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June 1, 2010

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Via e-mail: rfs.regs@dhs.gov

RE: Agency Information Collection Activities: Form G-28, and Form G-28I. OMB control no: 1615-0105

Dear Sir/Madam:

The American Immigration Lawyers Association (AILA) hereby submits additional comments to the Agency Information Collection of the Department of Homeland Security (DHS) proposing modification of Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative.

AILA is a voluntary bar association of more than 11,000 attorneys and law professors practicing, researching and teaching in the filed of immigration and nationality law. The organization has been in existence since 1946 and is affiliated with the American Bar Association. Our mission includes the advancement of the law pertaining to immigration and nationality and the facilitation of justice in the field. AILA members regularly advise and represent businesses, U.S. Citizens, U.S. lawful permanent residents, and foreign nationals regarding the application and interpretation of U.S. immigration laws. We appreciate the opportunity to comment on the proposed rule and believe that our members' collective expertise provides experience that makes us particularly well-qualified to offer views that we believe will benefit the public and the government.

We now provide the following comments to the new G-28 form and instructions.

# Part 1. Notice of Appearance as Attorney or Accredited Representative

We suggest the following additional language in item A.1.

1. USCIS – List the specific matter and form number(s):

### **Part 1. Instructions**

We suggest that the instructions include a reference to Part 1.A. and include an explanation of 'specific matter' term used on the form. Specifically, we recommend that the 'specific matter' refer to the beneficiary of the petition where applicable, e.g. in the I-129 petition filing.

It is important that the G-28 references not only a form number but also allows a reference to a beneficiary name when applicable. This provides clarity concerning for which matter the G-28 is being filed. It also ensures that if the G-28 were separated from the filing package that the form could be more easily matched to the correct case – this is especially true for employers who file many similar petitions and have multiple I-129 applications pending at the USCIS at any given time.

### Part 2. Information about Attorney or Accredited Representative

We appreciate the addition of Section D. in Part 2 of the form to include law students. The form is now closer to mirroring the categories provided for in 8 CFR 292.1. However, Part 2 of the G-28 form does not provide a specific item for individuals seeking permission to appear as reputable individuals (as defined in 8 CFR 292.1(a)(3)).

AILA recommends that the instructions in the "Who May Use this Form?" relating to Section 8 CFR 292.1(a)(3) be further clarified. The current draft of the instructions references this section and advises that "reputable individuals" as defined in this Section, may appear on behalf of an individual, if they obtain permission from DHS to appear with an applicant or petitioner. However, it is not made clear as to whether such an individual should be executing a G-28, and if (s)he should, fill out Part I, B and/or Part 2. We understand that applicability of this provision may be relatively rare, and accordingly, redesigning the G-28 form to include sections referencing this provision, may be inappropriate. However, direction should be given.

#### Part 2.C. Instructions

AILA suggests that the instructions associated with Part 2, Option C, make it clear that this option will serve for that appearance only, not displace the original G-28 attorney, and that this G-28 does not effectuate a substitution of counsel. Manuals, training materials, and instructions to contractors should make it clear that execution of Part 2, Option C is never to be deemed a substitution.

#### Part 3 Name and Signature of Attorney or Accredited Representative

AILA appreciates the "Name of Attorney" box in Part 3, has been expanded to specifically refer to the "name of law firm" in addition to attorney, accredited representative, and recognized organization. We would ask that instructions to the form and related internal manuals and training materials and directives

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clearly indicate that, while the attorney listed in Part I remains the primary attorney, other attorneys in the same firm would be allowed to appear before the agency on behalf of the petitioner, applicant, or beneficiary, and sign petitions and applications on their behalf as appropriate.

## **Proposed G-28I Form**

We reiterate our suggestion and recommendation with regard to Part 1 and the Instructions relating to Part 1. A.

We reiterate our comment as to Part 2. C. of the G-28 form with reference to Part 2, Option B of the G-28I form. We would also recommend that provision should be made in Part 3 for reference to the law firm of the signatory attorney, so that other attorneys in the same firm would be allowed to appear on behalf of the petitioner, applicant, or beneficiary, and sign petitions and applications on their behalf as appropriate.

AILA recognizes that rules as to representation are complex and yet, the system to notify the Department as to proper representation must be simple and easy to administer. We believe that the Department has gone a long way in its thoughtful revisions of the G-28 and G-28I form and sincerely believe that our suggestions and recommendations will further that effort.

Sincerely,

THE AMERICAN IMMIGRATION LAWYERS ASSOCIATION