



July 31, 2017

Gerald S. Hartman
Drinker Biddle & Reath LLP
1500 K Street, NW
Washington, DC 20005-1209
McDowellFoundation@McDowellFoundation.org

Re: Barbara McDowell and Gerald S. Hartman Foundation Twelve-Month Progress Report

Dear Jerry:

The American Immigration Council (Immigration Council) and the National Immigration Project of the National Lawyers Guild (NIPNLG) are grateful to the Barbara McDowell and Gerald S. Hartman Foundation for your support of our pending litigation challenging agency-imposed barriers that prevent asylum seekers from filing their asylum applications within the statutory one-year deadline.

1) Case developments since April 1, 2017 and anticipated progress in the next six months.

In our Six-Month Progress Report, we reported that the district court had granted our motion for class certification—certifying two classes of asylum seekers, with two subclasses each—and also denied the government’s Motion to Dismiss. Since then, the government has filed its Answer. The parties then submitted a joint proposed scheduling order and discovery plan, and the court issued a scheduling order. Pursuant to the court’s order, discovery will close at the end of September; dispositive motions are to be filed in October; and trial is set for March 2018. We are confident that many—if not all—of the issues in the case will be resolved on summary judgment, as there are no material factual disputes.

Following entry of the court’s scheduling order, the parties exchanged initial disclosures. Soon thereafter, we served written discovery on each of the two sets of defendants: the Department of Homeland Security (DHS) defendants and the Department of Justice (DOJ) defendants. Defendants’ responses are due in August. At the time of the last report, we expected discovery to be limited to document requests and depositions. As it turned out, we served Requests for Admission, Requests for Production of Documents, and Interrogatories on both sets of defendants. Depending on the answers we receive, we may need to serve a second, discrete set of discovery on one or both sets of defendants. Additionally, we expect to depose a Rule 30(b)(6) witness from each set of defendants, as well as a half dozen or so other witnesses.

The government has not reopened negotiations—which had begun shortly after we filed suit, but ended without resolution in September 2016—but may do so as discovery progresses or after we file a motion for summary judgment. We are pleased with the progress of the case to date and remain optimistic that we will prevail, either through settlement or on summary judgment.

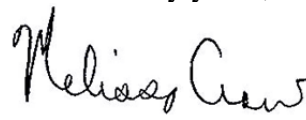
2) *Attorney Contact Information*

For additional information about this case, please contact:

- Mary Kenney, Senior Staff Attorney, American Immigration Council, mkenney@immcouncil.org, (202) 507-7512
- Trina Realmuto, Litigation Director, National Immigration Project of the National Lawyers Guild, trina@nlpnl.org, (617) 227-9727 ext. 8

As always, please also feel free to reach out to me if you would like to discuss this matter further.

Sincerely yours,

A handwritten signature in black ink that reads "Melissa Crow". The signature is written in a cursive, flowing style.

Melissa Crow