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US IMMIGRATION & NATIONALITY LAW

ETHICAL BASIS FOR PRO BONO

Posted on June 18, 2011 by Cyrus Mehta

By Cyrus D. Mehta
I am most honored to be the recipient of the American Immigration Lawyers Association 2011 Michael Maggio Pro Bono Award. Thank you very much.

The news of the award came to me as an utter surprise and my instant response was that I did not deserve it. I immediately recalled the many immigration attorneys far more engaged in pro bono than me, and more deserving of this award. Upon further reflection of this award, knowing there was nothing I could do about it, I thought it best to accept it in recognition of all the valiant lawyers who have spent many hours doing pro bono on behalf of immigrants and their families. I also accept this award on behalf of all my colleagues who have been instrumental in organizing the many immigration pro bono events and projects that you have been hearing of in recent years, which in turn encourage more lawyers to do pro bono work.

We all know how important it is to assist vulnerable immigrants who cannot afford a lawyer. As Judge Katzmann said in his historic Marden lecture at the New York City Bar on February 28, 2007 - “In our legal system, driven by complex rules and procedures, a lack of access to competent legal services damages fundamental concepts of fairness and equality before the law.” I strongly believe, and agree with Judge Katzmann, that lawyers, by virtue of being granted a license, enjoy a monopoly with respect to providing legal services (which they justifiably work very hard to preserve), and this monopoly ought to be used wisely and to achieve justice. Accordingly, pro bono service is not an act of charity, but an ethical obligation on the part of the lawyer.

One of the reasons that drew me towards immigration law, which is what has drawn all of us to this fields, was that I could help people and make an impact in their lives, no matter who they are or where they come from. Even as I

undertake to manage a busy immigration law firm, this ideal continues to drive my work till this day, which I also try to instill in my associates and other colleagues. Each time I took up a leadership capacity in the bar, I have always striven to organize activities to encourage lawyers to meet the unmet needs of the immigrant community.

According to the Katzmann Immigration Representation Study Group's recent findings, 60% of detained immigrants in New York City and 27% of non-detained immigrants do not have counsel by the time their cases are completed. Individuals who are transferred elsewhere and who remain detained and out of New York are unrepresented 79% of the time. This is truly a crisis. It is unthinkable to allow respondents in removal proceedings to proceed without the assistance of a lawyer to navigate and help through the complex maze of statutes, regulations and legal interpretations. This same study indicates that where there is competent representation of those who have been released or never detained, 74% had a successful outcome.

We the members of the leading immigration bar association in the country, the American Immigration Lawyers Association, must think outside the box to resolve this crisis and urgently address the unmet needs of poor or vulnerable immigrants, for whom the presence of a competent lawyer can make all the difference. I also urge all AILA lawyers to spend a few hours each year doing pro bono. Pro bono representation could either involve taking on a case to its completion, or could also involve spending a few hours at a legal clinic. Moreover, an expert immigration attorney can also serve as a mentor on a pro bono case that is handled by other lawyers in a law firm that does not specialize in immigration law. And for those who own or manage law firms, please encourage your associates to also participate in pro bono. In fact, there is a strong business case too for engaging in pro bono as you gain more skills that you can utilize in paid cases, earn a reputation within the community and among potential clients, and attract motivated lawyers to your firms.

Last evening's first Pro Bono clinic at the Thomas Jefferson School of Law on June 16, 2011, in conjunction with the annual AILA conference in San Diego also gave an opportunity for AILA lawyers and law students to exercise their skills (and learn new ones) in providing high quality legal consultations to members of the San Diego immigrant community. Approximately 100 people from San Diego's immigrant community of several nationalities and speaking several languages were served. These brief services are invaluable as they provide the

immigrant with a truthful and accurate roadmap of the available options, thus empowering this person so that he or she does not get scammed later by an unauthorized practitioner. For this reason, AILA must continue to organize similar clinics again and again.

Finally, I am deeply honored that I am receiving this prestigious award in the memory of Michael Maggio whom I knew and deeply admired. Michael was the shining example of a very successful lawyer who gave back through his outstanding pro bono efforts. I am also humbled that the recipient of last year's pro bono award was Judge Katzmann himself, who has used the prestige of his office as a judge of the Second Circuit to advance pro bono in New York in a most powerful and forceful way. It is hoped that we all follow Judge Katzmann's example and spearhead and inspire similar initiatives all over the country.

Thank you again for this award, and rather than cheer for me now, your time will be better spent if you all roll up your sleeves and do some pro bono!

(*This blog post is based on Cyrus D. Mehta's remarks upon accepting the AILA Michael Maggio Memorial Award in San Diego on June 16, 2011*).