

# Mass Dissent

Massachusetts Chapter National Lawyers Guild 14 Beacon St., Boston, MA 02108  
 Summer www.nlgmass.org Vol. 40, No. 3

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## BOARD MEETING

**June 21, 6:00 pm**

14 Beacon St., 1st Fl.  
Boston

## The View Beyond the Wall

This month's issue of *Mass Dissent* is dedicated to immigration issues and – faced with the prospect of The Wall and other oppressive measures – the timing could not be better.

Although embattled, the White House continues to press its populist, isolationist, racist and anti-Muslim agenda on the American people through litigation at the federal circuit level and continued ICE raids. In the article “Tackling Trump’s Muslim Travel Ban,” we tell the story of how long-time NLG member and AILA-NE chair Susan Church took on Trump’s first travel ban – and won. It also describes the second Muslim ban and its procedural posture.

On a related note, **Maddie Thomson** gives us a report on the uncertain future undocumented people face and how, since Trump took office, ICE has been zealously going after undocumented immigrants.

Massachusetts’ goal to become a sanctuary city is also described in this issue. The thrust of this article is that we all can take action and protect undocumented people. Thanks to AILA-NE, we provide also you with “pointers” on whom to contact and how to advocate for

the Safe Communities Act. (If the Act passes, it will make it easier for undocumented immigrants to report violent crime without fear of reprisal from ICE.)

Sanctuary cities are a relatively new development on the urban scene but, for millennia, churches have provided their own form of sanctuary from the Powers-that-Be. In “Sanctuary in Places of Worship,” Georgia-based Attorney **Leslie Spornberger Jones** explains the legal risks that need to be considered by religious institutions and communities when they plan to play Good Samaritan to undocumented people. There is plenty of room within the law to lend a helping hand but, as the included summary of federal laws shows, it is wise to tread cautiously when taking this opportunity.

The NLG continues to work to protect and improve the civil rights and liberties of undocumented people against attacks upon them from any quarter. If you are not a member of the National Lawyers Guild-Massachusetts Chapter, we urge you to join us now. Go to: <http://www.nlgmass.org>

No more walls!

- Elaine Whitfield Sharp -



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*Mass Dissent* (ISSN 0887-8536) is published six times a year (February, April, June, September, October, December) by the National Lawyers Guild, Mass. Chapter, 14 Beacon St., Suite 407, Boston, MA 02108. Second-class postage paid at Boston, MA. POSTMASTER: Send address changes to *Mass Dissent*, NLG, 14 Beacon St., Suite 407, Boston, MA 02108.

**Join a Guild Committee**

**Street Law Clinic Project:** The Street Law Clinic project provides workshops for Massachusetts organizations that address legal needs of various communities. Legal education workshops on 4th Amendment Rights (Stop & Search), Landlord/Tenant Disputes, Workers' Rights, Civil Disobedience Defense, Bankruptcy Law, Foreclosure Prevention Law, and Immigration Law are held at community organizations, youth centers, labor unions, shelters, and pre-release centers. If you are an NLG attorney, law student, or legal worker interested in leading a workshop, please contact the project at 617-227-7335 or nlgmass-slc@igc.org.

**Lawyer Referral Service Panel (LRS):** Members of the panel provide legal services at reasonable rates. Referral Service Committee members: Benjamin Dowling, Sebastian Korth, Douglas Lovenberg, and Jonathan Messinger. For more information, contact the LRS Coordinator at 617-227-7008 or nlgmass-lrs@igc.org.

**Foreclosure Prevention Task Force:** Created in June 2008, the Task Force's goal is threefold: (1) advocate for policies that address issues facing homeowners and tenants of foreclosed houses, (2) provide legal assistance to these homeowners and tenants, and (3) conduct legal clinics for them. If you are interested in working with the Task Force, please call the office at 617-227-7335.

**Mass Defense Committee:** Consists of two sub-committees: (1) "Legal Observers" (students, lawyers, activists) who are trained to serve as legal observers at political demonstrations and (2) "Mass Defense Team" (criminal defense attorneys) who represent activists arrested for political activism. To get involved, please contact the NLG office at 617-227-7335.

**Litigation Committee:** Established in 2010, the Committee brings civil lawsuits against large institutions (such as government agencies, law enforcement, banks, financial institutions, and/or large corporations) that engage in repressive or predatory actions that affect large numbers of people and perpetuate social, racial and/or economic injustice or inequality. To get involved, please contact the NLG office.

**NLG National Immigration Project:** Works to defend and extend the human and civil rights of all immigrants, documented and undocumented. The Project works in coalitions with community groups to organize support for immigrants' rights in the face of right-wing political attacks. For more information contact the NLG National Immigration Project at 617-227-9727.

**NLG Military Law Task Force:** Provides legal advice and assistance to those in the military and to others, especially members of the GI Rights Hotline, who are counseling military personnel on their rights. It also provides legal support and helps find local legal referrals when needed. For advice and information, GI's can call 877-447-4487. To get involved, please contact Neil Berman (njberman2@juno.com) or Marguerite Helen (mugsm@mindspring.com).



# GUILD NEWS

## NLG HAPPY HOUR

You are invited to the “NLG Presents - Think & Drink” Happy Hour - a quarterly event held on the **2nd Wednesday of January, April, September, and November (or June)**. A report from the most recent Happy Hour is on page 4. If you have ideas for a presentation or would like to be a speaker, please call the NLG office at 617-227-7335.

is a great place for NLG members to discuss current political and legal affairs, strategize NLG’s work to address issues that affect us, and plan the future of the organization. If you have questions, please call the office at 617-227-7335 or email us at [nlgmass@igc.org](mailto:nlgmass@igc.org).

## NLG SUMMER RETREAT

All members of the NLG Massachusetts Chapter are invited to this year’s Summer Retreat on Sunday, **July 23, 2:00-6:00 pm**. We’ll be hosted by Carl Williams in his house in Dorchester (268 Humboldt Ave). The Retreat

## NLG CONVENTION

This year’s **NLG National Convention** we will celebrate the 80th Anniversary of the National Lawyers Guild. It will be held at **David Clarke School of Law in Washington D.C., between August 2nd and 6th**. All NLG members and friends are invited to attend. For more details about the event, please visit <https://www.nlg.org/convention/>.

## Street Law Clinic Report

*Since the last issue of Mass Dissent, the following clinics and trainings have been conducted for community organizations and agencies in our area:*

**April 1:** *Legal Observing* at a protest organized by Black Lives Matter, Seeds of our Ancestors, UFE, and Resist, by **Charles Haigh** and **Julia Blencowe**.

**April 11:** *Direct Action* training for Watertown activists, by **Makis Antzoulatos**.

**April 15:** *Direct Action* training for Somerville activists from Cosecha Movement, by **Melinda Drew** and **Jeff Feuer**.

**April 22:** *Legal Observing* at March for Science rallies in Boston and Cambridge, by **Lindsay Bailey, Rachel Bishop, Rosa Carson, Judith Cohen, Eddie Colberth, Betsey Henkels, Liz Jukovsky, Rick Rabin, Rachel Smit, and Deb Wilmer**.

**April 23:** *Direct Action* training for Cosecha activists, by **Jeff Feuer**.

**April 24:** *Legal Observing* at actions in Boston organized by Cosecha in support of undocumented immigrants, by **Maiyim Baron, Neil Berman, Jude Glaubman, Lor Holmes, Amber Houghstow, and Jeff Feuer**.

**April 28:** *Legal Observer* training for activists in Lowell, by **Makis Antzoulatos**.

**April 30:** *Legal Observer* training for Somerville activists at Havurat Shalom, by **Melinda Drew** and **Jeff Feuer**.

**May 1:** *Legal Observing* at May Day rallies in Boston, by **Rosa Carson, Malgorzata Chalupowski, Joanna Holmes, Anna Kastner, and Ellen Messing**.

**May 13:** *Direct Action* training for activists in Concord, MA, by **Makis Antzoulatos**. • *Legal Observing* at a counter-protests against alt-right and nazis in Boston Common, by **Genevieve Butler, Daniel D’Lugoff, Anna Kastner, Hannah Levine, Matricia Manos, Richard Rabin, and Deb Wilmer**.

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### ARTICLES FOR MASS DISSENT

The September issue of *Mass Dissent* will discuss the Supreme Court.

If you are interested in submitting an article, essay, analysis, or art work (cartoons, pictures) related to the topic, please e-mail your work to [nlgmass-director@igc.org](mailto:nlgmass-director@igc.org).

**The deadline for articles is August 10.**

## NLG Annual Dinner

The energy at Hibernian Hall in Roxbury was palpable on Friday, May 12, 2017, when the National Lawyers Guild-Massachusetts Chapter held its 36th annual Testimonial Dinner. This year the NLG awarded six highly deserving honorees to recognize their immense efforts towards radical and progressive justice.

Dinner guests enjoyed a cocktail hour under the high ceilings of the 3rd floor banquet room where they mingled, tried on “pussy hats” (made for the Women’s March and donated to the NLG by BrickBottom MadCats artist co-op in Somerville), and were treated to a fabulous buffet with a Caribbean twist crafted by chef Neil Porter and his team from Taste de Tropics. Then, following eloquent and hilarious introductions by Carl Williams, each of the six honorees took the stage to address the NLG guests.

Law students are a highly active and vibrant part of the NLG, and this year the awards went to two women who completely embody this sentiment. **Derecka Purnell** of Harvard Law School and **Claudia Quintero** of Western New England School of Law delivered powerful and profound messages about social injustice and encouraged everyone to be as actively involved in the struggle as possible (particularly if you are interested in being chained to a structure of some sort!)

The Legal Worker Awards went to two parties who also reflect the youthful energy of the NLG’s current work. Eighteen year old **Mari Gashaw**, a high school student at Cambridge Rindge Latin, drew the crowd in with her prophetic offerings that seemed astonishingly far ahead of her time. Along with her fellow members of Black Lives Matter Cambridge Mari had the audience energized and on their feet to chant along to a “Black Lives Matter!” beat. To keep the high energy going, the **Student Immigrant Movement** followed with a heartfelt plea for social justice for undocumented students before again rousing the crowd

to follow them in a playful cheer, shouting “Undocumented!” while the audience shouted back “Unafraid!”

Amid the awards the dinner fundraisers Makis Antzoulatos and Jonathan Messinger led bidding on the auction items and collected pledges of financial support offered to the NLG. They nearly literally raised the roof! Given that most of the auction prizes this year were amazing houses for vacation getaways, Makis didn’t miss a step in pointing out the irony that NLG members and friends who disdain private property would own so much. Thankfully we are all generously ready to share what we own! Also of note, David Kelston’s generosity not only included putting up his vacation home for auction but then bidding on and winning another house, which he donated to the student groups of legal workers honorees.

After the excitement and flurry that always accompanies a live auction, **Shannon al-Wakeel**’s acceptance speech for the Lawyer Award took on a softer, more touching tone as she highlighted the plight of so many immigrants, Muslims, and the poor that her organization Muslim Justice League has been helping. This perfectly set the stage for **Brian Flynn** of GBLS to bring it home by building momentum and inspiration during his acceptance of the Rob Doyle Award, in memory of the NLG-MA’s co-founder who passed suddenly in 2014.

Riding out the night’s vibe, the lights dimmed and the dance floor lit up led mainly by Black Lives Matter Cambridge’s festive energy. A success on all fronts, the 2017 Gala definitely hyped up the crowd towards engagement for the year to come and beyond (*photos on p.6-7*).

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*Report from Caroline Darman who is the NLG Lawyer Referral Service Coordinator and Administrative Assistant.*

## Tackling Trump's Muslim Travel Ban

by Elaine Whitfield Sharp

One day after the January 20, 2017, inauguration of Donald J. Trump as president of the United States, millions of people took to the streets in major U.S. cities, across Europe, and the world to protest what they viewed as a new right-wing, populist craze spearheaded by the new president. Members of the NLG Massachusetts Chapter (NLG) were on hand in Boston as protesters or Legal Observers, and had already given "Know Your Rights" clinics to help the grass roots resistance.

The fear of religious persecution expressed by protesters world-wide after the U.S. election and Inauguration Day were well founded: making good on a constitutionally-dangerous campaign pledge, President Trump issued a travel ban on January 27, 2017, in the form of an Executive Order banning for 90 days visitors to the USA from seven predominantly-Muslim countries (Iran, Iraq, Libya, Somalia, Sudan, Syria and Yemen.) The president claimed this measure was to ensure "we are not admitting into our country the very threats our soldiers are fighting overseas."

Something had to be done, and fast. As thousands of protesters and lawyers, including NLG-Massachusetts members, gathered at Logan International Airport, Boston-based attorney Susan Church, long-time NLG member and chair of the American Immigration Lawyers Association (AILA), went there to find people who needed help – and a Plaintiff to sue the President of the United States of America.

While the search for a suitable Plaintiff was on, Boston attorneys Kerry Doyle and Matt Segal were busy drafting the complaint for a stay of the Executive Order from their offices and homes. Once the Plaintiff was chosen on Saturday evening, Church said she called the emergency number for the USDC-Boston and reached Magistrate Judge Judith Dein who, at that time, was at the Shubert Theater in Boston.

Magistrate Judge Dein told Church to meet her at "9:30" at the USDC-Boston, Church recalled, adding, "I wasn't sure whether that was 9:30 the next morning – did she mean Sunday? – or 9:30 AM Monday morning; I was concerned Magistrate Judge Dein might have meant Monday – after which the irreparable harm needed for the stay would be moot." Church then asked "is the court going to be open..." to which Judge Dein responded "I am going to get it open."

Church argued the case with lawyers Matt Segal, Kerry Doyle, and Heather Yountz. Judge Allison Burroughs joined the hearing and presided over it with Magistrate Judge Dein. Around 1:51a.m. the pair of judges issued a temporary stay of Trump's EO and instructed the Federal Marshalls to call U.S. Customs and Border Patrol at Logan and admit to the USA those people excluded by the ban. Images of visitors from the seven predominantly Muslim countries buzzed across social media. No longer barred from entering the U.S., they were pictured pushing luggage carts, hugging greeters, and shedding tears.

"It was amazing and extremely gratifying to witness

first hand the power of the Judiciary at work to check the Executive where issues of Federal constitutional rights were at stake, said Church, adding: "It's the kind of case I went to law school for and I am incredibly honored to have been on the legal team that struck the first blow against the Muslim ban."

On March 6, 2017, Trump issued a new version of his earlier ban which, among other changes, omitted prohibiting people from Iraq, a nation where the U.S. and its allies were then, and are now, engaged in bloody battles against ISIS.

Once again, with the new travel ban the White House failed to make a reasonable or persuasive case for barring people from the six nations. The Associated Press released a leaked memo revealing that intelligence experts at the Department of Homeland Security found that "country of citizenship is unlikely to be a reliable indicator of potential terrorist activity." The second Muslim ban was stayed by USDC Judge Derrick Watson in Hawaii on March 15, 2017. Staying parts of the Executive Order (EO), Judge Theodore D. Chuang of the Federal District Court in Maryland also rejected Trump's rationale for issuing the second ban.

Constitutional challenges to Trump's second temporary 90-day travel ban against Muslims from the six nations went before two U.S. Appeals Courts in May. Sitting en banc, the 4th U.S. Circuit Court of Appeals heard arguments on May 8 in which the President argued to the Richmond, Virginia-based Court that the ban was issued to protect national security. A week later, on

*Continued on page 10*



## NLG Annual Dinner



(Clockwise from left):

1. 2017 NLG Honorees - Mari Gashaw, Brian Flynn, Claudia Quintero, Shannon Al-Wakeel, Katherine Asuncion & Cairo Mendes of Student Immigrant Movement (*Purnell not pictured.*)
2. Derecka Purnell, 2017 Honorees with her husband, Grandon.
3. 2010 NLG Honoree Josh Raisler Cohn, Maddie Thomson, and Co-Chair of the Chapter kt crossman.
4. 1990 NLG Honoree Law Prof. Margaret Burnham & 2004 NLG Honoree Kazi Touré.
5. Members of the Portland Chapter (Maine) of Black Lives Matter.

(Photos by Rebecca Amdemariam)





(Clockwise from top left):

1. Robert Warren & 2007 NLG Honoree Barbara Zimbel.
2. Members of the Student Immigrant Movement.
3. Bhavin Patel & Jasmine Gomez.
4. Ricardo & Felix Arroyo.
5. GBLS crew.
6. Arielle Miles & Andrew Cohen.
7. Masha Yazdy, Jude Glaubman, and Lor Homes.



## Life for Undocumented Immigrants under Trump

by Maddie Thomson

Undocumented immigrants are part of our communities in Massachusetts. Arguments for immigrants' rights frequently hinge on the fact that undocumented people do difficult and undesirable work that keeps the economy moving; that they pay taxes and contribute to the social security without benefiting from it; and that they commit proportionately fewer crimes than citizens. All of these things are true. But these utilitarian arguments still don't reach the fundamental fact that immigrants are human beings entitled to, at the very least, the protection of the laws.

Massachusetts attorneys used to be able to tell undocumented clients with relative confidence that they were entitled to make use of the court system. Undocumented persons can file complaints for breach of contract, unpaid wages, workers' compensation, discrimination, sanitary code violations in rented housing, protection from abuse, and violations of the consumer protection laws; in short, undocumented people can and do use the Massachusetts court system without their immigration status being used against them. Now, ICE is boasting that its arrests and deportations of undocumented people are up 38% compared to the same period last year, with many of these arrests taking place at people's homes and some in courthouses where undocumented people were appearing for matters unrelated to immigration. (Dickerson, Caitlin, *The New York Times*, "Immigration Arrests Rise Sharply as Trump Mandate is Carried Out," May 17, 2017.)

Until recently, the most horrifying instances of ICE using immigrants' needs for the protection of the legal system against them took place in other states, such as Texas, where ICE apparently acted on a tip from an abuser to arrest an undocumented woman who was seeking a protective order against him. (Schladen, Marty, *El Paso Times*, "ICE detains alleged domestic violence victim," Feb. 15, 2017.)

However, this phenomenon has recently appeared in Massachusetts as well: Jose Flores, an undocumented worker in Massachusetts, who had been injured on the job and sought workers' compensation, was apparently lured by his employer to a meeting where ICE was waiting to detain him. (Dooling, Shannon, *WBUR*, "An ICE Arrest After a Workers' Comp Meeting Has Lawyers Questioning If It Was Retaliation," May 17, 2017.) As workers' compensation attorney Stacie Sobosik says, Massachusetts attorneys have previously been able to tell their clients that ICE "has bigger fish to fry, than to come after an injured worker because their boss has reported them" (*Id.*) This appears to be no longer true.

This has enormous implications for the capacity of Massachusetts attorneys to advocate fiercely for their undocumented clients and for the ability of undocumented Massachusetts residents to live their lives with a bare minimum of stability. If an undocumented person fights an eviction in housing court, reports harassment, or sues an employer for unpaid wages, their landlord (or harasser or employer) can report them to ICE, and there is now a non-triv-

ial possibility that ICE will respond by arresting that person and initiating deportation. ICE, and the new mandate it has been given by Trump, has given slumlords, abusive employers, domestic abusers, and garden-variety racist xenophobes an enormously effective weapon for targeting and exploiting immigrants. The ability to go to sleep at night with a modicum of assurance that the life one has built will not be destroyed the next day by forced deportation is a human right that should be protected. For Jose Flores, requesting the compensation for a workplace injury he was entitled to, led directly to his incarceration and the attempt of the Federal authorities to deport him to his home country of Honduras (which has been devastated by U.S. foreign policy). This human right has been compromised for Flores and for countless other immigrants.

I have no doubt that Massachusetts attorneys will continue to advocate zealously for undocumented people. Flores' case is a call for a more intersectional approach to lawyering: he has the support of the Immigrant Worker Center Collaborative and the MetroWest Workers Center who are crowdfunding to raise money for his legal defense, to support his family, and to bring attention to this abuse of power. All Massachusetts attorneys who represent immigrants should be working closely with immigration attorneys, workers' centers, and other immigration advocates and activists.

*Maddie Thomson is an immigration attorney at Community Law Office, LLC, in Boston.*

## *Sanctuary in Places of Worship: How to Avoid Criminal Risks for Providing Sanctuary to Undocumented People*

by *Elaine Whitfield Sharp*

**S**anctuary cities, and Trump's threat to punish them for being so, has created a maelstrom in the resistance against oppressive White House polices and Executive Orders.

For centuries, churches have provided sanctuary to those who need protection from those in power. In these dark times, sticking together makes sense, and it is time for movement lawyers to mobilize with communities of faith that are committed to provide resources and sanctuary in the physical church to those who face deportation.

But houses of worship and religious communities face civil and criminal risks for playing the Good Samaritan. "In this climate, I was hired by a church member who asked me to find out: 'What's the liability if we provide sanctuary at our church,'" explained Georgia-based attorney Leslie Spornberger Jones. "The way this person looked at me, it was obvious this person thought it a simple question."

But, says Jones, "A million alarms rang in my head: What type of liability? Civil? Criminal? Ecclesiastical? And, 'sanctuary' – what does that mean? Housing people? Giving rides to the grocery store? Providing a place for group meetings?"

And that's not the end of the inquiry, either, said Jones, adding: "Then, there's the government: ecclesiastical, federal, state, local. To what laws, regulations and rules might the church be subject?"

It was clear, added, Jones, that this was not a quick legal

research project. As a starting point, Jones asked her client: "What do you mean by 'sanctuary,'" adding that she then asked to see the church's founding documents, its administrative literature, and a copy of the general liability policy.

Many undocumented immigrants were invisible to the wider community before Trump's presidency but, as the street demonstrations show, thousands now want to stand in solidarity with this often-marginalized segment of our communities.

"Right out of nowhere," says Attorney Jones, "people who never thought about immigration policy or the millions of undocumented people in the U.S. began to worry and wonder about this vulnerable population."

Before Trump's presidency, "many people of faith who were never really concerned about our undocumented brothers and sisters now want to help the 'strangers' in our midst; reach out to the 'foreigners' in our land; and provide comfort to refugees, asylees that have sought better lives in the U.S.," said Jones.

This desire to help is consistent with the beliefs of all major faiths that compel believers to provide hospitality for travelers and to care for people from other lands, explains Jones. "They also generally teach that the faithful person is to stand up for what is right. In the view of the believer, no emperor or president's proclamation is a match for the word of the Almighty," Jones said.

Given her client's belief background, Jones said she wondered: "If a place of worship provides sanctuary, what type of legal trouble could occur?"

Many protestant churches organize and self-govern, but hold the property of the denomination in trust. If a local church violates the law and incurs civil liability, the denomination theoretically could then sue the local church for damages. This is where reviewing the church's insurance policy and any legal documents connecting the local church to the denomination is crucial, Jones said.

In representing the local church client, Jones said, one also has to be sensitive to the tension between the client's religious mandate in which God is to come first versus the recognition that living in the real world requires worldly leaders to be respected.

"Civil disobedience is only appropriate if all legal remedies have been exhausted. In this context, skirting the immigration laws could be risky business for the believer," said Jones.

"In addition to general doctrines, many faiths have their own judiciary processes for people who do not comply with doctrine," added Jones. "Searching the judicial decisions of my client's faith led me to decisions of the church's judiciary that explained how the denomination's rule on civil disobedience was born during the Vietnam War and that provided guidance on what 'exhausting all legal remedies' might mean."

Next, what of federal, state, and local laws, Attorney Jones wondered, adding, "Federal immigration laws prohibit harboring and transporting undocumented persons, but what, truly, is 'harboring'?" (*See p. 10.*)

Questions for the lawyer and client to consider include:

*Continued on page 11*

## Opportunity Knocks - How Should You Answer?

These are times of great opportunity for the movement and for civil rights lawyers to be involved in helping religious groups to provide sanctuary and other aid to undocumented, vulnerable people. But, look before you leap, says Georgia-based Attorney Leslie Spornberger Jones. (*See article on p.9.*)

Here are a few pointers from Attorney Jones:

- Federal immigration laws prohibit harboring and transporting undocumented persons, but what is truly harboring?

*See, INA §274(a)(1)(A)(iii).*

- If a person drives an undocumented person to her immigration attorney for a consultation, is that criminal transporting?

*See, INA §274(a)(1)(A)(ii).*

- What activities could bring the eye of the federal government to the place of worship? Obviously, fact intensive understandings of how the client wants to provide sanctuary are important here. Carrying an undocumented person to meet his/her attorney is unlikely to be prosecuted as transporting.

*See, US v. Dominguez, 661 F.3d 1051, 1061-1062 (11th Cir. 2011)* in which a baseball agent taking potential clients to an immigration lawyer to address undocumented status was acquitted of transporting).

- Providing a safe haven for people who have absconded from an immigration detention center is likely to be considered harboring.

*U.S. v. Shiu Sun Shum, 496 F.3d 390, 2007 U.S. App. LEXIS 19104 (5th Cir. 2007)* (citing *United States v. De Jesus-Batres, 410 F.3d 154, 160 (5th Cir.), cert. denied, 126 S.C. 1020 (2005).*

- If a person engages in harboring or transporting, is there any asset forfeiture that could occur? **The answer is: Yes.**

*See, generally, INA §274(b), 8 CFR §274.1, 18 USC §982(a)(6)(A), and U.S. v. George, 779 F.3d 113, 122-124 (2d Cir. 2015).*

So, risk and liability abound depending on how the faith community will help others.

Thanks to Attorney Leslie Spornberger Jones, Athens, Georgia, for contributing this research.

## Tackling Trump

*Continued from page 5*

May 15, a panel of the 9th U.S. Circuit Court heard arguments on the constitutionality of the second travel ban, which also was stayed by Hawaii U.S. District Court, Derrick K. Watson. Judge Watson wrote: “A reasonable, objective observer – enlightened by specific historical context, contemporaneous public statements, and specific sequence of events leading to its issuance – would conclude that the Executive Order was issued with a purpose to disfavor a particular religion.”

The fight continues.

*Elaine Whitfield Sharp is a partner at Whitfield Sharp & Hitchcock, LLC, in Marblehead, and a member of the NLG-Mass Chapter Board of Directors.*

## Street Law Clinic

*Continued from page 3*

**May 23:** *Legal Observer* training for activists in Northampton who fight against ICE raids, by **Jeff Feuer** and **Howard Silverman**.

**June 5:** *Legal Observing* at a rally in Cambridge organized in support of Palestinian struggle to end the occupation, by **Becky Barstein, Geoff Carnes, Ruth Faris, Charles Haigh, Phil Mackson, Emily Murcko** and **Rick Rabin**.

## NLG Massachusetts Chapter Sustainers

In the spring of 2003, the Massachusetts Chapter of the NLG initiated the Chapter Sustainer Program. Since its inception, the Program has been very successful and has been enthusiastically joined by the following Guild members:

**2 Anonymous • Steve Buckley • Patricia Cantor & Jeff Petrucelly • J.W. Carney • Howard Cooper • Caroline Darman • Melinda Drew & Jeff Feuer • Roger Geller & Marjorie Suisman • Lee Goldstein & Mark Stern • Benjie Hiller • Andrei Joseph & Bonnie Tenneriello • Martin Kantrovitz • Nancy Kelly & John Willshire-Carrera • David Kelston • John Mannheim • Jonthan Messinger • Hank Phillippi Ryan & Jonathan Shapiro • Allan Rodgers • Martin Rosenthal • Shapiro, Weissberg & Garin • Elaine Sharp • Anne Sills & Howard Silverman • Judy Somberg**

The Sustainer Program is one of the most important Chapter initiatives to secure its future existence. Please consider joining the Program.

### YES, INCLUDE MY NAME AMONG NLG MASSACHUSETTS CHAPTER SUSTAINERS!

I, \_\_\_\_\_, am making a commitment to support the Massachusetts Chapter of the Guild with an annual contribution of:  
\_\_\_\_\_ \$500 (not including my membership dues)  
\$ \_\_\_\_\_ (other above \$500)

**As a sustainer I will receive:**

- special listing in the Dinner Program;
- 1/8 page ad in the Dinner Program;
- acknowledgement in every issue of *Mass Dissent*;
- two (2) free raffle tickets for a Holiday Party raffle;
- invitation to special events.

**Three ways to become a sustainer:**

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## Sanctuaries

*Continued from page 9*

(1) If a person drives an undocumented person to her immigration attorney for a consultation, is that criminal transporting?

(2) What activities could bring the eye of the federal government to the place of worship? Obviously, fact intensive understandings of how the client wants to provide sanctuary are important here. Carrying an undocumented person to meet his attorney is unlikely to be prosecuted as transporting, said Jones.

"But, providing a safe haven for people who have absconded from an immigration detention center is likely to be considered harboring. So, risk and liability abound depending on how the faith community will help others," said Jones.

Navigating these risks is particularly fraught with distress in light of

recent deaths of undocumented people in ICE custody.

Attorney Jones also explained that, if a person engages in harboring or transporting, asset forfeiture could occur. Federal immigration and Federal and state criminal laws generally provide for civil, criminal, and other forfeiture of property — severe liability, particularly where a local church or worship center holds the property of the denomination in trust. This means if a local church engages in conduct that will subject the denomination's property to forfeiture, a lawsuit between the two could occur, said Jones.

And where and how is the First Amendment's prohibition against Government interference with religion implicated in a sanctuary case where believers are following their spiritual mandate to help those in need?

In the current climate, it is best to be aware of the possible state laws under which church members could be prosecuted.

"Even if these laws are ultimately found unconstitutional — facially or

as applied, a local church could be the first 'person' to challenge the law — never a fun spot to be in," said Jones.

Local laws, too, may come into play for religious organizations that want to provide sanctuary. Zoning, obstruction of local law enforcement agents, and providing false information are common charges that might stem from sanctuary activity.

Finally, what is the civil liability risk for providing sanctuary? How would an insurer view the religious organization's decisions to provide living space, transport people in a van, or receive medical care at the place of worship? Depending on the activity, liability may be high.

"Answering my client's question required a lot of research into multiple legal sources, a consideration of all the ways the client wanted to help undocumented persons, and thinking creatively about where liability can be avoided. Having this information is critical for a religious organization that wants to provide sanctuary," said Attorney Jones.

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