

The Globe

The newsletter of the Illinois State Bar Association's Section on International & Immigration Law

Editor's comments

BY LEWIS F. MATUSZEWICH

From time to time, *The Globe* carries information concerning the Twinning Project the Illinois State Bar Association had with the National Bar Association of Poland. A key part of that program was the International Human Rights Law Institute at DePaul University School of Law.

The International Human Rights Law Institute was co-founded in 1990 by M. Cherif Bassiouni, who began teaching at DePaul University after he earned a law degree from Indiana University in 1964.

Bassiouni passed away at the end of September at the age of 79. He was the

son of an Egyptian ambassador and the grandson of the first president of the Egyptian Senate. According to Bassiouni's obituary in the September 27, 2017 issue of the *Chicago Tribune*, his grandfather helped draft Egypt's first constitution.

In 1992, the same year that DePaul first served as the fiscal agent and developed the educational programs for the ISBA Twinning Project with the National Bar Association of Poland, he was appointed Chairman of the United Nations' Commission of Experts to Investigate

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Updates in Swiss business law

BY FLORIAN S. JÖRG

In the period from January 1, 2017 to July 1, 2017, the following significant changes to Swiss business law became effective:

1. Simplifications with regard to the withholding tax reporting obligation

Swiss withholding tax law provides for two ways in which the obligation to pay tax on dividend payments (upstream) can be satisfied within a group of companies: on the one hand by paying the withholding tax to the Federal Tax Administration (FTA), and on the other

hand by merely notifying the same authority that the company is subject to withholding tax.

On February 15, 2017, significant changes regarding reporting obligations entered into force in Swiss withholding tax law. Latterly, the obligation to pay withholding tax within a group of companies can still be satisfied even if the 30-day reporting deadline has already expired (press release FTA of February 1, 2017). In international situations, this naturally only applies if the necessary permits for the reporting obligation have

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Editor's comments

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Violations of Humanitarian Law in the former Yugoslavia. Later he was appointed the United Nations' independent expert for Human Rights in Afghanistan.

According to the *Chicago Tribune's* obituary, in 1994 the Clinton administration "terminated his post as a U.N. monitor in Afghanistan after Bassiouni accused American military forces and civilian contractors of abusing and torturing prisoners in the U.S.-run detention centers there."

Discussing the content in this issue of *The Globe*, we have a current "Updates in Swiss Business Law" provided by Florian Jörg, who endeavors to keep us informed of Swiss business and financial issues.

Claudia Petcu is a trade compliance paralegal for an automotive related company in the Chicago area. Her first article for *The Globe* is "Important External Resources for a Trade Compliance Paralegal."

This issue also includes an article

by Robert Heuer, "*Sessions v. Morales-Santana*," which first appeared in the August, 2017 issue of *Human Rights*, the newsletter of the Human Rights Section Council of the Illinois State Bar Association.

The U.S. Commercial Service provides extensive resources and training concerning international trade. The article, "Why Use the U.S. Commercial Service" describes some of the educational programs that should be of interest to any attorney advising clients on trade and export issues.

As always, thank you to all of our contributors.

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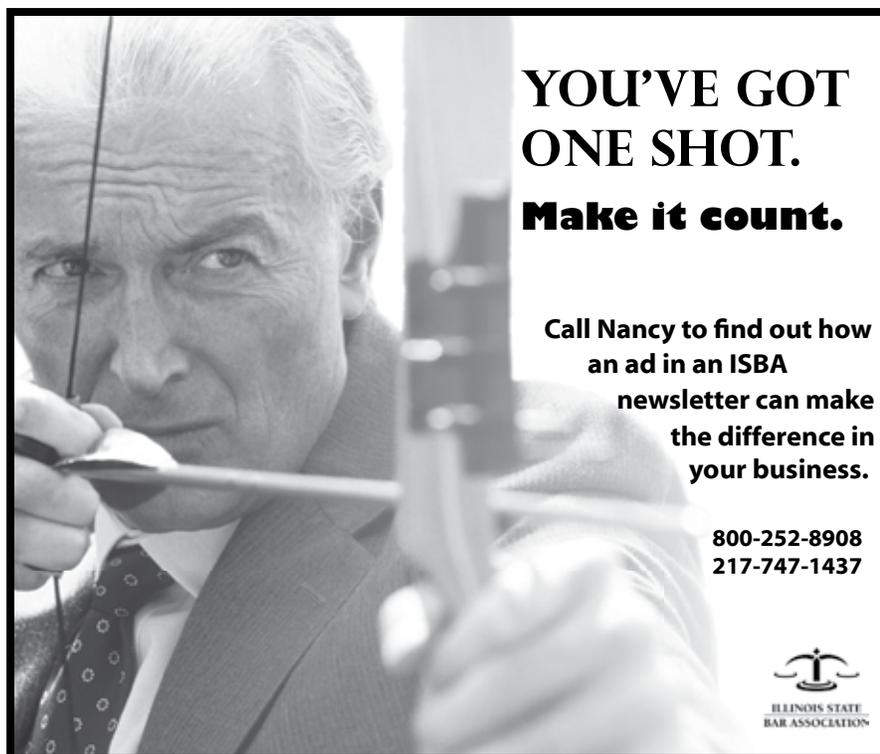
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Updates in Swiss business law

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been obtained in advance. In the case of a late notification, no interest on arrears is now due, provided that the material prerequisites for the satisfaction of the obligation to pay withholding tax have been fulfilled by reporting the taxable amount. The only penalty fee that is now provided for is a fine not exceeding CHF 5,000. Withholding tax law does not stipulate a deadline prior to which this notification has to be submitted after the expiry of the original deadline. It must be pointed out in this context that the tax claim becomes subject to the statute of limitations five years after the end of the calendar year.

The point in time at which the dividend is due remains the determining factor for the start of the time window for the satisfaction of the withholding tax reporting obligation. The material prerequisites for the satisfaction of the withholding tax reporting obligation remain unchanged and are defined by the regulator in the Withholding Tax Ordinance (SR 642.211).

Interest on arrears that was exclusively imposed owing to a belated notification and has already been paid can be reclaimed by the companies in question by means of a request submitted within a year of the entry into force of the new regulations. However, such a reclaim is precluded in the case of demands for tax or interest on arrears that are already subject to the statute of limitations or were made legally binding prior to January 1, 2011.

2. New exemption from stamp duty for equity securities in banks or group companies of financial groups

An amendment to the Federal Act on Stamp Duties (SR 641.10) became effective as of January 1, 2017. It provides for a further exemption from stamp duty in the banking segment. Now equity securities in group companies of financial groups are also exempt from the obligation to pay stamp duty for which reorganization

measures in accordance with Swiss banking law can be ordered if they are issued or increased in the context of a conversion of borrowed capital into equity. The revision aims to avoid the situation whereby banks which need to be reorganized are not additionally encumbered by stamp duty if the capital resources of the company to be organized are intended to be increased through the conversion of borrowed capital into equity.

3. Modification of the reporting requirement for parties with the power to exercise voting rights

The Swiss Financial Market Supervisory Authority (FINMA) modified reporting requirements for the discretionary power to exercise the voting rights set out in the FINMA Financial Market Infrastructure Ordinance (SR 958.111) (press release FINMA of February 14, 2017). The provisions entered into force on March 1, 2017.

Swiss capital market law provides for a reporting requirement for the direct or indirect acquisition or disposal of shares in a company based in Switzerland whose equity securities are listed in whole or in part in Switzerland if such a transaction exceeds or falls below certain thresholds of the total voting rights. Anyone who has full discretionary powers to exercise voting rights of equity securities is also subject to this notification duty. In the case of delegated voting rights, that person is now bound by the reporting requirement who actually makes the decisions concerning the exercise of voting rights. Alternatively, the reporting requirement can be met by a controlling person in a consolidated way for the units that this person controls; in this case, the controlling person is considered to be subject to the notification duty. The new regulation simplifies the satisfaction of reporting obligations in constellations with direct or indirect control, such as groups of (fund) management companies which exercise voting rights for the fund and investment

vehicles managed by them, and it must therefore be welcomed. ■

Dr. Florian S. Jörg, MCJ, is a partner in the Zurich office of Bratschi Wiederkehr & Buob Ltd., one of the largest independent Swiss law firms. He graduated from the University of St. Gallen Law School and obtained a postgraduate degree from NYU Law. His areas of practice include corporate law, M&A and banking law. Florian advises mainly both foreign and domestic companies and banks. He is also a lecturer for private law at the University of St. Gallen Law School. Further, Florian is admitted to the Swiss bars and to the bar in New York (not practicing) and he is a member of IBA, ABA, IPBA and NYSBA. Currently, he is also the co-chair of ABA SIL's M&A and Joint Venture Committee, a former co-chair of the Europe Committee and a Fellow of the American Bar Foundation. For questions please contact Florian S. Jörg at +41 58 258 10 00 or by email to florian.joerg@bratschi-law.ch.

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The 2018 Notice of Election is now available. Find out more at www.isba.org/elections.

Filing of Petitions begins on January 2, 2018 and ends on January 31, 2018.

Important External Resources for a Trade Compliance Paralegal

BY CLAUDIA PETCU

The world of trade compliance is constantly changing and evolving, influenced by changes in technology and politics. It is therefore important to regularly consult external resources to keep pace with the industry. Using the most up-to-date information ensures compliance and avoids fines and penalties. Some of these sources also serve as a learning tool for someone recently introduced to trade compliance or for any seasoned professional wishing to refresh their memory on some of these topics. The websites mentioned below are mostly from a US perspective although they also touch on international influences. They address the world a trade compliance paralegal must navigate when considering both import and export compliance. Some trade compliance concepts will be delved into deeper and one can also use these sources in their daily functions. The government agencies referenced are: US Customs and Border Protection, World Customs Organization, Bureau of Industry and Security, Department of Commerce, Office of Foreign Assets, Census, and International Chamber of Commerce.

CBP.GOV

(<https://www.cbp.gov/>)

This website serves as the official website for US Customs and Border Protection (CBP). On the first page, one can find recent events and their impact on CBP operations. Digging further through the website, the organization of Customs and Border Protection is presented which can be of use for directing specific CBP requests. Furthermore, the basics of importing are explained serving as a useful tool to anyone new to importing or when looking for specific information. The challenge that E-commerce poses is acknowledged by Customs while stressing

that even in this environment its goal is to facilitate legitimate trade. Centers of Excellence are also explained; their location can be found and their goal of striving for uniformity across ports is mentioned. One can also find information related to the Customs Trade Partnership against Terrorism (CTPAT) program and its benefits. Noteworthy benefits include access to the FAST lanes at the land borders along with priority consideration at CBP's Centers of Excellence and Expertise. A visit to this website can serve as a good introduction for any paralegal new to US Imports or seeking information regarding a specific US import topic.

World Customs Organization (WCO.ORG)

The official website of World Customs Organization is another important tool for a Trade Compliance Paralegal. It has a wealth of information concerning the strategic overview of World Customs organization, the challenge of facilitating trade while increasing revenue, and the impact of big data on customs enforcement. Information regarding the World Customs Organization is also applicable to US Customs as they serve as one of its members. Strategic goals of the World Customs organization include promoting the security and facilitation of fair trade, promoting fair revenue collection, aid in combatting crime and terrorism, and finally strengthening economic and social development. Comparisons are also provided regarding the number of declarations along with the percentage of electronic declarations and what countries have single windows. This website further contains research which is helpful for a paralegal to get an overview of how Customs implements its enforcement practices around the world. Of special

interest there is a paper on "Big Data" and how that has changed customs practices. Challenges faced by Customs when it comes to big data are privacy concerns and data security; however, the benefits include both aiding Customs in identifying threats within the supply chain and patterns of non-compliance. This is a good resource for providing valuable insight into Customs philosophy and identifying new trends in Customs enforcement so a proper plan of compliance can be developed.

INFORMED COMPLIANCE PUBLICATION

(<https://www.cbp.gov/trade/rulings/informed-compliance-publications>)

CBP provides informed compliance publications which contain extensive but not exhausting information regarding topics of concern to importers. These informed compliance publications coincide with the Customs Modernization Act of 1993 whose purpose is to increase compliance with Customs by placing a burden on both the importer and Customs. The burden on Customs is to inform the trade community of their legal obligations, and the trade community is expected to comply. Informed Compliance publications range from topics applicable to any kind of importer such as valuation and rules of origin, to those more industry specific such as classification of certain apparel or certain considerations when importing watches. For example, one can find in the Valuation publication that the most common valuation method used is the price paid or payable, excluding international freight and insurance. In the rules of origin publication, the substantial transformation criterion is discussed along with preferential rules of origin for various free trade agreements. Moreover, more specific and technical topics are discussed such as buying and

selling commissions and what counts as a bona-fide buying or selling agent. A Trade Compliance Paralegal can consult this tool when dealing with specific issues or as a general guide to importing.

HTSUS

(<https://hts.usitc.gov/current>)

This is the Harmonized Tariff System (HTS) of the United States, 2017 edition. As a new edition of the Harmonized Tariff Schedule comes out yearly it is important that the latest edition is used when classifying. The HTS has 12 digit classification codes, with the first six being uniform across countries. The last two digits are only for statistical purposes. Although this is not a rule commodities tend to be classified from the least processed such as livestock to the most processed such as machinery. Consulting this source is of most importance as it helps determine the duty rate and free trade agreements that a commodity may qualify for. When classifying, the general rules of interpretation (GRIs) are used. These six rules discuss how to classify when faced with different scenarios. One of the main takeaways of GRI 2 is that if goods are unfinished or disassembled they should be classified as if they were finished or assembled. GRI 3 states that when faced with potential multiple classifications the heading that provides the most specific description should be used. GRI 4 is that when a good cannot be found one must classify it to the good that is most similar and GRI 5 advises how to proceed regarding packing goods. Explanatory notes are also found at the beginning of each HTS chapter which provide useful information about specific goods that qualify and those that do not for a given chapter. Since every commodity must be assigned a HTS code upon importation, this is an essential tool for a Trade Compliance Paralegal to consult.

CROSS RULINGS

(<https://rulings.cbp.gov/>)

When an importer is in doubt regarding determining the HTS code of its product, one of the tools it can turn to is Customs Rulings Online Searching System (CROSS).

This is a database that contains most but not all, of the rulings issued by Customs. They can be issued either by Headquarters or by the New York office (which is what the prefix in front of the ruling number stands for). After looking through the Harmonized Tariff system, if there is still uncertainty regarding how to classify a commodity, it is likely that there is a ruling on it. The search options, in CROSS, are by name or by HTS code. If one cannot find a rule on a certain commodity, they can request it. The upside of this is compliance confidence as Customs has issued this ruling, but the downside is that the ruling is binding and the HTS code given by Customs must be used going forward. Although most widely used for determining HTS codes, this tool can also be used to determine country of origin and value.

DEPARTMENT OF COMMERCE ANTIDUMPING AND COUNTERVAILING DUTIES

(<http://adcvd.cbp.dhs.gov/adcvdweb>)

(<http://enforcement.trade.gov/intro/index.html>)

One of these resources gives an overview of antidumping and countervailing duties while the other serves as a tool for looking at specific commodities to see whether they are subject to antidumping or countervailing duties. Imported commodities should be checked if they are subject to any antidumping or countervailing duties. Both antidumping and countervailing duties are set by the Department of Commerce and are enforced by US Customs and Border Protection. These duties tend to be high, sometime equaling 100% of the value. These goods are assessed by the USITC to determine if there has been any material injury. If the findings are positive these duties are assessed in order to offset the artificially set prices. Dumping occurs when a producer sells in the US market at less than the price in its home country or at a price less than the cost of production. The difference between the price in the foreign market and in the US market is called the dumping margin. Countervailing

duties are set to offset subsidies provided by foreign governments through financial assistance or other means to encourage export of a certain product. A wide range of commodities are subject to antidumping and countervailing duties: from gift wrapping paper from China and aluminum extrusions to lumber wood from Canada. As this year Customs announced increased enforcement of AD/CVD orders, one should diligently check these sources.

INCOTERMS

(<https://www.ingrammicrocommerce.com/blog/incoterms-3-things-know-international-shipping>)

The resource referenced is the chart “Incoterms 2010 Rules.” Although Incoterms tend to be in the realm of shipping and logistics they provide value in Trade Compliance as well. Incoterms are not legally binding unless specified in the relevant contract, however they are the only internationally accepted Terms of Sale in use. International Chamber of Commerce has issued incoterms and they are only applicable to tangible goods. The main function of Incoterms is explaining when the risk of damage or loss passes from the seller to buyer. Incoterms are updated regularly to reflect changes in the transportation industry. Some such as Ex-Works (EXW) place the entire responsibility on the buyer and others such as Delivery Duty Paid (DDP) place it on the seller. Meanwhile, other incoterms such as Free on Board (FOB) are solely reserved for ocean transport. When it comes to Import and Export compliance this chart is especially helpful as it helps determine which party is responsible for import or export clearance. For example, DDP is widely regarded as a compliance red flag for an importer as they do not control most of the shipment but the importer may be held liable for some of the information to Customs.

CENSUS.GOV

(<https://www.census.gov/foreign-trade/reference/definitions/index.html>)

On the export side, Census has its own

set of requirements and regulations for the trade community. This website contains useful information regarding various trade statistics, such as commodity-specific trade information and the US trade balance. Of concern to the trade community is accurate reporting of imports and exports in order to comply with Census. If inaccurate information is reported, one can face fines or penalties. One regulation of concern is mandatory filing of export through the Automated Export System, exporter's obligations explained in this website. Further regulations by Census are the Schedule B codes, assigned to commodities upon export similar to the HTS codes. Census expects accurate filing of export declaration otherwise penalties may be imposed. Overall, this is an informative tool for a Trade Compliance Paralegal as it sets the expectations of Census from the trade community and various statistical guides.

BUREAU OF INDUSTRY AND SECURITY

(<https://www.bis.doc.gov/>)

This is the official website of Bureau of Industry and Security. Like previous websites, it serves both as a reference tool to check for updates and to keep up with changes in the regulations. A good starting point on this website would be reading the mission statement. The main purpose of BIS is to ensure safety of the United States and ability to keep its strong military defense system, but at the same time maintain a minimal burden on the economy. One of the functions of the Bureau of Industry and Security is licensing when exporting. There are several categories in which commodities can fall under (Export Administration Regulations). If there is usually no military dual use for a commodity it falls under EAR 99. As civil and criminal penalties may apply, one needs to carefully check what category is applicable to their commodity in order to determine if special licenses are required when exporting. Export is especially defined for software - simply sharing it with a foreign national is defined as export- so one ought to be careful when reading this. Other tools

of interest are "Office of Antiboycotting" reading, as hefty fines and penalties can be assessed due to non-compliance. Finally, another useful reference is "Exporting Red Flags," which should be known to any exporter to ensure compliance.

Office of Foreign Assets Control (OFAC)

(<https://www.treasury.gov/resource-center/sanctions/Pages/default.aspx>)

This is the official website of the Office of Foreign Assets Control. Their mission is to enforce economic sanctions against target countries. A very helpful section of this website is the Frequently Asked Questions for country-specific sanctions. One can also find information on targeted industries, such as the banking sector of Russia or the energy sector of Venezuela. To apply for a license, a Trade Compliance Paralegal can find a link on this website. Other sanctions are solely targeting specific individuals, and specific entities can be searched. One can also refer to OFAC RECENT ACTIONS in order to check if anything new has been implemented. The enforcement to ensure that US companies or individuals are not doing any business with anyone on these lists is one of the top priorities of the US government. Penalties can be monetary or criminal if one violates these sanctions, so diligence about checking these is imperative.

Additionally, in order to ensure compliance, a subscription based "Denied Parties Screening" tool is essential. There are many such tools available and most of them come as part of a trade software. Benefits of this are that multiple lists are consolidated and it leaves an audit trail. For best practice one should screen all of their business partners, regardless of location. Results should also be taken into context and positive returns should be investigated.

As the world of trade compliance is constantly changing swayed by a variety of events from civil wars to US political parties influence it is important to keep up with changing regulations. Sources previously presented provide a good overview, although not exhaustive, of the regulatory landscape a Trade

Compliance Paralegal ought to take into consideration. The laws driven by Customs are of most concern on the import side. Meanwhile on the exporting side, Customs generally enforces laws imposed by other government agencies. Special industry specific sources must also be taken into consideration. Some of these may be FDA, FCC, and Fish and Wildlife, depending on the commodities in question. It is the importer/exporter who carries the burden of being compliant and informed as non-compliance penalties can range from loss of profits to even criminal. ■

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Sessions v. Morales-Santana: Gender-based classifications in the Immigration and Nationality Act struck down by the U.S. Supreme Court

BY ROBERT HEUER

On June 12, 2017, the Supreme Court issued a ruling in furtherance of gender equality, striking down as violative of the Fifth Amendment's equal protection guarantee a provision of the Immigration and Nationality Act (8 U.S.C. § 1401 et seq.) that treated unmarried men and women differently in their ability to transmit U.S. citizenship to their children born abroad.

The Immigration and Nationality Act

The Immigration and Nationality Act ("the Act"), provides the framework for acquisition of U. S. citizenship from birth by a child born abroad, when one parent is a U. S. citizen and the other a citizen of another nation.

Under the Act, an unmarried U.S. citizen father was subject to the general rule applicable to married U.S. citizen parents: in order to transmit citizenship to children born abroad, the unmarried U.S. citizen father, prior to the child's birth, must have been continuously physically present in the U.S. for 10 years, five of which must have been after the age of 14.

However, the Act granted an exception for unmarried U.S. citizen mothers which allowed them to transmit citizenship to children born abroad if she had lived continuously in the U.S. for only one year prior to the child's birth.

The physical presence requirements have since been amended, but they continue to extend favorable treatment to mothers as an exception to the general rule applicable to fathers.

Facts and History of the Case

Luis Ramón Morales-Santana was born in the Dominican Republic in 1962 to a

U.S. citizen father and a non-U.S. citizen mother who were unwed at the time, although they later married and added the father's name to Morales-Santana's birth certificate.

After being convicted for various crimes, including robbery and attempted murder, Morales-Santana found himself facing deportation in 2000. To avoid deportation, he asserted U.S. citizen through his father.

Morales-Santana's father was born in the U.S. and lived in the U.S. continuously until he moved to the Dominican Republic twenty days before his 19th birthday, thereby failing to meet the five-years-after-age-14 requirement of the general rule of the Act. Had the exception for unmarried U.S. citizen mothers been applied to Morales-Santana's father, he would have met the one year physical presence requirement.

Because Morales-Santana's father had failed to meet the physical presence requirement of the Act for unmarried U.S. citizen fathers, an immigration judge rejected this assertion, and ordered Morales-Santana's removal to the Dominican Republic.

In 2010, Morales-Santana moved to reopen the proceedings, asserting that the Government's application of differing gender-based requirements for transmission of citizenship violated the Constitution's equal protection guarantee, and the Board of Immigration Appeals (BIA) denied the motion.

The U.S. Second Circuit Appeals Court later reversed the BIA's decision, holding that the differential treatment of unwed mothers and fathers was unconstitutional. The court then applied the easier physical presence requirement for unmarried U.S.

citizen mothers and held that Morales-Santana's father transmitted citizenship to Morales-Santana at birth.

The Act's Gender-Based Physical Presence and Age Requirements Violate the Fifth Amendment's Guarantee of Equal Protection

Affirming the Second Circuit, the Supreme Court noted that at the time of the enactment of the Act, the following two "once habitual, but now untenable, assumptions pervaded the Nation's citizenship laws and underpinned judicial and administrative rulings":

1. in marriage, the husband is dominant, and the wife is subordinate; and
2. an unwed mother is the sole guardian of a non-marital child, as unwed fathers care little about their children.

"Lump characterization of that kind, however, no longer passes equal protection inspection," the court stated.

The Court noted that laws providing or denying benefits in reliance on stereotypes about women's domestic roles can "create a cycle of discrimination that forces women to continue to assume the role of primary family caregiver." The Court further stated that such laws "disserve men who exercise responsibility for raising their children."

All Gender-Based Classifications Are Subject to Heightened Scrutiny

The Court stated that all gender-based classifications are subject to heightened scrutiny and that defenders of gender-based government action must demonstrate an exceedingly persuasive justification for that action.

The Court noted that "laws granting or denying benefits 'on the basis of

the sex of the qualifying parent,’ ... differentiate on the basis of gender, and therefore attract heightened review under the Constitution’s equal protection guarantee.” It cited the following examples of such unconstitutional gender based differentials:

- *Reed v. Reed*, 404 U. S. 71, 74, 76–77 (1971): a probate-code preference for a father over a mother as administrator of a deceased child’s estate.
- *Frontiero v. Richardson*, 411 U. S. 677, 688–691 (1973): exclusion of married female officers in the military from benefits automatically accorded married male officers;
- *Weinberger v. Wiesenfeld*, 420 U. S. 636, 648–653 (1975): a Social Security classification that excluded fathers from receipt of child-in-care benefits available to mothers;
- *Accord Califano v. Goldfarb*, 430 U. S. 199, 206–207 (1977): a Social Security classification that denies widowers survivors’ benefits available to widows; and
- *Califano v. Westcott*, 443 U. S. 76, 84 (1979): provision of unemployed-parent benefits exclusively to fathers.

The Court stated that in the instant case the Government needed to show that the Act’s gender-based physical presence requirements for transmission of citizenship at birth:

1. served important governmental objectives; and
2. were substantially related to achieving those objectives.

The Government’s Rationales for the Gender-Based Differential Do Not Survive Heightened Scrutiny

The Government asserted two rationales for the gender-based physical presence requirements:

1. that a child born abroad would have a strong connection to the U.S.; and
2. that the risk of statelessness for the foreign-born child of a U. S. citizen would be reduced.

The Government asserted that the gender-based physical presence

requirements were meant to ensure that a child born abroad has a strong connection to the U.S. However, the Court found logic to be grounded in the untenable assumption that an unwed mother is the sole guardian of a non-marital child. Since the father is presumably out of the picture, the logic goes, the unwed U.S. citizen mother’s influence over the child will be without any other competing national influence, and therefore the physical presence requirement does not need to be as long as for an unwed U.S. citizen father, whose national influence over the child would be affected by the competing national influence of the mother (presumed to be in the picture according to the gender stereotypes).

The Court also held that the gender-based physical presence requirements were not substantially related to ensuring that a child born abroad has a strong connection to the U.S., stating:

Citizenship may be transmitted to children who have no tie to the United States so long as their U. S. citizen mother was continuously present in the United States for one year at any point in her life prior to the child’s birth; but it may not be transmitted by a U. S.-citizen father who falls a few days short of meeting §1401(a)(7)’s longer physical-presence requirements, even if he acknowledges paternity on the day the child is born and raises the child in the United States.

The Government also asserted that the gender-based physical presence requirements were meant to reduce the risk of statelessness for the foreign-born child of a U. S. citizen.

The Court rejected this rationale for two reasons:

1. congressional hearings and reports offered no support for the assertion that a statelessness concern prompted the diverse physical-presence requirements; and
2. the Government failed to show that the

risk of statelessness disproportionately endangered the children of unwed U.S. citizen mothers.

Because the Government failed to advance any exceedingly persuasive justification for the Act’s gender-based physical presence and age requirements, the Court held, the disparate criteria “cannot withstand inspection under a Constitution that requires the Government to respect the equal dignity and stature of its male and female citizens.”

Application of the General Rule with No Gender-Based Exceptions

The Court noted that ordinarily, the preferred remedy would be to extend the favorable treatment, in this case by extending to unmarried U.S. citizen fathers the shorter physical presence requirement provided to unmarried U.S. citizen mothers.

However, the Court found that this would displace Congress’ general rule and decided that the longer physical presence requirements of the Act’s general should be applied equally to both unmarried U.S. citizen mothers and fathers.

While the decision is a reinforcement of the Constitution’s guarantee of equal protection, the holding resulted in a disappointing outcome for Morales-Santana, whose assertion of U.S. citizenship was rejected because the longer physical presence requirement of the Act’s general rule was applied to his case.

“Going forward,” the Court held, “Congress may address the issue and settle on a uniform prescription that neither favors nor disadvantages any person on the basis of gender.” ■

Robert Heuer currently lives in Umbria, Italy, after recently completing a sustainability-focused MBA program at the University of Bologna Business School. Formerly from Chicago, his professional experience includes serving as an Assistant Cook County State’s Attorney, managing the American Bar Association’s rule of law development programs in Belarus and Ukraine, and providing management consulting for the European Chapters of Ronald McDonald House Charities. This article was previously published in Human Rights, the newsletter of the Human Rights Section Council of the Illinois State Bar Association.

Why use the U.S. Commercial Service

BY LEWIS F. MATUSZEWICH

The United States Commercial Service offers a wide range of resources for you and for your clients who are interested in international trade. The U.S. Department of Commerce International Trade Administration coordinates with other agencies to sponsor export.gov to help work through the maze of government offices. You can approach it as a source for tools and assistance, as well as answering your questions concerning international sales.

The U.S. Commercial Service website indicates that they have 108 domestic offices as well as contact points in the U.S. Embassies and Consulates in more than 75 countries.

If you register for their email list by

visiting the U.S. Commercial Service at u.s.commercial.service@public.govdelivery, you will receive from time to time announcements of programs or resources.

They sponsor a webinar series, "Exporting Mechanics," to provide U.S. small and medium sized businesses with exporting information to start or increase exports. On October 11, 2017 they held a webinar, "Export Control Basics," to provide information about export control regulatory requirements and how to comply. The webinar fee was only \$25.00.

On December 5, 2017 they will hold a one hour webinar, again at a registration cost of \$25, introduces sanctions programs and how government agencies regulate and enforce the various licensing procedures,

enforcement cases, high-risk areas and the Office of Foreign Asset Control licensing program.

On January 9, 2018 they will hold a webinar which will cover the Export Administration Regulations and the General Prohibitions, such as license exemptions, country control list and the Bureau of Industry license requirements.

On February 13, 2018, their webinar will describe export licenses, license exceptions, supporting documents needed for an export license and export license procedures.

The series continues through June 12, 2018 with the details being found at the website for the U.S. Commercial Service. ■

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Wednesday, 12-06-17 - Webcast—Defense Strategies for Health Care Fraud Cases. Presented by Health Care. 12:00-1:30 pm.

Thursday, 12-07-17 – The Palmer House—Think Fast: Improving your Communication Skills through Improv. Presented by the ISBA Young Lawyers Division. 3:00 – 4:00 PM.

Friday, 12-08-17 – The Palmer House—A Whole New Electronic World: Do's and Don'ts for Judges (and Lawyers Too). Presented by the Illinois Judges Association and the ISBA. 9:00-10:15 AM.

Friday, 12-08-17 – The Palmer House—Hot Topics in the Legal Profession. Presented by the Illinois Judges Association and the ISBA. 10:30-11:45 AM

Friday, 12-08-17 – The Palmer House—The Hero's Journey: Honor, Integrity and Your Legal Career through the Lens of History. Master Series Presented by the ISBA. 1:00-3:15 PM.

Friday, 12-08-17 – The Palmer House—Diversity and Inclusion in the Legal Profession. Presented by LOME and the Diversity Leadership Council. 3:30-4:30 PM.

Tuesday, 12-12-17 – Webinar—Driving Profitability in your Firm. Practice Toolbox Series. 12:00 -1:00 p.m.

Wednesday, 12-13-17— Chicago, ISBA Regional Office. Children and Mental Health Law. Presented by Mental Health. 9-12:15.

Wednesday, 12-13-17 – LIVE Webcast—Children and Mental Health Law. Presented by Mental Health. 9-12:15.

Thursday, 12-14-17 – Chicago, ISBA Regional Office—Vulnerable Students: A Review of Student Rights. Presented by Education Law. 9:00 am – 12:30 pm.

Friday, 12-15-17 – Chicago, ISBA Regional Office—Guardianship Boot Camp. Presented by Trusts and Estates. 8:30 – 4:30.

Friday, 12-15-17 – LIVE Webcast—Guardianship Boot Camp. Presented by Trusts and Estates. 8:30 – 4:30.

January

Tuesday, 01-09-18 Webinar—Fight the Paper. Practice Toolbox Series. 12:00-1:00 PM.

Wednesday, 01-10-18 – LIVE Webcast—On My Own: Starting Your Solo Practice as a Female Attorney. Presented by WATL. 12-2 PM.

Thursday, 01-11-18 – ISBA Chicago Regional Office—Six Months to GDPR – Ready or Not? Presented by Intellectual Property. 8:45 AM – 12:30 PM.

Wednesday, 01-17-18 – LIVE Webcast—Clearing the Skies: How to Fly with the Mandatory Initial Pilot Program. Presented by Intellectual Property. 12-1 PM.

Thursday, 01-18-18 – ISBA Chicago Regional Office—Closely Held Business Owner Separations, Marital and Non-Marital. Presented by Business and Securities. 9AM - 12:30 PM.

Tuesday, 01-23-18 Webinar—Before the Technology Buy, Understand the Why. Practice Toolbox Series. 12:00-1:00 PM.

Thursday, 01-25-18 – ISBA Chicago Regional Office—Starting Your Law

Practice. Presented by General Practice. 8:50 AM – 4:45 PM.

Tuesday, 01-30-18 LIVE Webcast—Concerted Activity in the Age of Social Media and Online Systems: Employee Rights, Employer Pitfalls, Remedies and Penalties. Presented by Labor and Employment. 2-4 PM.

February

Friday, 02-02-18 – Normal, IL—Hot Topics in Agriculture Law – 2018. Presented by Agriculture Law. All-day.

Monday, 02-05 to Friday, 02-09— ISBA Chicago Regional Office—40 Hour Mediation/Arbitration Training. Master Series, presented by the ISBA—WILL NOT BE ARCHIVED. 8:30 -5:45 daily.

Feb 6 - June 26—Fred Lane's ISBA Trial Technique Institute.

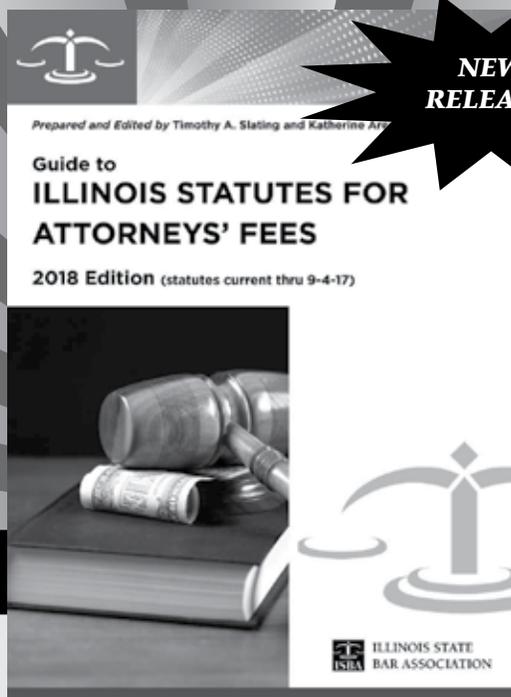
Wednesday, 02-07-18 – Webinar—TITLE INSURANCE 101: HOW TO HANDLE COMMON TITLE INSURANCE AND COVERAGE ISSUES IN RESIDENTIAL REAL ESTATE TRANSACTIONS—A Primer for New Attorneys and Those 'New' to Real Estate Law Practice. Presented by Real Estate. Time: 2-3 PM.

Tuesday, 02-13-18 Webinar—Cloud Services. Practice Toolbox Series. 12:00-1:00 PM.

Monday, 02-19-18 – Chicago, ISBA Regional Office—Workers' Compensation Update – Spring 2018. Presented by Workers' Compensation. Time: 9:00 am – 4:00 pm.

Monday, 02-19-18 – O'Fallon—Workers' Compensation Update – Spring 2018. Presented by Workers' Compensation. Time: 9:00 am – 4:00 pm. ■

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