoning for overturning the *A-R-C-G-* case is that asylum law "does not provide redress for all misfortune" and that victims of domestic violence (or other crimes) are essentially victims of "personal circumstances" only.[3] This can be true, but it is more often a distinction without a difference. For example, the characterization that domestic violence is only "misfortune" suffered at the hands of a bad actor is misleading. The problem is that most persecutory acts are considered criminal acts in the United States and the persecutors are bad actors. Dismissing the act as only "a crime" and calling the persecutor "bad" does not address the underlying motive behind the violence (the nexus element) and it does not diminish the fact that, in this case, the acts were carried out against the applicant because of her gender.

The Attorney General's decision contains a lot of commentary that misconstrues or conflates other legal elements of asylum law with the explicit intent of significantly limiting what constitutes a valid asylum claim. An initial reading of the decision seems like it could negatively impact thousands of the children and families waiting at the border. But after parsing out the Attorney General's harsh tone and dicta, we are left with very little in the way of an actual

1 I&N Dec. 316 (A.G. 2018).

2 733 F.3d 662 (2012).

3 *Matter of A-B-*, 27 I&N at 318.

ruling. Essentially, he simply states that a case was not sufficiently analyzed and should not be a precedential decision. From a practical standpoint, however, it does seem clear that asylum adjudicators could vary widely in their future decisions if attorneys do not clarify that the actual holding in the Attorney General's decision is quite limited and does not change the overall legal standards.

The newest attempt to throw out large swaths of asylum claims based on general assumptions is antithetical to the extremely case-specific analysis required by our asylum law. Each person has their own set of specific circumstances that led them to make the journey. Now more than ever, it seems that each case will need to be clearly defined and presented, so that each story is sufficiently heard, in every legal sense of the phrase.

Seth Ashton is an attorney with Wilner & O'Reilly, APLC, where he primarily practices removal and deportation defense. Over the years, Mr. Ashton has represented clients in a wide variety of matters before the immigration court, the Board of Immigration Appeals, U.S. Citizenship and Immigration Services, the Asylum Office, and Immigration and Customs Enforcement.

H-1B Visa Program

by J. J. Despain

For a bright, talented immigrant with an idea and a dream, the H-1B visa is often the bridge between studying temporarily in the U.S. with a student visa and working permanently in the U.S. with a green card. These immigrants come to learn and improve their skills in the classroom, and after they graduate they eagerly take that experience to the workforce. The employers who see value in these foreign employees can sponsor them for H-1B visas, which gives them up to six years to develop their new careers and contribute to fields like science and medicine. H-1B visas are especially prevalent in the tech industry, where a recent study estimated 13% of all jobs are held by H-1B visa holders.[1]

Since the beginning of the H-1B visa program, employers, and politicians have debated on how best to encourage these innovators to come from overseas, while at the same time not displacing any U.S. workers. The process starts with the Department of Labor (Labor), which must confirm the employee's wage meets or exceeds the "prevailing wage" for that particular occupation in that particular geographic area. This is to prevent a company from offering a lower wage merely because a foreign worker is willing to accept less than a U.S. worker. The Department of Homeland Security then reviews the employer's petition to confirm the employee is qualified for and will in fact work in a "specialty occupation" (one that requires a bachelor's degree or higher and earns at least $60,000 a year), and to ensure the employer is not manipulating job duties or job qualifications in order to obtain a lower prevailing wage decision from Labor.

Even a well-prepared H-1B application still has one more hurdle to clear: the fiscal year cap. Most H-1B applications are subject to the congressional mandate of only 65,000 regular H-1B visas available each fiscal year, as mandated by Congress. And, every year, these applications reach critical mass within a matter of days. In 2018, USCIS started accepting H-1B applications for the 2019 fiscal year on April 2. By April 6, applications reached 144% capacity, and USCIS closed off any additional applications.[2] Many H-1B applications that meet all requirements are nevertheless denied, simply by missing this limited window of opportunity.

Critics doubt whether Labor or Homeland Security are effectively enforcing these requirements, and point to companies who exploit the program. This led to President Trump's "Buy American, Hire American" executive order in April 2017, which directed government agencies to evaluate the H-1B program and return with proposals for reform.[3] Meanwhile, Congress has its own proposals currently pending in committees that would more than double the salary requirement or require employers to more actively recruit U.S. workers for a position before petitioning a foreign worker (similar to what employers are currently required to do for sponsoring green cards).[4]

While these actions have not yet resulted in actual changes to immigration law, Homeland Security's U.S. Citizenship and Immigration Services, or "USCIS," is wasting no time in reinterpreting its current regulations and policies, and therefore becoming stingier in its H-1B approvals. The agency is scrutinizing petitions much more closely and is quicker to issue Requests for Evidence, which give employers a limited timeframe to either provide more context to a petition and resolve USCIS's doubts, or else be denied the visa.

For example, in years past, USCIS would approve an H-1B visa for a computer programmer without hesitation. Now, USCIS questions whether a computer programmer is really a "specialty occupation" that requires a bachelor's degree, because the Department of Labor's handbook states that while "*most* computer programmers have a bachelor's degree . . . *some* employers hire workers with an associate's degree."[5] "Most," apparently, is no longer good enough for USCIS.

Another change is the ongoing adjustments to the premium processing service. For certain employment-based immigration petitions, including the H-1B, there is the option to pay an additional fee and ask USCIS to adjudicate a petition in 15 days. If USCIS does not make the 15-day deadline, then the fee is returned. Many employers jump at the chance to get a decision so quickly, and avoid the

1 Daisuke Wakabayashi & Nelson D. Schwartz, "Not Everyone in Tech Cheers Visa Program for Foreign Workers," *N.Y. Times*, (Feb. 5, 2017), https://www.nytimes.com/2017/02/05/business/h-1b-visa-tech-cheers-for-foreign-workers.html.

2 U.S. Dep't of Homeland Security, U.S. Citizenship & Immigration Srvs., *USCIS Reaches FY 2019 H-1B Cap*, https://www.uscis.gov/news/alerts/uscis-reaches-fy-2019-h-1b-cap (Apr. 6, 2018); U.S. Dep't of Homeland Security, U.S. Citizenship & Immigration Srvs., *H-1B Fiscal Year (FY) 2019 Cap Season*, https://www.uscis.gov/working-united-states/temporary-workers/h-1b-specialty-occupations-and-fashion-models/h-1b-fiscal-year-fy-2019-cap-season (Apr. 12, 2018).

3 Exec. Order 13788, 82 Fed. Reg. 18,837 (Apr. 18, 2017).

4 H.R. 170, 115th Cong. (2017); H.R. 670, 115th Cong. (2017).

5 U.S. Dep't of Labor, Bureau of Labor Statistics, Occupational Outlook Handbook, *Computer Programmers*, https://www.bls.gov/ooh/computer-and-information-technology/computer-programmers.htm (last visited Sept. 7, 2018) (emphasis added).

usual months-long limbo. And, for many employees, premium processing provides extra security that a visa will be approved before a previous visa expires.

But whether this option is available or feasible has fluctuated greatly, even just this past year. For this year's H-1B season, USCIS suspended premium processing for all applications subject to the regular 65,000-visa cap.[6] Near the end of this temporary suspension, USCIS announced it would not only continue the suspension for another five months, but also suspend the service for even some petitions not subject to the cap.[7] For example, if an H-1B visa holder changes jobs and has a new employer, the new employer must notify USCIS. This filing is not subject to the annual cap. But, as of now, the new employer cannot file this petition with the benefit of premium processing.[8] Waiting months instead of days for a final decision will understandably cause employees to feel more nervous about their immigration status and more hesitant to change employers or relocate.[9] Also, potential new employers may balk at waiting for a five- to seven-month process before taking on a new H-1B employee, rather than only two weeks.[10]

On top of the new uncertainty, USCIS also announced three days later the $1,225 fee would rise to $1,410 starting October 1, an almost 15 percent increase.[11]

The H-1B visa is still alive and well, for the moment. But obtaining one requires more legal expertise, more creativity, more attention to detail, and more patience than ever before.

J.J. Despain is an associate attorney in Salt Lake City for Wilner & O'Reilly. He is admitted to the Colorado State Bar and practices mostly family-based and employment-based immigration law. Since working in Salt Lake City, J.J. has represented clients in over 100 interviews with USCIS. He has participated in events at community centers in both Utah and Idaho to present issues in immigration law and speak about the many possibilities available to potential clients.

6 U.S. Dep't of Homeland Security, U.S. Citizenship & Immigration Srvs., *USCIS Will Temporarily Suspend Premium Processing for Fiscal Year 2019 H-1B Cap Petitions*, https://www.uscis.gov/news/alerts/uscis-will-temporarily-suspend-premium-processing-fiscal-year-2019-h-1b-cap-petitions (Mar. 20, 2018).

7 U.S. Dep't of Homeland Security, U.S. Citizenship & Immigration Srvs., *USCIS Extends and Expands Suspension of Premium Processing for H-1B Petitions to Reduce Delays*, https://www.uscis.gov/news/uscis-extends-and-expands-suspension-premium-processing-h-1b-petitions-reduce-delays (Aug. 28, 2018).

8 Stuart Anderson, "Who Will Be Hurt By The Latest USCIS Decision On H-1B Visas?", *Forbes* (Sept. 5, 2018), available at https://www.forbes.com/sites/stuartanderson/2018/09/05/who-will-be-hurt-by-the-latest-uscis-decision-on-h-1b-visas/#780ac83912b5.

9 *Id.*

10 *Id.*

11 U.S. Dep't of Homeland Security, U.S. Citizenship & Immigration Srvs., *USCIS Adjusting Premium Processing Fee*, https://www.uscis.gov/news/news-releases/uscis-adjusting-premium-processing-fee (Aug. 31, 2018).

Deferred Action for Childhood Arrivals

by Jonathan Mendoza

In the midst of immigration reform and bills going haywire, recipients of Deferred Action for Childhood Arrivals (DACA) can find comfort in knowing that under the executive action signed by former President Barack Obama, they are still protected from immediate deportation.

What is DACA?

On June 12, 2012, DACA was enacted by the Department of Homeland Security (DHS), to protect certain youth who entered the United States as children. These individuals, also known as Dreamers, are not only shielded from deportation, but also given work authorization. Their status, however, is subject to renewal every two years.

In September 2017, the Trump administration ended the program. The plan was to phase out DACA for current recipients and not accept new applications for Deferred Action. In January 2018, however, a lower court ruled that the administration had to continue renewing applications for DACA recipients. As a result, the U.S. Citizenship and Immigration Services (USCIS) resumed accepting DACA renewals, but continued not to accept initial requests for Deferred Action in February 2018.

On April 24, 2018, U.S. District Judge John Bates issued a decision that ordered USCIS to once again accept new requests for DACA. Judge Bates then gave the government 90 days to respond as to why DACA should be terminated. On August 3, 2018, Judge Bates ruled that the government failed to justify its proposal to end the program. The court stayed the ruling for 20 days to allow the Trump administration to appeal.

Most recently, seven states filed a lawsuit in Texas seeking to end DACA. U.S. District Judge Andrew Hanen, the same judge who ended the expansion of DACA by President Obama in 2015, heard the matter. On August 31, 2018, the federal judge declined the states' request to end DACA.

What are the requirements to apply for Deferred Action?

An applicant must have:

- Entered the United States when they were younger than 16 years of age;
- Been under the age of 31 as of June 15, 2012;
- Be enrolled in school, graduated from high school or the equivalent, or honorably discharged from the U.S. military;
- Never been convicted of a felony, a significant misdemeanor, multiple misdemeanors, or otherwise pose a threat to the country;
- Continuously lived in the United States for the five years proceeding June 15, 2012; and
- Been physically present in the United States on June 15, 2012, and at the time of the application request.

What is the procedure?

It takes several months to process the DACA request, which also requires an application for employment authorization. In many cases, USCIS will approve the case and mail the approval notice with the employment authorization document (EAD) directly to the recipient. In certain circumstances, USCIS may schedule an interview to determine eligibility before making a decision on an applicant's DACA case.

Many eligible immigrants fear that they may put their parents and relatives at risk of deportation if they apply for Deferred Action. Fortunately, with limited exceptions, USCIS will not share the information provided by the applicant with Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP). Information may be shared for assistance in the consideration of DACA, to identify and prevent fraudulent claims, for criminal investigation and prosecution, and national security purposes.

How does a criminal conviction affect a DACA recipient?

If a person is arrested or convicted of a new crime, it is important that individual consult with an immigration attorney before attempting to renew his or her DACA. If at all possible, the individual needs to stay out of jail, because in many counties ICE may decide to detain the immigrant and try to have his or her DACA terminated. The criminal defense attorney should work together with a criminal/immigration expert to try to get an agreement that does not disqualify a person from DACA or bars the Dreamer from other immigration benefits.

If a person pleads guilty to a charge(s) that is a bar to DACA he or she runs the risk of being placed in

removal proceedings. One of the most common DACA disqualifier is driving under the influence (DUI), which is considered a "significant misdemeanor." Even if it is a first offense, pleading guilty to a DUI will bar a person from renewal. In addition, DACA has been denied in instances where domestic violence is charged, but the individual is later convicted of a non-domestic violence offense.

Fortunately, there are remedies that an individual may pursue under these circumstances. Of course, it goes without saying that speaking to an attorney skilled in navigating the legal immigration system can improve the outcome of a client's case.

Jonathan Mendoza was a deputy public defender for the County of Riverside from 2011 to 2017 and he is now in private practice specializing in criminal defense and immigration.

* ATTENTION RCBA MEMBERS *

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Did You Notice That Your Notice Wasn't Notice? — *Pereira v. Sessions*

by Andrew Gilliland

Critical to our legal system is the concept that you cannot proceed against another unless the other has proper notice of the proceeding and the opportunity to respond to the allegations against them. Our rules of civil procedure (federal and state) place an affirmative duty to serve the other party with notice of the proceedings and a duty to file proof of such service with the court. Failure to do so in a proper and timely manner can result in the case being dismissed or in the case of a hearing, the hearing being continued until service is proper. Society values the right to defend oneself as a fundamental right of our judicial system.

What happens though when notice is served, but the notice is missing information that might be critical to defending oneself? Does this still constitute notice, even though it may be defective or incomplete? Will the clock stop or start ticking when such notice is served on the other party? These were the types of questions before the United States Supreme Court during the October 2017 term in *Pereira v. Sessions*, 585 U.S. _____ (2018).

In recent years, the Department of Homeland Security (DHS) adopted the procedure of issuing a notice to appear for removal proceedings without setting the date and time of the hearing for the individual to appear before the Immigration Court. Typically, an amended notice to appear would later be sent with the date and time of the hearing. This practice allowed DHS to use the stop-time rule to prevent an individual subject to removal proceedings from qualifying for a cancellation of the removal proceeding based on having ten years of continuous presence in the United States prior to the issuance of the notice to appear.[1] Pursuant to the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), continuous presence is deemed to stop (hence the stop-time rule) when a notice to appear is served to the individual subject to removal proceedings. Thus, issuing the notice to appear sooner rather than later could have significant legal effects on the individual's defense to the removal proceedings. In 2011, the practice of issuing a notice to appear without the time, place, and date triggering the stop-time rule came before the Board of Immigration Appeals (BIA) in *Matter of Camarillo*, 25 I. & N. Dec, 644 (2011) and the BIA ruled that such notice did trigger the stop-time rule.

Petitioner Wescley Fonseca Pereira was served with a notice to appear in Immigration Court without a date and time for his appearance after he was arrested for a DUI in 2006. At the time, he provided to DHS his correct mailing address, which was different from his street address. Subsequently, DHS sent Mr. Pereira a notice to appear with the date and time of the hearing, but sent the notice to his street address, rather than his mailing address. Mr. Pereira claimed to have never received the second notice and consequently, did not appear at the removal hearing. A removal in absentia was ordered against Mr. Pereira. After being in the United States for more than ten years, Mr. Pereira was again arrested this time for a minor traffic violation and detained by DHS. When he applied for cancellation of removal based on ten years of continuous presence in the United States, the Immigration Court denied his request referring to the 2006 notice to appear and the stop-time rule.

The BIA dismissed Mr. Pereira's appeal citing its precedent in *Matter of Camarillo*. The First Circuit Court of Appeals likewise denied Mr. Pereira's petition for review finding that under the framework set forth in *Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.* 467 U.S. 837 (1984), the applicable statute was ambiguous and the BIA's interpretation of the statute was a permissible reading that a notice to appear did not need to specify the date and time of the hearing in order to trigger the stop-time rule. The Supreme Court granted certiorari to resolve a division among the Court of Appeals[2] on the specific issue of whether service of a document styled as a "notice to appear" that fails to specify the items listed in 8 U.S.C. §1229(a)(1) triggers the stop-time rule.

In an 8-1 decision, the Supreme Court held that the text of the statute is unambiguous that the notice to appear must set forth time and place of the removal proceedings in order to trigger the stop-time rule. Justice Alito was the lone dissent. Specifically, the court noted that 8 U.S.C. section 1229b(d)(1) refers to the stop-time rule being triggered when a notice to appear is served "under section 1229(a)." According to the court, section 1229(a) clarifies what a notice to appear is and what it must contain. One such item delineated and required in section 1299(a), is the time and place of the removal proceedings. Without the time and place of the removal proceedings, the court found that the statutory structure would not make sense and that abuse could occur:

> "For 1229(b)(1) to have any meaning, the 'notice to appear' must specify the time and place that the noncitizen, and his counsel, must appear at the removal hearing. Otherwise, the government

1 *See* 8 U.S.C. Sect. 1229

2 Justice Kennedy in his concurrence notes that six Court of Appeals have found ambiguity in in 8 U.S.C. §1229b(d)(1) and applied the *Chevron* doctrine in upholding the BIA's interpretation.

could serve a document labeled 'notice to appear' without listing the time and location of the hearing and then, years down the line, provide that information a day before the removal hearing when it becomes available."

The government and dissent leveled several arguments. The first argument is technical in nature as they attacked the statutory structure arguing that section 1229(a) is not definitional in nature and thus does not describe the requirements of a notice to appear. The Supreme Court rejected this argument stating that in context the language used in section 1229(a) "is quintessential definitional language." Justice Alito in his dissent further argued that section 1229 simply sets forth what makes a notice to appear complete analogizing that a three wheeled car is still a car and thus a notice to appear without the time and place is still a notice to appear that needs something more to be complete. The government and dissent also argued that the word "under" is ambiguous as it could mean "subject to" or "governed by" or "issued under" and thus under the *Chevron* doctrine, the BIA's interpretation is a permissible reading of the notice to appear requirement. The court simply found a lack of ambiguity in the word "under." Finally, the government and dissent set forth a practical argument stating that because DHS does not control the Immigration Court calendar it would be impracticable for DHS to issue a notice to appear with a specific date and time of the removal proceedings, which the Immigration Court controls and could change. Such a system, according to the government and dissent, could lead to even more injustice because dates would constantly be changing resulting in the individual subject to removal proceedings being potentially confused and unprepared for the hearing. The court found these arguments to be without merit and that the government's and dissent's interpretation would actually result in more confusion and injustice.

The ramifications of *Pereira* are interesting. There are many individuals that have been subject to removal proceedings or have been removed in absentia that now may qualify for the 10 years of continuous presence based on a defective notice to appear. Those individuals served with a defective notice would now have to be properly served giving them a longer period to prepare their case assuming that they could be properly served again. What is clear is that going forward, the DHS will have to specify the time and place of the removal proceedings and will have to coordinate setting hearing with the Immigration Court. Individuals subject to removal proceedings should now have clear direction on when they have been properly served with a notice and when they need to appear at the Immigration Court. They will also have the ability to defend themselves in removal proceedings without confusion.

Andrew Gilliland is a solo practitioner and the owner of Andrew W. Gilliland Attorney-at-Law with offices in Riverside and Temecula. Andrew is the co-chair of the RCBA's Solo & Small Firm Section and a member of the RCBA's Publications Committee.

Immigration Status is Off the Table in Wrongful Death & Personal Injury Matters

by Megan G. Demshki

A person's immigration status is generally irrelevant to issues of civil liability based on existing state law. However, in California personal injury and wrongful death matters, citizenship status was relevant to calculating loss of income until January 1, 2017. This was historically known as the "illegal alien" defense.

For over 30 years, the leading case in California regarding relevance of immigration status to a plaintiff's claim for damages in a personal injury case was *Rodriguez v. Kline*. In *Rodriguez v. Kline*, the California Court of Appeal determined that an individual injured in the United States who was subject to deportation was not entitled to be compensated based upon his or her projected earning capacity in the United States, but rather could only recover future lost wages based on projected earning capacity in the county of his or her lawful citizenship.[1]

In practice, this provided "that whenever a plaintiff whose citizenship [was] challenged [sought] to recover for loss of future earnings, his status in this country [should] be decided by the trial court as a preliminary question of law."[2]

Under *Rodriguez v. Kline*, the defendant had "the initial burden of producing proof that the plaintiff is an alien who is subject to deportation."[3] Ultimately, "[s]hould the defendant prevail, then evidence of the plaintiff's future earnings must be limited to those he could anticipate receiving in his country of lawful citizenship."[4]

As time wore on, parties attempted to extend *Rodriguez v. Kline* to apply to recovery of future medical costs. Fearing deportation, many chose not to pursue personal injury or wrongful death recovery.

In early 2016, Assembly Bill No. 2159 was introduced by Assembly Member Lorena Gonzalez. The bill was cosponsored by the Consumer Attorneys of California and the Mexican American Legal Defense and Educational Fund.

In the Senate Judiciary Bill Analysis, staff wrote, "[a]rguably, allowing the introduction of a victim's immigration status specifically to limit the damages owed to a victim creates a de facto immunity for tortfeasors, whereby a victim is denied redress for his or her injuries, not because of any failure to prove an element of tort liability (e.g. duty, breach, causation, damages), but, rather, by operation of a law that effectively shields the tortfeasor from damages that he or she would otherwise be legally obligated to pay out under any other circumstances."[5] Ultimately, Assembly Bill No. 2159 was approved by Governor Brown on August 17, 2016.

As of January 1, 2017, California Evidence Code §351.2(a) now reads, "[i]n a civil action for personal injury or wrongful death, evidence of a person's immigration status shall not be admitted into evidence, nor shall discovery into a person's immigration status be permitted."

The California Evidence Code clarifies, "[t]his section does not affect the standards of relevance, admissibility, or discovery prescribed by Section 3339 of the Civil Code, Section 7285 of the Government Code, Section 24000 of the Health and Safety Code, and Section 1171.5 of the Labor Code."[6]

In effect, this change to the California Evidence Code prohibits the admissibility and discoverability of a person's immigration status in personal injury or wrongful death matters. However, Assembly Bill No. 2159 does not impact the standards of relevance, admissibility, or discovery under some existing laws. As outlined in California Evidence Code section 351.2, subdivision (b), inquiries relating to a person's immigration status can be made where the person seeking to make the inquiry has shown by clear and convincing evidence that the inquiry is necessary in order to comply with federal immigration law.

This change to California Evidence Code section 351.2 has important consequences for ensuring equal access to justice to those injured by another's conduct, regardless of the immigration status of the injured party.

Megan G. Demshki is an attorney at Aitken Aitken Cohn in Riverside where she specializes in traumatic personal injury, wrongful death and insurance bad faith matters and is the current president of the Barristers. Megan can be reached at megan@aitkenlaw.com or (951) 534-4006.

1 *Rodriguez v. Kline* (1986) 186 Cal. App. 3d 1145, 1148-1149.
2 *Rodriguez v. Kline*, 186 Cal. App 3d at 1149.
3 *Rodriguez v. Kline*, 186 Cal. App 3d at 1149.
4 *Ibid.*
5 AB-2159 Evidence: Immigration Status, Bill Analysis Senate Judiciary (June 13, 2016), p. 8.
6 Evid. Code § 351.2, subd. (b).

Changes to Immigration Asylum Claims Prompts Lawsuit by the American Civil Liberties Union

by Andrew Lopez

When asked to write an article for the *Riverside Lawyer* on asylum for this immigration issue, I chose to focus on an active case in litigation regarding changes to asylum policies and the specific case of *Grace v. Sessions* (2018 WL 3812445, Docket No 18-cv-1853 (EGS)). *Grace v. Sessions* illustrates the political nature of the immigration issues currently before the courts and how they impact the personal.

Grace v. Sessions is a civil suit brought by twelve immigrants consisting of women, men, and children fleeing Central America to seek asylum in the United States because of pervasive "gang-related and domestic violence."[1] Represented by the American Civil Liberties Union, plaintiffs argued that the changes to asylum policies outlined in an opinion authored by U.S. Attorney General Jeff Sessions, in *Matter of A-B-*[2], "forecloses claims based on domestic and gang-related violence."[3] In doing so, plaintiffs argued that they are being deprived of their right to seek humanitarian protection granted through Congressional legislation.

To provide some background and context, detained immigrants who seek protection based on humanitarian grounds need to indicate an "intention to apply for asylum . . . or a fear of persecution"[4] to qualify for what is known as a "credible fear interview."[5] Those that do not assert humanitarian grounds are "removed . . . without further hearing or review."[6] An asylum officer conducts the interview to assess whether an immigrant's "fear of persecution" has a "significant possibility" of eligibility of asylum.[7]

In *Grace v. Sessions*, plaintiffs argued that Sessions' Opinion in *Matter A-B-*, created a general bar to claiming asylum on the protected ground of "fear from persecution by a particular social group."[8] I believe their claim is well-founded because Sessions' *Matter A-B-* Opinion essentially created new guidelines regarding claims based on domestic and gang violence, which made it much more difficult for immigrants with such claims, holding that these kinds of claims based on domestic and gang violence are "in practice unlikely to satisfy statutory grounds."[9]

Thus, as a result of the *Matter A-B-* Opinion, an immigrant must now overcome a general presumption against asylum if their claim is due to persecution on account of domestic and gang-violence. As a result, an immigrant making an asylum claim on those grounds now has the burden to establish the following stringent elements of proof: "membership in a group . . . composed of members shar[ing] a common immutable characteristic . . . defined with particularity, . . . and . . . socially distinct within the society in question; and that membership in the group is a central reason for her persecution." Furthermore, "when the alleged persecutor is someone unaffiliated with the government" (i.e., a domestic abuse by gangs or other private actors) "the applicant must also show that her home government is unwilling or unable to protect her."[10]

These rigid criteria and high burden are in contradiction with the prior spirit of asylum policy.[11] Before the *Matter A-B-* Opinion, a successful asylum claim based on domestic or gang-violence required an applicant to only demonstrate a "10% chance"[12] of showing that their claim was well-founded. In contrast, due to the new presumption that such claims are "unlikely to succeed," the claims are much more likely to fail.

Because of this presumption, it also means that an immigrant will be unlikely to pass the credible fear interview. Without passing the interview, immigrants will not have the opportunity to have a full trial where they can litigate "complex legal questions, introduce expert testimony, and extensive evidence about country conditions."[13] Full-trials also give an immigrant the right of appellate review in federal court, as opposed to those that do not get past the credible fear interview.[14]

Apart from the legal arguments made under *Grace v. Sessions*, there is also a compelling story which played out during oral arguments where an emergency motion for a preliminary injunction and stay of deportation orders was heard by District Court Judge Emmett Sullivan.[15]

1 Plaintiff's Memorandum in Support of Motion for Preliminary Injunction and/or Emergency Motion for Stay of Removal at 7-8, *Grace v. Sessions*, 18-CV-1853 (EGS), (D.D.C. Aug. 9, 2018).
2 *Matter of A-B-*, Respondent, 27 I&N Dec. 316, 320 (A.G. 2018).
3 Plaintiff's Memo, at 2, *Grace v. Sessions*, 18-CV-1853 (EGS), (D.D.C. Aug. 9, 2018).
4 8 U.S.C.A. § 1225(b)(1)(A)(i) (West).
5 8 U.S.C.A. § 1225(b)(1)(A)(ii), 8 U.S.C.A. § 1225(b)(1)(B)(ii), 8 U.S.C.A. § 1225(b)(1)(B)(v) (West)
6 8 U.S.C.A. § 1225(b)(1)(B)(iii)(I) (West).
7 *Id.* at 5.
8 Plaintiff's Memo, at 7, *Grace v. Sessions*, 18-CV-1853 (EGS), (D.D.C. Aug. 9, 2018).
9 27 I&N Dec. 316, 320 (A.G. 2018).
10 *Id.*
11 Plaintiff's Memo, at 9-11, *Grace v. Sessions*, 18-CV-1853 (EGS), (D.D.C. Aug. 9, 2018).
12 *Id.* at 9-10.
13 *Id.* at 10.
14 *Id.* at 5.
15 Transcript of Oral Argument at 45, *Grace v. Sessions*.

Two plaintiffs, Carmen and her daughter, were facing deportation at 11:59 p.m. on the same day of oral arguments. The government made representations to the court that Carmen and her daughter would not be removed before that time.[16]

During a court recess, it was discovered that Carmen[17] and her daughter had been flown back to El Salvador. Once back in session, Judge Sullivan expressed outrage that this occurred. He acknowledged "raising his voice" and being "extremely upset." Judge Sullivan even threatened to "issue orders to show cause why people should not be held in contempt of court" and that he would "start with the Attorney General."[18]

Judge Sullivan ordered that the plane should either be turned around in flight, or upon landing, he ordered that Carmen and her daughter should be returned back to the United States. As this dramatic scene played out, Judge Sullivan, while still on the record, captured the gravity of the impact removal proceedings when he said, "Somebody in pursuit of justice who has alleged a credible fear in her mind and is seeking justice in a United States court is just spirited away while her attorneys are arguing for justice for her? This is outrageous."[19]

Being a first generation American citizen, this case is especially meaningful to me. Both of my parents are from El Salvador. Carmen's story reminded me of my own mother's story. My mother left El Salvador during the height of its civil war and has related stories to me of unimaginable violence. Unlike Carmen, however, my mother found a way to escape and begin a life here. Because there was a different political will, my mother was given a path to citizenship and eventually became a citizen. She bought a house, gained an undergraduate education, started a family, and had three children, the youngest of which now pens this article.

What would have happened to me had our society then reflected the political will of now?

16 Transcript of Oral Argument at 45, *Grace v. Sessions*.
17 All plaintiffs proceeded under pseudonyms.
18 Transcript of Oral Argument at 45, *Grace v. Sessions*.
19 Transcript of Oral Argument at 45, *Grace v. Sessions*.

Andrew Lopez is a 2L at the University of La Verne College of Law. A native of Riverside, California, he plans to practice in the Riverside area upon graduation in 2020. Mr. Lopez received his undergraduate degree in English from UC Berkeley in 2010.

SOURCES:

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In Memoriam: Forest Emery Wright, My Friend, Partner & Trial Attorney

by Marvin Jeglin

I was asked to write a few words about Forest Emery Wright, a friendly fellow workaholic, the consummate public defender or workhorse, to quote Deputy Public Defender Doug Kinion, and my business partner since 2003. Forest handled criminal cases for so long one forgets he joined California Indian Legal Service (CILS) in 1979, with his friend, Gene Madrigal, and represented Indian tribes and members. Forest was working there when I met him late in 1981.

Forest Emery Wright

The rumor in the Anza area, which proved to be true, was that the Cahuilla Band of Indians was organizing a weekend rock concert on an unimproved portion of their land, expecting to draw 40,000-100,000 people. A coalition of opponents hired me, a local new attorney in San Jacinto, to stop the concert. Gene Madrigal and Forest from CILS represented the Cahuilla Band. Though opponents, Forest and I were able to get along.

Applying our guiding legal principal that settlement is generally best for clients, we negotiated a successful settlement. Forest and Gene Madrigal argued that the concert on Cahuilla Band land would result in thousands of outsiders running amuck over their land. Glen Helen was suggested as a venue instead, and the concert was moved there. Everybody seemed happy. The Cahuilla Band held the concert and my clients achieved their goal, the concert moved away from them! After Forest and I successfully solved the Anza rock concert dispute, we stayed in touch.

In 1985, Forest joined the office of the Riverside County Public Defender. Forest read the advance sheets from the Courts of Appeal and the Supremes like no one else. He often called me with interesting and pertinent matters relating to both criminal and civil cases, as I did both in general private practice.

What Forest enjoyed most, as he always put it, was his Astand or standing workstation. His enjoyment of Astand is borne out of the 270 plus felony jury trials (including around eleven life without the possibility of parole and seven death penalty cases) and over 100 misdemeanor trials. One year, Forest tried 16 major felony cases. Working with me was a real retirement for him, with a low volume caseload, and just one or two trials a year.

Once I asked Forest if he wanted to become a judge. He said no, because he did not want to sentence some dumb eighteen-year-old kid to death.

Over the years Forest always said he would partner up with me when he retired. I had not heard from Forest for a while when I saw a mutual friend in court. I asked after Forest, and was told Forest had retired. Since I had not heard from Forest, I thought he had given up the partner idea. A few weeks later Forest just showed up at the office, and said he was there ready to work, and so it went for the next 15 years. Informality was the hallmark of our friendship and partnership.

Forest joined Jeglin & Swanson LLP as a partner in 2003, and took over our criminal work, with me relegated to civil litigation. However, we regularly discussed our cases. He was an invaluable resource for our clients with his knowledge of criminal procedures and those cross-overs, such as witness examination, that apply to civil trials.

Forest championed ethical practice and justice as evidenced in his client representation, and in his non-professional life, where he mentored ex-convicts. Forest was also the president of the Riverside Legal Aid board of directors, treasurer of the Inland Counties Legal Services board of directors, served on the Legal Services Trust Fund Commission of the California State Bar Association, participated in the Wounded Warriors Project, and the Oceanside Senior Anglers (this served his own self-interest in fishing

and drinking beer). He liked his fishing trips with his friends.

Forest was full of a droll understated wit. Once I met him in his office at the Riverside County Public Defender. We were headed over to Lake Alice for a little refreshment before driving home, he to Murrieta and I to Hemet. Forest was getting something from his desk, so I turned around by the door and looked at his wall hangings, including a 3x2 photographic print of six male Native Americans, three in each row. Forest had told me he was a registered member of the South Platte Pawnee Tribe (always joking that the Tribe had no casinos and no oil, just Oklahoma dust and few cattle). So when I saw the photo, I said, "Who are these guys, your relatives?" Forest, dead panned to my back, responded, "Yes, my grandfather is in the middle with the headdress and my dad is on the left in front with the hat and feather."

In light of that he still decided to partner up with me, first in Jeglin, Swanson & Wright LLP, and later Jeglin & Wright LLP.

So Forest, in a nod to our army service, it's roger that, over and out for the last time.

Marvin Jeglin has a law office in Hemet where he practices general civil and criminal litigation.

Forest E. Wright: A Remembrance

by Michael White

Forest E. Wright, a pillar in our legal community, passed away on Saturday, July 28, 2018. He was 74 years old. Forest is survived by his wife, Edna, two children, Phillip and Nancy Wright, their spouses, six grandchildren and two great-grandchildren.

Forest was admitted to the California State Bar in 1979 after graduating from the UCLA School of Law. Prior to law school, he served in the U.S. Army from 1966 to 1970 as a Romanian linguist. He began his legal career as an attorney for California Indian Legal Services where he served from 1979-1985. He also served as a member of its board of directors from 1995-1998. Forest worked in the Office of the Public Defender for Riverside County from 1985 until 2001. After leaving the Office of the Public Defender, he became a principal in the law firm of Jeglin & Wright with offices in Hemet and Murrieta where he practiced criminal defense law.

Forest exhibited a lifelong commitment to the legal services community. In 1989, he joined the Riverside Legal Aid board of directors (a dba of the Public Service Law Corporation of the Riverside County Bar Association) and was elected president in 2001. In 2002, he was appointed by the RCBA to the Inland Counties Legal Services board of directors and served as its treasurer. Forest also served as a member of the Legal Services Trust Fund Commission of the California State Bar Association. He actively supported the Wounded Warriors Project and financed seniors on fishing trips organized by the Oceanside Senior Anglers, Southern California's largest senior angling club.

A memorial service will be held at the Murrieta Methodist Church at 24652 Adams Avenue, Murrieta, California 92562, on October 20, 2018 at 10:00 a.m. The service will be a "celebration of life" and will be casual; no suits or ties please. The family would like people to share funny stories and fond remembrances.

Donations in Forest Wright's honor may be made to Riverside Legal Aid, located at 4129 Main Street, Suite 101, Riverside, CA 92501, or through its website at www.riversidelegalaid.org. Donations to Wounded Warriors Project or Oceanside Senior Anglers would be also be welcome.

Michael White is the Executive Director of Riverside Legal Aid.

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Celebrating Doris Morton on the Occasion of Her 100th Birthday

by Kristen S. Atkinson

The second day of autumn, September 24, 1918, Doris McCutcheon was born in Harrisburg, Pennsylvania. She acquired her first job in 1935 at a private wholesale grocery company as a secretary while a senior in high school. She saved her money and when World War II began, joined the USO. It was in this volunteer service she met Byron Morton in 1944. They were married in 1946 in Harrisburg.

Doris Morton

Byron and Doris Morton traveled to San Francisco soon after his enrollment at Hastings Law School. Living in a tiny apartment at the corner of Sacramento and Van Ness, Doris found secretarial work for three attorneys, while Byron was a student at Hastings. Upon his completion of law school, they relocated to Riverside where their two children, Thomas and Patricia, were born. Byron became an employed attorney, and Doris joined the Riverside County Law Alliance (then known as Riverside County Lawyer's Wives). He served as the District Attorney for Riverside County from 1967 to 1981.

Doris was born with the "Volunteer Gene." She worked without pay at Riverside Community Hospital as a "Pink Lady" (grown-up version of a Candy Striper), for 40 years. For 37 years she drove deliveries for "Meals on Wheels" to the homebound and infirm in the City of Riverside. Since 1949, Doris has been a member of Calvary Presbyterian Church, which is located next to Riverside Community Hospital, where she has served on the Council of Elders and Ward of Deacons. She also served as president of the California State Lawyer's Wives in the early 1970s.

Although Byron passed away in March 1982, Doris continued to freely give her time and energy to community needs in areas where she observed a need. She is a voracious reader of all kinds of books and novels, particularly mysteries. Doris' goals in life are to always be positive, enjoy friends and life to the fullest. I want to be her when I grow up!

The legal community in Riverside has been blessed to have Doris Morton in our midst for these many years and we are excited to have a wonderful celebration of her 100th birthday at the Santa Barbara Room in the Mission Inn on Friday, October 12th at 6:00 pm.

Kristen S. Atkinson is past president of the Riverside County Law Alliance.

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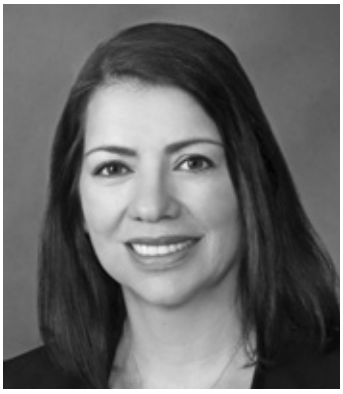
Opposing Counsel: Marie E. Wood

by Kiki Manti Engel

Tenacious, Determined, and Hard-Working: The Marie E. Wood I Know



Marie E. Wood

Wonder woman. My first thought when I think of Marie E. Wood. I was honored when asked to write an article about Ms. Wood as she is one of the most hardworking, ethical, dedicated, and determined people I know. She is a zealous advocate for her clients. She practices in all areas of immigration law, including family-based, employment-based, and business-based immigration at the firm of Reid & Hellyer, APC. In addition to her immigration practice, Ms. Wood practices in the areas of business and real estate litigation, and transactional law. Most importantly, she is the mother of two beautiful children, ages two and five years old. I am in awe of how she manages both her personal and her professional life so effortlessly. Her favorite time of the year is spring training and attending games at Camelback Ranch in Glendale, Arizona (Go Dodgers!).

Since this issue of the *Riverside Lawyer* focuses on immigration law, I will share with you why Ms. Wood chose to practice in that area. Ms. Wood immigrated to the United States at a young age. As an immigrant, she experienced the emotional and financial struggles associated with becoming a United States citizen. Her personal challenges fueled her passion to become a zealous advocate for her clients. Ms. Wood's personal experience as an immigrant allow her to connect with her clients, and assist them through very complex systems of law. Her compassion for her clients is unsurpassed. She has been there before. She has walked in their shoes. She understands.

I cannot tell you how many client testimonials, emails, letters, and cards our office has received through the years from clients that Ms. Wood has assisted (and many from her former students too). The message is the same -- clients showing their appreciation and gratitude for Ms. Wood's hard work and dedication, and thanking her for the positive result(s) she has achieved for them. (And, because we are lawyers, this is the appropriate time to include a disclaimer: This information is not intended to serve as a guarantee, warranty, or prediction of each individual case. Results may vary.) The long hours, the hard work, the sleepless nights are all forgotten (at least temporarily) by Ms. Wood after receipt of such correspondence from her clients.

What really makes her Wonder Woman is her constant desire to put the pieces of each case or "puzzle" together (on a side note, she really loves puzzles). No matter the complexity or challenge of a particular issue or case, Ms. Wood is sure to find an answer. And, I guarantee you (which I can say since we have neighboring offices at Reid & Hellyer's Temecula office), she does not stop until all of those pieces have come together in the form of an answer. Ms. Wood does this with grace as she rushes from one appointment to the next, and she still manages to get her children from daycare and junior-kindergarten in a timely manner. Always with a smile and always calmly. This is Ms. Wood's motto for the practice of law.

In addition to her already busy schedule, Ms. Wood fills her remaining "free time" by being an active member of the legal community. Ms. Wood is immediate past president of the Southwest Riverside County Bar Association and currently serves as a board member. She is also a member of the American Immigration Lawyers Association (AILA), the Riverside County Bar Association, a co-chair of the immigration section of the North County Bar Association, and the Southwest Inn of Court. Ms. Wood also presents at numerous engagements on immigration topics and volunteers for the Temecula Legal Scholar's Program, the Temecula Law Library, and the Vista Law Library Legal Clinics. Ms. Wood also teaches at Palomar College in San Marcos. Wonder Woman. Indeed.

Kiki Manti Engel is an associate attorney with the firm of Reid & Hellyer, APC, where she practices business and real estate litigation, and transactional law.

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Conference Rooms Available

Conference rooms, small offices and the Gabbert Gallery meeting room at the RCBA building are available for rent on a half-day or full-day basis. Please call for pricing information, and reserve rooms in advance, by contacting Charlene or Lisa at the RCBA office, (951) 682-1015 or rcba@riversidecountybar.com.

Membership

The following persons have applied for membership in the Riverside County Bar Association. If there are no objections, they will become members effective October 30, 2018.

Lynette M. Clyde – Office of the County Counsel, Riverside
David J. Fester – The Matian Firm, Los Angeles
Jere L. Fox – La Sierra University, Riverside
Angela Hwangpo – Law Student, Loma Linda
Cynthia Angela Lugo – Solo Practitioner, La Quinta
Jorge Ponce – Law Student, Eastvale
Paul E. Shakarian – Law Office of Paul Shakarian, Riverside
Stuart Smith – Varner & Brandt, Riverside
Priscilla Soules – Law Student, Riverside
Jennifer Voltz – Solo Practitioner, Norco

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