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VIA EMAIL AND FIRST CLASS MAIL

Director of the Executive Office of Immigration Review (EOIR), James McHenry
Acting Chief Immigration Judge, Christopher A. Santoro
Deputy Chief Immigration Judge Mary Cheung
Deputy Chief Immigration Judge Sheila McNulty
Assistant Chief Immigration Judge Matthew Kauffman
Denver Immigration Court Administrator Jason Burke
Aurora Immigration Court Administrator Fayne Overton

Dear EOIR Director, Acting Chief Immigration Judge, Deputy Chief Immigration Judge, ACIJ Kauffman and Court Administrators:

The purpose of this letter is to express the deep concern of the Colorado Chapter of the American Immigration Lawyers Association (AILA) at the seeming lack of attention and concern by the Executive Office for Immigration Review (EOIR) in failing to take adequate measures at the Aurora Immigration Courts to respond to the COVID-19 Pandemic and Health Crisis.

On a national level, The National Association of Immigration Judges (NAIJ), the American Federation of Government Employees (AFGE) Local 511 (the Immigration and Customs Enforcement (ICE) Professionals Union), and AILA have **all united in their call for the emergency closure of the nation's 68 Immigration Courts for a minimum of 2-4 weeks** in adherence with current public health protocols regarding the COVID-19 virus and in recognition of the urgency of this public health crisis.

The failure to take swift and clear action to minimize the risk of continued spread of COVID-19 throughout our community is irresponsible and jeopardizes the health and safety of our clients, unrepresented individuals, private attorneys, ICE's Office of the Principal Legal Advisor (ICE-OPLA) attorneys, Immigration Judges and court staff.

We are calling on EOIR Headquarters to instruct the Aurora Immigration Court to immediately prioritize bond hearings and continue all other hearings for a minimum of 2 to 4 weeks.

Other courts in Colorado have already taken steps to move exclusively to telephonic appearances and have vacated jury trials that are not mandated by the Constitution. The Byron White U.S. Courthouse is closed to the public until further notice.

At the time of this writing, there are over 180 confirmed cases of COVID-19 in Colorado, many of those in the Denver Metropolitan area. This does not include the unconfirmed cases due to lack of testing. The Aurora Immigration court must address this pandemic immediately and adequately to prevent serious public health consequences.

COVID-19

The COVID-19 virus is spread by person-to-person contact and may also be spread by touching infected surfaces. The Center for Disease Control and Prevention (CDC) has recommended that places where more than 50 people gather be cancelled. The CDC has recommended that where vulnerable populations are present (individuals ages 60 and over, or individuals with chronic health conditions), gatherings of more than 10 people be cancelled. The White House has instructed Americans to avoid gatherings of more than 10 people be cancelled.

Many individual respondents, attorneys, court staff, and Immigration Judges are members of “vulnerable populations” and at risk of severe illness or death related to COVID-19.

Aurora Immigration Court

On a daily basis, large numbers of immigrants from various countries around the world and living in locations across Colorado and Wyoming, their family members and their legal representatives, sit in close quarters for long periods of time in order to attend hearings before an immigration judge.

In Court, paper applications, orders and notices are regularly handled and passed between respondents, attorneys, government attorneys, court clerks and Immigration Judges.

In short, an immigration court hearing is a public gathering where many vulnerable members of our population come in close contact. Those who do not currently exhibit symptoms may be carriers of COVID-19 and contribute to the spread of the virus. Further, even those who do not fall in a “vulnerable” category may still experience serious adverse health consequences from COVID-19.

Critically, individuals who fail to appear for their scheduled immigration court hearings are ordered removed from the United States. Therefore, most individuals will continue to appear for the scheduled hearings, regardless of their health condition, in order to ensure that they are not removed from the United States.

While EOIR has announced that non-detained hearings are cancelled, and that the Immigration Courts will entertain Motions to Appear Telephonically, this is simply not a sufficient response to eliminate the risk of COVID-19 transmission within the Aurora Immigration Court and the detention center, nor does it allow individuals to fully present their case.

Colorado does not have the capacity to handle a widespread outbreak of COVID-19. Therefore, it is essential that all of us, including the Aurora Immigration Court, take measures to reduce the spread of the disease, while ensuring access to justice. **Currently, Aurora Detention Center is quarantining 10 detainees for possible exposure to COVID-19.**

Because of COVID-19, the detention center is limiting attorney access to clients. In addition, visitors cannot enter the facility. Pro se clients are unable to receive visitors for evidence collection and if they do not have money in their accounts, detainees, whether pro se or represented, do not have a mechanism to communicate with people who could otherwise gather evidence on their behalf.

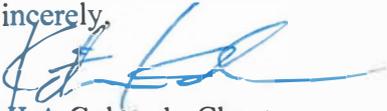
As such, we respectfully request that in order to ensure the health and safety of individuals, court staff, judges and attorneys:

1. Prioritizing Telephonic Bond Hearings to allow for release from detention
2. The Aurora Immigration Court is immediately closed for all other hearings and cases continued

3. If closure is not a possibility, we are calling on the Aurora Immigration Court to issue a standing order authorizing the Telephonic Appearance by all private counsel on all Master Calendar and Individual Hearings through April 10, 2020.

We appreciate your prompt attention to this matter.

Sincerely,



AILA Colorado Chapter
Executive Committee

Kristin Knudson, Nicole Murad, Courtney Butler, Petula McShiras, Jennifer Casey & Jennifer Smith

AILA Colorado - EOIR Liaison Committee Chairs
Camila Palmer & Laura Lunn