

Pro Bono Representation and Development of Such a Program for Immigrants on Guam

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Executive Summary

The Pacific Basin Economic Council's international general meeting was held in Hawaii in March 2000. This meeting was attended by corporate and government leaders from around the world. Among the things they discussed was corporate responsibility and attendees noted that they felt heartened that there appeared to be some realization that there was more to life than making lots of money and conducting endless studies to measure progress. There has always been talk about taking care of the environment and helping less developed nations, but it has always been just that, talk. Finally, there seemed to be some genuine concerns about human beings and not just the bottom dollar.

John Paul DeJoria, co-founder of the John Paul Mitchell hairstyling products, said, "Being a good corporate citizen is the best way to conduct business and improve the bottom line. Whether it's working locally, nationally or internationally, doing what's right and letting customers and others know about it are the best ways to protect the environment, empower employees, make money and leave behind a proud legacy."(*1)

This philosophy should hold true at all levels of business and government. Every business and every government agency is interdependent. If everyone acted responsibly and did what was right, everything would go a lot smoother. There will always be the skeptics and those who will throw a monkey wrench in the whole process. But the majority of people would probably be willing to give it a good try and that's all it takes.

Courts are concerned with moving cases through the hearing process as quickly as possible while ensuring fairness for all parties involved. Initial hearings should be scheduled as soon as the court calendar permits. Future hearings should allow adequate time for both parties to prepare their case. Whatever arrangements that can be made, or procedures put into place to allow for fewer surprises in court, will allow hearings to proceed smoothly and adjourn on time. This takes the cooperation of all involved.

There are times when new situations will arise and everyone needs to work together and view this as a learning situation. With flexibility and understanding on the part of everyone involved, this can become a win-win situation.

The Honolulu Immigration Court, which has jurisdiction over Guam, has one judge and experienced such a new situation. The U.S. Immigration Courts are a part of the Executive Office for Immigration Review (EOIR), which is a component within the Department of Justice. The immigration courts hear cases in immigration related matters.

Beginning in late 1998, Guam began to see an influx of people arriving by boat from the People's Republic of China to seek asylum in the United States. As the U.S. Immigration and Naturalization Service (INS) began detaining these Chinese citizens and serving them with documents placing them in proceedings before the immigration court, the Guam caseload began growing at a rapid rate.

In the past, the immigration judge in Honolulu would periodically fly to Guam for a week to hear cases there. These details would normally occur every other month. The judge began flying to Guam monthly because in addition to the increased caseload, there was additional pressure to hear these cases timely as these immigrants were detained pending the outcome of their hearings. As it became too much for one judge to handle, EOIR began calling on the assistance of other immigration judges from across the country.

However, the cases could not move forward beyond the master calendar stage as the immigrants indicated they wanted to have attorneys to represent them at these hearings. As none of them could speak or read English, a serious communication barrier existed which prevented them from obtaining representation. To further compound the problem, these immigrants did not appear to have the funds to hire an attorney and there is no pro bono organization in Guam. The few private attorneys in Guam familiar with immigration law were already very busy and were not stepping forward to help these new arrivals.

The Guam prison quickly filled to beyond capacity and tents were erected to house the overflow detainees. The cost of feeding and housing these Chinese immigrants mounted, and although the Federal government was supposed to reimburse the Guam government for detention costs, no reimbursement was forthcoming. Tensions rose between inmates and between the government agencies involved.

Various solutions were thrown on the table. One idea was to fly these immigrants from Guam to other areas in the United States which had more detention space available. However, once they were flown out of Guam and released out on parole while awaiting their immigration hearings, this appeared to encourage the arrival in Guam of more boat people who hoped to get free airfare to the continental United States where more jobs and relatives awaited them.

Another idea was to fly these immigrants from Guam to areas where pro bono organizations were available to assist them in completing their asylum applications and therefore allow their cases to move forward in the hearing process.

Eventually a decision was made to open a temporary immigration court in Guam. Once the court opened in July 1999, the hearing process began moving along quickly and case completions increased dramatically. The attorneys representing these immigrants were by and large bilingual attorneys who flew in from around the United States. Also flying in were immigration judges, court staff, INS trial attorneys, and interpreters.

However, by the time the court opened in July 1999, many of the immigrants had already been detained for several months by the Department of Corrections in Guam at a cost of approximately \$97 per day. In early August, the governor of Guam presented a bill to Attorney General Janet Reno requesting reimbursement to the Guam government for \$4.7 million detention costs incurred up to June.(*2)

As the Court Administrator for the immigration court having jurisdiction over Guam, I witnessed first hand the dramatic increase in the number of Chinese immigrants arriving by boat, the lack of adequate detention space, the barriers to communication due to language differences, the inability of the respondents to obtain legal representation, the slow progress of cases through the hearing process, mounting detention costs, and crisis management at it's best.

With the possibility of more boatloads of Chinese immigrants arriving in the near future, a comprehensive plan to handle future arrivals was clearly needed. The concept of developing a pro bono program for immigrants in Guam began to take shape. A pro bono program would:

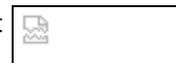
- assist the immigrants through their immigration hearings
- attorney involvement would allow hearings to proceed at a faster pace through the court
- detention time could be shortened with quicker court decisions resulting in a saving of detention costs and freeing up of much needed bed space, and
- attorneys who volunteered to be involved with this pro bono program would have the satisfaction of helping those in need and assisting their community at a time of crisis.

I began by researching the concept of pro bono representation and reading about many successful pro bono organizations throughout the United States. I talked to attorneys from Guam and in Honolulu and interviewed the director of a Honolulu based pro bono organization. With all of this information, the idea for a pro bono program specifically geared to assist immigrants in Guam was formed.

(*1) "Social soul takes wing at trade session." The Honolulu Advertiser 26 March 2000: D1+

(*2) "Guam sends feds 6 million dollar bill for dealing with illegal aliens." Associated Press Newswires. 4 August 1999.

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