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October 9, 2020

Dear Acting Court Administrator Shandra Shelley, Assistant Chief Immigration Judge Sanchez, and Mr. John Martin,

I am writing on behalf of the New England chapter of the American Immigration Lawyers Association (AILA NE) to express our serious concern about the Boston Immigration Court's plans to resume master calendar hearings October 12, 2020, and the lack of guidance and communication regarding these plans. Specifically, the Court's October 8, 2020 standing order does not address whether respondents' presence is automatically waived, or if respondents may appear telephonically, and if so, if there are requirements with respect to where respondents are when they appear telephonically.

We vehemently oppose the resumption of any in-person master calendar hearings. Requiring attorneys or respondents – including *pro se* respondents – to attend master hearings in person puts everyone at greater, unnecessary risk. Even with staggered schedules, master hearings greatly increase the number of people coming to the JFK Federal Building. There are no Covid-19 screening required to get into the building or to access the third or eighth floors. Respondents, particularly *pro se* respondents, may decide to attend in-person hearings even if they have symptoms or have been exposed to someone with Covid-19 out of fear of the repercussions from not appearing.

The Boston Immigration Court has been closed down on numerous occasions on a sporadic, last-minute basis (most recently on October 8) with no transparency to the Bar or public which is concerning. It gives greater credence to our concerns about the Court's ability to operate safely and responsibly. In the absence of any public statement from the Court, our members are left to rely on information gleaned from clerks, and unclear and sometimes contradictory hearing notices from judges.

We have reports that some Boston EOIR judges are expecting attorneys to appear telephonically from their offices, with their clients also present in the attorneys' offices. **We want to be clear that our members will not be sharing their office space with clients if they do not feel they can safely do so**, for the same reasons that court staff are understandably unwilling to share close quarters with respondents. There are attorneys

who work for nonprofit organizations whose offices are closed to the public, making it impossible for them to have clients in their offices, attorneys who are in high risk populations for Covid-19 or have family members who fall within high risk populations, and attorneys who are currently working from home and not seeing clients in person at all due to these safety concerns. If they feel unsafe doing so, our members will not expose themselves to Covid-19 by sharing their office space with clients for a telephonic hearing and this would go contrary to Massachusetts public safety guidelines.

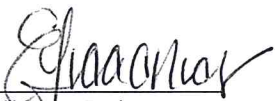
Likewise, we are concerned that requiring attorneys to file motions to allow them or their clients and witnesses to appear telephonically will only further clog the Court's filing backlog, resulting in motions not being granted in time, if at all. **If the Court does move ahead with resuming master calendar hearings, we implore the Court to issue a standing order stating that represented respondents' presence shall be waived or that the respondent can appear by phone and not present in their attorney's office for the safety of all.**

As you know, the New Jersey AILA chapter has pending litigation concerning practices of the Newark Immigration Court. As a result of the litigation, the New Jersey AILA chapter was successful in obtaining video hearings at the Newark Immigration Court. We now know that EOIR has the technology to use video hearings and that it is working well. To preserve due process and protect everyone's health and safety, we implore the Boston Immigration Court to also use the video hearing technology that is available.

Through the AILA New Jersey chapter's litigation against EOIR, we have learned that multiple court personnel and attorneys have contracted Covid-19, and one infected attorney died. Most recently, an attorney who was ordered to appear telephonically from their office with their client tested positive for Covid-19 two days after the telephonic appearance. We are greatly concerned that if the Boston Court continues to require respondents to appear in person either at Court or at attorneys' offices, it is only a matter of time before our community suffers a tragedy.

We look forward to hearing your response, and hope to hear from you by Tuesday, October ~~8~~<sup>13</sup>, 2020 considering the time sensitive nature of this matter.

Sincerely,



Eliana Nader  
AILA New England, Chair