UNITED STATES DEPARTMENT OF JUSTICE
BEFORE THE ATTORNEY GENERAL

In the Matter of: **COMPEAN Salas, Enrique** Respondent	In Removal Proceedings **File No.: A078 566 977** **Attorney General Order No. 2992-2008**
In the Matter of: **BANGALY, Sylla** Respondent	In Removal Proceedings **File No.: A078 555 848** **Attorney General Order No. 2991-2008**
In the Matters of: **J-E-C-, et al.,** Respondents	In Removal Proceedings **File Nos.: A079 506 797** **A079 506 798** **A079 506 799**

DEPARTMENT OF HOMELAND SECURITY'S OPPOSITION TO RESPONDENTS' MOTION TO RECONSIDER

I. PRELIMINARY STATEMENT

On January 7, 2009, the Attorney General published *Matter of Compean, Bangaly and J-E-C-, et al.*, 24 I&N Dec. 710 (A.G. 2009), which addressed several issues relating to the deficient performance of counsel, including whether an alien's due process rights in removal proceedings can be violated by the deficient performance of privately retained counsel. The respondents in each of these cases have separately moved the Attorney General to reconsider the

Compean decision, and amicus have also submitted briefs in favor of reconsideration. For the reasons stated herein, the respondents' motions to reconsider should be denied.

II. SUMMARY OF ARGUMENT

The Constitution does not require government-provided counsel in the civil immigration context, and cannot, therefore, be held to guarantee effective representation by privately-retained counsel. Circuit court and Board precedent that recognizes a due process right to effective assistance of counsel presumes the existence of such a right without reasoned analysis, and in conflict with Supreme Court precedent.

III. ARGUMENT

A. Legal Standard Governing Motions to Reconsider and Reopen

Motions to reopen and motions to reconsider are "'separate and distinct motions with different requirements.'" *Matter of Cerna,* 20 I. & N. Dec. 399, 402 (BIA 1991) (*quoting Chudshevid v. INS,* 641 F.2d 780, 783 (9th Cir. 1981)). A motion for reconsideration "shall specify the errors of law or fact in the previous order and shall be supported by pertinent authority." 8 U.S.C. § 1229(a)(6)(C); *Matter of O-S-G-*, 24 I&N Dec. 56, 56-57 (BIA 2006); *accord Zhao v. U.S. Dept. of Justice*, 265 F.3d 83, 90 (2d Cir. 2001) (*citing* 8 C.F.R. § 3.2(b)(1)). "A motion to reconsider is a 'request that the [Attorney General] reexamine [his] decision in light of additional legal arguments, a change in law, or perhaps an argument or aspect of the case which was overlooked.'" *See Matter of O-S-G-*, 24 I&N Dec. at 57 (quoting *Matter of Ramos*, 23 I&N Dec. 336, 338 (BIA 2002). "The very nature of a motion to reconsider is that the original decision was defective in some regard." *Matter of Cerna,* 20 I. & N. Dec. at 402; *Matter of O-S-G-*, 24 I&N Dec. at 57-58.

Like motions to reopen, motions for reconsideration of final decisions made in immigration proceedings are particularly disfavored because "every delay works to the advantage of the deportable alien who wishes merely to remain in the United States." *See INS v. Doherty,* 502 U.S. 314, 323 (1992). *See also Ghassan v. I.N.S.*, 972 F.2d 631, 638 (5th Cir. 1992) (*citing INS v. Abudu,* 485 U.S. 94, 107 (1988)). Indeed, the Supreme Court has noted that the granting of " 'such motions too freely will permit endless delay of deportation by aliens creative and fertile enough to continuously produce new and material facts sufficient to establish a prima facie case' " for relief. *INS v. Abudu,* 485 U.S. 94, 108 (1988) (citation omitted). Significantly, "a motion to reconsider is not a process by which a party may submit, in essence, the same brief presented on appeal and seek reconsideration by generally alleging error in the prior [Attorney General] decision." *Matter of O-S-G-*, 24 I&N Dec. at 58.

B. The Attorney General's Prior Decision Correctly Found Due Process Rights Of Aliens Cannot Be Violated By Private Actors, Unrelated To The Government.

The respondents' motions to reconsider must be denied because the fundamental holding in *Compean,* that the actions of privately retained counsel cannot violate an individual's due process rights, is legally correct. The Supreme Court has held that in proceedings where there is no right to government-appointed counsel, there is no constitutional right to effective assistance of counsel. *See Coleman v. Thompson*, 501 U.S. 722, 751 (1991). *Coleman*'s language is clear: where "there is no constitutional right to an attorney," petitioners "cannot claim constitutionally ineffective assistance of counsel in such proceedings." *Coleman*, 501 U.S. at 752. *See also Wainwright*, 455 U.S. at 587-88 ("Since respondent had no constitutional right to counsel, he could not be deprived of the effective assistance of counsel by his retained counsel's failure to file the application timely."); *Lawrence v. Florida*, 127 S. Ct. 1079, 1085 (2007) (attorney's error

resulting in missed deadline cannot be excused in "context where [parties] have no constitutional right to counsel"). Thus, even if aliens have a due process right to be represented by counsel in immigration proceedings at the alien's expense, *Coleman* precludes the courts from imputing the errors that may be committed by those attorneys to the government because counsel's errors may only be imputed to the government where it has an obligation to provide counsel. 501 U.S. at 754. Correspondingly, *Coleman* explains that counsel's errors are borne by the individual litigant where there is no obligation on the government to provide counsel. *Id.* ("A different allocation of costs is appropriate in those circumstances where the State has no responsibility to ensure that the petitioner was represented by competent counsel. As between the State and the petitioner, it is the petitioner who must bear the burden of a failure to follow state procedural rules.").

Indeed, beyond *Coleman,* a case that arises in the clearly civil context of habeas corpus, court have found that individuals who have a constitutional right to due process by the government do not have that right infringed upon by errors of privately retained counsel. To that end, immigration proceedings are not unique, and are analogous to any number of other civil litigation contexts. For example, in civil forfeiture proceedings, individuals facing loss of property are afforded due process protection by the constitution. *See* U.S. CONST. amend V ("No person shall ... be deprived of life, liberty, or property, without due process of law"). Where privately retained counsel's inaction results in loss of property under civil forfeiture, however, the action of the private counsel is not charged against the government, and thus counsel's malpractice in those contexts does not violate due process. *See, e.g., U.S. v. 7108 West Grand Ave., Chicago, Ill.*, 15 F.3d 632 (7th Cir. 1994) (rejecting claimant's "conten[tion] that the Constitution itself guarantees effective assistance of counsel in forfeiture proceedings" for

several reasons, including that "there is accordingly no foundation for imputing the actions of the Flores' chosen lawyer to the government, an essential step in the ineffective-assistance doctrine in criminal cases."). "Malpractice, gross or otherwise, may be a good reason to recover from the lawyer but does not justify prolonging litigation against the original adversary." *Id.* at 633. *See also, e.g., Gabbard v. Fed. Aviation Admin.*, 532 F.3d 563, 567 (6th Cir. 2008) (no constitutional right to counsel in administrative hearing to revoke pilot's airman and medical certificates); *Nelson v. Boeing Co.*, 446 F.3d 1118, 1121 (10th Cir. 2006) (no constitutional right to counsel in Title VII discrimination cases); *Horne v. Coughlin*, 155 F.3d 26, 30–31 (2d Cir. 1998) (no constitutional right to "counsel-substitute" for illiterate and developmentally disabled inmate during prison disciplinary proceedings); *Elliott v. Sec. & Exch. Comm'n*, 36 F.3d 86, 88 (11th Cir. 1994) (per curiam) (no constitutional right to counsel in administrative proceeding seeking to bar individual from associating with any securities brokers or dealers); *United States v. 30.46 Acres of Land, More or Less, Situated in Klickitat County, Wash.*, 795 F.2d 796, 801 (9th Cir. 1986) (noting in takings case where property owner was physically and mentally disabled that "[t]here is normally . . . no constitutional right to counsel in a civil case"); *see also Ark. Oil & Gas, Inc. v. Comm'r of Internal Revenue*, 114 F.3d 795, 799 (8th Cir. 1997) (no constitutional right to counsel in tax court proceedings for redetermination of tax deficiencies and penalties).

These holdings are not unique. Rather, they are consistent with Supreme Court precedent in other contexts, where the court has held that it is appropriate to hold the individual who has retained the attorney responsible for his attorney's actions. *See, e.g., United States v. Boyle,* 469 U.S. 241 (1985) (client may be penalized when lawyer files a tardy tax return); *Link v. Wabash R. Co.,* 370 U.S. 626 (1962) (a client may be made to suffer the consequence of dismissal of its lawsuit because of its attorney's failure to attend a scheduled pretrial conference). As one Board

Member noted, "[a]bsent a governmental obligation to supply counsel, a client is simply bound by the actions of his or her attorney, even when, as here, that attorney [makes an error] through no fault of the client." *Assaad,* 22 I&N Dec. at 563 (Filppu, Board Member, concurring) (*citing Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P'ship*, 507 U.S. 380, 396-97 (1993) (rejecting a lower court's attempt to separate the conduct of an attorney from the consequences to the client and stating that clients must "be held accountable for the acts and omissions of their chosen counsel"); *Boyle*, 469 U.S. 241, 249-50 (1985); *Link*, 370 U.S. at 633 (finding "no merit to the contention that dismissal of petitioner's claim because of his counsel's unexcused conduct imposes an unjust penalty on the client")).

The respondents suggest that, although their motions to reopen were predicated upon *Matter of Lozada*, 19 I. & N. Dec. 637 (BIA 1988) and *Matter of Assaad*, 23 I. & N. Dec. 553 (BIA 2003) (en banc), which assume an individual's constitutional rights in removal proceedings can be infringed upon by the actions of privately retained counsel, it is inappropriate for the Attorney General to reconsider the foundations of these cases to determine whether these foundations are solid. Additionally, amicus briefs in support of the respondents' motions to reopen suggest that because the majority of circuit courts and the Board of Immigration Appeals had previously presumed a constitutional right to ineffective assistance of counsel, it is inappropriate for the Attorney General to review these decisions and determine, in light of *Coleman*, that these decisions were incorrect. However, simply because a principle is longstanding or assumed by the majority, it does not resolve the Attorney General of his obligation to determine whether the opinions of the Executive Branch of government are in accord with those of the Supreme Court. *Cf. Matter of Robles*, 24 I&N Dec. 22, 26 (BIA 2006) (overruling precedent decision from forty years earlier in light of "intervening decisions of the

Federal courts"). As documented in the Government's briefs on the merits in each of the respondents' cases, the basis for an implied due process right to effective assistance of counsel is nothing more than the collective presumption of multiple circuit courts resting on an unsubstantiated and passing *suggestion* from 1975. *See* Department of Homeland Security Brief on the Merits, at IV.A.1 - 3. Moreover, recent decisions of the Circuit Courts, and particularly *Afanwi v. Mukasey*, 526 F.3d 788 (4th Cir. 2008), and *Rafiyev v. Mukasey*, 536 F.3d 853 (8th Cir. 2008), were in close proximity to the order requesting briefing on these cases. These decisions clearly indicated it was time to revisit *Lozada* and *Assaad,* particularly given the lack of critical analysis in either executive branch decision. *See Stroe v. INS,* 256 F.3d 498, 501 (7th Cir. 2001) (finding no due process right to effective assistance of counsel in removal proceedings, and writing that "[t]he Board's failure to give any reason for the [*Lozada*] decision troubles us, however; we worry that the Board may not be cognizant of the relevant precedents governing the right to counsel in civil cases").[1] *See also* Department of Homeland Security Brief on the Merits, at IV.A.1 - 3.

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[1] Amicus suggest that the Seventh Circuit's recent decision in *Jezierski v. Mukasey*, 543 F.3d 886 (7th Cir. 2008), contradicts that circuit's prior holdings, which clearly find an alien's due process rights are not violated by the actions of privately retained counsel. *See* Brief of Amicus American Immigration Law Foundation, at 4. This is an incorrect characterization of *Jezierski*, which clearly states that "[n]o statute entitles the alien to effective assistance of counsel," and "no statute or constitutional provision entitles an alien who has been denied effective assistance of counsel in his (in this case her) removal proceeding to reopen the proceeding on the basis of that denial." *Jezierski*, 543 F.3d at 889. *See also Magala v. Gonzales*, 434 F.3d 523, 525–26 (7th Cir. 2005) ("The Constitution entitles aliens to due process of law, but this does not imply a right to good lawyering. Every litigant in every suit and every administrative proceeding is entitled to due process, but it has long been understood that lawyers' mistakes in civil litigation are imputed to their clients and do not justify upsetting the outcome."); *Pop v. INS*, 279 F.3d 457, 460 (7th Cir. 2002) ("In this circuit, however, whether there exists a constitutional right to effective assistance of counsel in immigration cases is virtually foreclosed."). The sentence identified by amicus, which states that there "might" be constitutional implications arising from an executive branch decision to force an alien to proceed without counsel does not contradict the Circuit's clear and consistent determination that private counsel's actions cannot result in a constitutional violation. Indeed, this statement in *Jezierski* highlights the fundamental flaw in amicus' arguments relating to a constitutional due process right. In *Jezierski*, the suggestion is that a decision from the executive to compel an alien to proceed without counsel "might" violate an alien's rights. That, however, is an action of the executive, and it stands in contrast to the action by a private attorney as reflected in the quality of performance he provides. The former situation is one controlled by the government, while the latter is not.

C. The *Compean* Documentary And Substantive Requirements Are Appropriate, And Should Not Be Overturned Or Amended

The respondents and amicus suggest that the *Compean* documentary and substantive requirements should be revisited and rejected. Their requests must fail, however, because these generalized objections fail to *specify* the errors of fact or law in the prior decision and be supported with pertinent authority. *See* 8 U.S.C. § 1229(a)(6)(C); *Matter of O-S-G-*, 24 I&N Dec. at 56-57; *Zhao*, 265 F.3d at 90. Moreover, the *Compean* documentary and substantive requirements are positive extensions of the *Lozada* documentary requirements. With respect to the documentary requirements, for example, requiring aliens to provide information about the retainer agreement with former counsel, either through production of the retainer agreement or by way of affidavit outlining their understanding of the agreement, the adjudicator of subsequent motions to reopen will be sure that there was an attorney-client relationship and be able to evaluate whether counsel's performance fell the parameters of the agreement. This is consistent with *Lozada*'s requirement that the alien set forth "a statement that sets forth in detail the agreement that was entered into with former counsel with respect to the actions to be taken [in the litigation] and what counsel did or did not represent to the [alien] in this regard." *Lozada*, 19 I&N Dec. at 639. *See also Compean*, 24 I&N Dec. at 736. By clearly articulating the requirement that an alien must establish the parameters of the attorney-client relationship, all aliens are on notice that failure to provide this information will result in denial of the motion to reopen. *See, e.g., Beltre-Veloz v. Mukasey,* 533 F.3d 7, 10 -11 (1st Cir. 2008) (motion to reopen fails where it "makes no mention of the nature, scope, or substance of the petitioner's arrangement with [former counsel]], nor does it indicate what communications the petitioner had with the attorney over the years. This, in itself, is a fatal flaw."); *Ruiz-Martínez v. Mukasey,* 516 F.3d 102, 121 (2d Cir.2008) (affirming denial of motion to reopen where affidavit failed to "set

forth [the petitioner's] agreement with his prior attorneys concerning what actions would be taken or what they did or did not represent in this regard").

Similarly, the *Compean* requirement that "former counsel must be informed of the allegations and allowed the opportunity to respond," and that response, if any, must accompany the motion, comes directly from *Lozada*. *Lozada*, 19 I&N Dec. at 639. *See also Compean*, 24 I&N Dec. at 736. The *Compean* bar complaint requirement is actually a lessening of the *Lozada* requirement; where *Lozada* required an alien to submit a complaint to the bar in virtually all cases, *see Assaad*, 23 I&N Dec. at 556; *Lozada*, 19 I&N Dec. 639, under *Compean* aliens now must prepare a bar complaint and submit it to the Executive Office for Immigration Review (EOIR) adjudicator. This actually reduces the burden upon the alien, and ensures that they do not have to wait for lengthy Bar adjudication processes. Additionally, it shifts focus of adjudication from non-substantive questions, such as whether the alien's explanation for not filing a bar complaint was sufficient, to substantive questions such as whether the attorney's conduct fell below the level required by competent counsel.

Compean's requirement that, when an alien claims a document was erroneously not submitted by prior counsel, the alien must submit a copy of that document in conjunction with the motion to reopen is also consistent with *Lozada*'s requirement that an alien document any alleged prejudice. Indeed, for example, the motion to reopen filed by respondent J-E-C-, which was based upon his attorney's failure to file a brief, included a draft of a brief that he asserts would have been filed had his counsel acted in a competent manner. Thus, J-E-C-'s counsel understood *pre-Compean* that, in order to succeed on a motion to reopen, it was necessary to include such documents. *Compean* merely provides a clearer articulation of this practice.

In fact, the only new documentary requirement established by *Compean* is the requirement, which applies only in cases where new counsel is representing the alien, that the new counsel must certify the conduct of prior counsel "fell below minimal standards of professional competence." This certification requirement, however, imposes no burden on aliens. Rather, it requires new counsel to affirm his or her belief that prior counsel's actions were deficient. By definition, this requirement will not apply for pro se aliens, does not require any action by any alien, and thus, it does not work any hardship, much less a "significant hardship", upon aliens. *See* Letter Brief in Support of Reconsideration by amicus American Immigration Law Foundation (AILF), at 5. Moreover, and similar to many of the other documentary requirements, it is designed to ensure that only cases involving legitimate claims of deficiency in prior counsel's performance will move forward. *See generally, Strickland v. Washington*, 466 U.S. 668, 687-88 (1984) (measuring ineffective assistance against an objective standard of reasonableness, under prevailing professional norms).

Likewise, the substantive legal requirements of *Compean* are consistent with those established by *Lozada,* and reestablish a consistent, nationwide framework for evaluating claims that counsel's performance fell below the standards expected by competent counsel. *Compean* rearticulates *Lozada*'s requirement that "the alien must show that his lawyer's failings were 'egregious.'" *Compean*, 24 I&N Dec. at 732 (*citing Lozada,* 19 I&N Dec. at 639). Insomuch as this is consistent with *Lozada,* the respondents and amicus cannot point to any flaw in this analysis. *Compean* did clarify that the "strong presumption that counsel's conduct falls within the wide range of reasonable professional assistance," is applicable in the immigration context. *Id.* (*quoting Strickland*, 466 U.S. at, 689). This, however, is borrowed from the standard employed in criminal cases. *See Kimmelman v. Morrison*, 477 U.S. 365, 384 (1986) (*citing*

Strickland, 466 U.S. at 689). It is appropriate to apply this standard in removal proceedings, insomuch as the protections afforded to individuals in criminal proceedings are greater than those in removal proceedings. *See, e.g., Carlson v. Landon,* 342 U.S. 524, 537 (1952); *United States v. Benitez-Villafuerte,* 186 F.3d 651, 657 (5th Cir.1999) ("A deportation hearing is a civil, not a criminal, action ... As such, the full range of constitutional protections available to a defendant in a criminal case are not afforded an alien in a deportation proceeding.").

The second substantive legal requirement in *Compean* is that, where aliens file a motion to reopen beyond the time and numerical limitations normally imposed upon aliens, the alien must establish due diligence in the timing of his motion to reopen. This requirement clarifies that in all cases where aliens allege deficient performance of counsel, the adjudicator should consider whether it was appropriate to deem the deadline for filing a motion to reopen tolled at some point. Additionally, it is consistent with the general holdings in the immigration context regarding tolling, that the alien must show that during the tolled period, the alien engaged in due diligence. *See, e.g., Compean,* 24 I&N Dec. at 732 – 733 (citing cases).

The final substantive legal element of *Compean* is that aliens establish prejudice from their attorney's errors. As noted in *Compean,* the prejudice requirement is a consistent one throughout criminal and civil ineffective assistance jurisprudence. *See id.* at 733-35; *accord Roe v. Flores-Ortega,* 528 U.S. 470, 484 (2000) (requiring showing of prejudice in criminal cases even where the deficient performance deprived the defendant of an appellate proceeding altogether). In articulating the level of prejudice an alien must prove under *Compean,* the Attorney General properly looked not to the various and divergent standards applied by circuit courts, but instead to the Supreme Courts guidance on ineffective assistance of counsel. *Compean* therefore looked to *INS v. Abudu,* 485 U.S. 94, 110 (1988), and *INS v. Doherty,* 502

U.S. 314, 323 (1992), for a determination of which prejudice standard is appropriate. The respondents and amicus fail to articulate why this standard is inappropriate, and therefore their motion to reconsider the *Compean* standard for prejudice should be denied.

D. The Parties Were Afforded Sufficient Time To Brief The Cases

The respondents and amicus have urged reconsideration of the original decision, arguing that they lacked sufficient time to brief the case. However, the Attorney General provided the parties with sufficient time to brief the matter. Specifically, the Attorney General's August 7, 2008 order provided the parties nearly forty days to brief the case. This original period of time exceeded the standard twenty-one days provided by the Board for briefing non-detained cases. *See* BIA Practice Manual at 4.7(a)(i). Additionally, at the request of the respondents and amicus, the Attorney General granted an extension of the briefing schedule for an additional twenty one days, for a total of sixty days to brief the case. This total briefing time not only exceeds the sum total of briefing time and extensions afforded to cases before the Board, it also exceeds the initial time period parties have to brief cases before the Supreme Court. *See* Rules of the Supreme Court, Rule 25 (revised, July, 2007) (providing 45 days for a petitioner to submit an initial brief to the Court). This time provided for briefing was therefore generous and appropriate.

Moreover, the respondents and amicus failed, either in their original requests for extension of time or in their motion for reconsideration, to articulate why they did not have sufficient time to brief the case at the outset. There is no articulation of specific conflicts or prior outstanding commitments that would suggest the sixty days provided to brief the case was insufficient to address the issues raised by the briefing order in the instant case. *Cf. Matter of Medrano*, 20 I&N Dec. 216, 219-20 (BIA 1990, 1991) (denying motion to reconsider when

"[t]he Service was granted a reasonable period of time in which to consider fully the implications of the issues and to develop its position on appeal.").

E. The White House Memorandum of January 20, 2009, Is Irrelevant To The Decision At Issue

The respondents and amicus suggest that the January 20, 2009 Memorandum for the Heads of Executive Departments and Agencies, 74 FR 4435 (Jan. 20 2009), should be viewed in some manner as to encompass the *Compean* decision. *See, e.g.,* Motion of Respondent Bangaly at 2; Motion of Respondent Compean at 3; Motion of Respondent J-E-C- at 2. This memorandum does not apply to the *Compean* decision. Rather, the memorandum halts regulations not published in the federal register, which have not become effective, and requests consideration of a 60 day extension on the effective date for published regulations. *See* Memorandum for the Heads of Executive Departments and Agencies, 74 FR 4435. The *Compean* decision was in effect at the time of publication, before the executive order was issued, and also is not a regulation. *See generally* 8 U.S.C. § 1103(g)(2) (vesting in the Attorney General various distinct functions including, inter alia, establishing regulations and review of administrative decisions); *N.L.R.B. v. Bell Aerospace Co.*, 461 U.S. 267, 294 (1974) (explaining that an agency may announce new rules in an adjudicative proceeding and that "the choice between rulemaking and adjudication" rests with the agency).

F. The *Compean* Due Process Analysis Is Consistent With Positions Previously Articulated By The Department Of Justice

In several motions to reconsider, the argument is made that the Attorney General's *Compean* decision was motivated by political concerns. *See, e.g.,* Motion To Reconsider by Respondents J-E-C-, *et al.*; Motion to Reconsider by Respondent Compean. However, as noted

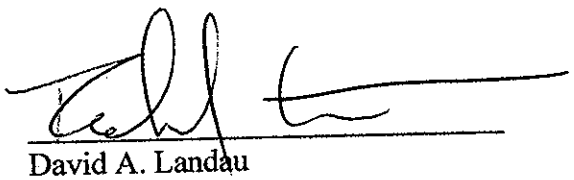
by amicus AILF, the position articulated by the Attorney General in *Compean* is consistent with the Department of Justice position "frequently" argued in federal courts. *See* Brief in Support of Reconsideration by amicus AILF, at 3 and n. 3 (collecting cases in which the Department of Justice's position was rejected). Thus, it is clear that *Compean* is the product of an established position within the Department of Justice, reconciling its litigation positions in federal courts with that of the Board of Immigration Appeals.

IV. CONCLUSION

For the foregoing reasons, DHS respectfully urges the Attorney General to deny the respondents' motion to reconsider, and reaffirm the *Compean* decision.

Dated: February 17, 2009

Respectfully submitted,



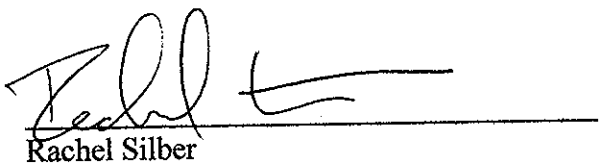
David A. Landau
Chief Appellate Counsel

Rachel Silber
Appellate Counsel

Office of the Principal Legal Advisor
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security
5201 Leesburg Pike, Suite 1300
Falls Church, VA 22041

CERTIFICATE OF SERVICE

I hereby certify, under penalty of perjury, that on February 17, 2009, a copy of the foregoing Department Of Homeland Security's Opposition To Respondents' Motion To Reconsider, was placed in the receptacle for outgoing first class mail, postage prepaid, to the respondents' counsels of record, and *amici curiae* named below, and in triplicate to U.S. Department of Justice, Office of the Attorney General, 950 Pennsylvania Avenue, N.W., Room 5114, Washington, DC 20530. Additionally, an electronic copy was also sent to AGCertification@USDOJ.Gov.



Rachel Silber

Respondent Bangaly
Law Offices of Isuf Kola & Associates
800 Roosevelt Road
Building B, Suite 110
Glen Ellyn, IL 60137-5871

Respondents J-E-C-, *et al.*
Law Offices of Robert J. Jacobs, P.A.
4727 N.W. 53 Avenue, Suite A
Gainesville, FL 32654

Respondent Compean
Cyril Chukwurah, Esq.
9894 Bissonnet St., Suite 635
Huston, TX 77036

American Immigration Law Foundation
Nadine K. Wettstein, Esq.
1331 G Street, N.W. #200
Washington, DC 20005

American Civil Liberties Union
Lee Gelernt, Deputy Director
Immigrants' Rights Project
125 Broad Street, 18th Floor
New York, NY 10004