



ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Adjudication Minutes April 27, 2011

Members Attending

Judge John Vittone (ret.) (Chair)	Edward Kelly	Alan Swendiman
Bruce Burkley (on behalf of Ivan K. Fong)	Judge Robert Lesnick	Judge Daniel Solomon
James Eisenmann (on behalf of Susan Tsui Grundmann)	Judge Robert A. Giannasi (on behalf of Judge Robert Schiff)	Elaine Kaplan Glenn Sklar

ACUS Staff Attending

Paul R. Verkuil Chairman	Jonathan R. Siegel Director of Research & Policy	Funmi E. Olorunnipa Staff Counsel
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Invited Guests Attending

Russell R. Wheeler,
Consultant, ACUS Immigration Adjudication Project
Lenni B. Benson,
Consultant, ACUS Immigration Adjudication Project

Members of the Public Attending

Adam Loiacono,
Attorney-Advisor, U.S. Department of Homeland Security

The meeting commenced at 9:15 am in the Conference Room of the Administrative Conference (“the Conference”). Judge Vittone began by welcoming the Committee members. Chairman Verkuil also briefly introduced himself and welcomed Committee members. Judge Vittone then called for approval of the meeting minutes from the March 30, 2011 Committee meeting. The meeting minutes were approved by voice vote of the Committee members in attendance. Mr. Siegel then gave a few administrative remarks and proceeded to introducing the next project for consideration by the Committee, the Immigration Adjudication Project.

Mr. Siegel then introduced the Project’s consultants, Ms. Benson and Mr. Wheeler. Mr. Wheeler began by giving a short overview of the outline of the Project which was prepared



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by Ms. Benson and Mr. Wheeler and which Committee members received in advance of the meeting. Mr. Wheeler briefly discussed the scope and parameters of the Project and the various topics that would be covered by the Project. Mr. Wheeler then provided the Committee with some background facts about immigration adjudication and the agencies that would be examined during the course of research for the Project. Mr. Wheeler noted that he and Ms. Benson would conduct their research in two phases as stated in the outline provided to the Committee members. He noted that the first stage would be completed by August 2011 and the second stage would be completed by December 2011. Mr. Wheeler concluded by providing some background about himself and his career. Ms. Benson then provided some background about herself and her career and then informed the Committee that she and Mr. Wheeler were available to answer any questions they may have and to accept feedback or comments on their outline of the Project.

Judge Giannasi asked whether there were public groups representing detainees in the immigration adjudication context and noted that the consultants should consider exploring how to address the daunting challenges to improving representation in the immigration adjudication context. Ms. Benson responded that while there are large law firms who represent individuals seeking asylum, those firms typically do not represent individuals in criminal alien removal cases. Ms. Benson then asked the Committee members whether, given their experience in large volume adjudications, they could share any thoughts with the consultants regarding pre-trial management practices in administrative proceedings. Mr. Swendiman noted that the consultants will have the benefit of meeting with the chief counsel at the U.S Department of Homeland Security's Immigration and Customs Enforcement ("ICE") and that she could provide the consultants with more information about case management practices at ICE.

Ms. Benson then asked if Mr. Kelly would provide the Committee with additional background about the Department of Justice's Executive Office of Immigration Review's ("EOIR") role in immigration adjudication cases. Mr. Kelly provided the Committee members with general background on EOIR, its courts, its case management practices, its interaction with other agencies who are involved in immigration adjudication issues and its use of video conferencing ("VTC") in immigration adjudication hearings. Mr. Verkuil then stated that he would like to see the research examine how the use of VTC may connect to the issue of representation in immigration adjudication cases and how the use of technology could enhance representation. Mr. Siegel then noted that a subcommittee will be formed to work more closely with the consultants on the Project and he asked any member of the Committee interested in working on the subcommittee to send him an email. Judge Vittone then noted that any additional comments on the outline of the Project could be emailed to ACUS staff and the consultants.



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Mr.

Siegel then asked the Committee members to take a look at the revised draft recommendation on Agency Use of Video Hearings and asked the Committee members if there were any questions on the revised draft recommendation. The Committee members had no questions. Judge Vittone then called for a vote on the revised draft recommendation and the recommendation was passed by a unanimous voice vote of the Committee members in attendance. Following the vote, Mr. Siegel then explained that the revised draft recommendation would go before the Assembly of the Conference at the Plenary Session in June and would be voted on by the full Assembly. Ms. Olorunnipa stated that during the Plenary Session, Committee members may be called upon to make comments about the revised draft recommendation and the Committee's process in considering the draft report and draft recommendation. Mr. Verkuil then stated that, assuming the revised draft recommendation is adopted by the Assembly, the Committee should maintain a continued interest in the recommendation and the subject of agency use of VTC. Judge Vittone then asked whether there were any public attendees who wished to speak at that time. There being none, the meeting was adjourned.