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<http://www.probonocounsel.org>

June 4, 2013

Dear Senator:

The Association of Pro Bono Counsel (“APBCo”; <http://www.probonocounsel.org/>) urges the Senate to maintain provisions of S.744 that will enhance the ability of immigrants to access pro bono legal services. Nearly all of APBCo’s 120 members are private lawyers who lead the pro bono practices at more than 85 of the world’s largest law firms. APBCo members’ law firms provide millions of hours of pro bono legal services every year; a substantial portion of that time is devoted to representing immigrants, including those seeking asylum and defending removal proceedings in immigration court. Pro bono representation makes our immigration courts more efficient and fair. APBCo members therefore have a strong interest in ensuring that S.744 continues to include the following provisions that will enhance their firms’ ability to provide these free legal services efficiently and effectively:

- **Removing the One-Year Asylum Filing Deadline: Section 3401**, removing the asylum filing deadline bar, will increase the availability of pro bono services provided by our firms. In our members’ experience, litigating one-year filing deadline issues can consume tremendous amounts of pro bono resources that could be better spent on substantive issues. It can also lead refugees with legitimate asylum requests to be denied asylum, and leads cases that could be more efficiently resolved at the asylum office to be referred into immigration court removal proceedings. Moreover, given the amount of time that is required to deal with filing deadline complexities, it can be more difficult to recruit pro bono lawyers to take on these cases for legal representation and some legal services organizations have been hesitant to refer cases with one-year filing deadline issues to pro bono attorneys, thus limiting the ability of these immigrants to access counsel, making the entire system less efficient and effective. Merely extending the deadline will not adequately address this challenge as many of the complexities and inefficiencies are caused by the very existence of a deadline bar, and an extended deadline would still lead to asylum denials for refugees with credible asylum cases.

- **Affirmative Asylum Interviews for Arriving Aliens: Section 3404**, allowing arriving aliens to seek asylum via a non-adversarial interview rather than be forced to claim asylum in a removal proceeding in immigration court, will result in more efficient pro bono services and will increase the number of attorneys willing to handle these matters. APBCo members' firms have deep experience representing asylum-seekers both in non-adversarial Asylum Office interviews and in contested immigration court proceedings. In our members' experience, Asylum Office interviews are resolved more quickly and require far fewer attorney hours than contested immigration court proceedings. Accordingly, Section 3404 will allow pro bono attorneys to represent more asylum-seekers than they would otherwise. In addition, attorneys without any court room experience (such as mergers & acquisitions specialists), often feel comfortable representing asylum seekers in the Asylum Office, but would not accept a case that required them to appear in immigration court. Section 3404 will thus broaden the pool of law firm attorneys willing to represent asylum seekers on a pro bono basis.
- **Fixing the Shortage of Immigration Court Personnel: Section 3501**, increasing the number of immigration judges and support staff, will improve immigrants' access to pro bono counsel, as the current backlog in some immigration courts is resulting in years-long delays that make law firm attorneys hesitant to take these matters. In New York City, for example, backlogs are forcing the immigration court to schedule asylum hearings for 2016, making these cases difficult to place with pro bono counsel, as they are typically wary of committing to a matter that will not be heard for several years.
- **Access to Counsel for Vulnerable Populations: Section 3502**, requiring the Attorney General to appoint counsel for unaccompanied minors and individuals with serious mental disabilities, will allow pro bono lawyers to focus on those cases that are more appropriate for attorneys who are not experts in dealing with these populations. While pro bono lawyers do on occasion represent these vulnerable populations, cases of this sort are typically better handled by lawyers specifically trained in the challenges presented by this population of clients, and legal services organizations often have difficulty placing these cases with APBCo member firms. Section 3502 will allow pro bono lawyers to focus on the asylum cases where additional training to deal with particularly vulnerable clients is not required.
- **Codification of the Office of Legal Access Programs and Expansion of Legal Orientation Programs (LOPs): Section 3503**, expanding Legal Orientation Programs to all immigration detention centers (LOPs currently reach only 25 immigration detention facilities). LOPs are a critical mechanism through which local legal service providers may identify an individual who would benefit from a referral to a pro bono lawyer to assist with their case. LOPs also help facilitate access to legal information for individuals detained in remote areas far from metropolitan areas or immigration lawyers. LOPs have been shown to reduce the amount of time an individual spends in detention and their time spent in immigration proceedings, creating efficiencies and cost-savings.
- **Efficient Production of Documents to Aliens in Immigration Court Proceedings: Coons Amendment 5** (adopted by voice vote in Committee), requiring the

Department of Homeland Security to provide essential documents to immigrants without first filing a Freedom of Information Act (FOIA) request, will streamline proceedings and eliminate wasteful filings. Pro bono resources are wasted when a client clearly is entitled to review and receive particular documents yet an attorney has to spend hours completing paperwork and monitoring the progress of a FOIA request.

APBCo applauds the Senate for considering these and other improvements to our nation's immigration laws. We are happy to provide additional information to support those measures that will help private lawyers continue to provide essential pro bono legal services to immigrants in a way that improves the entire immigration system.

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