se plaintiff's complaint, which ran 525 paragraphs and included almost 500 pages of exhibits, as not meeting the "short and plain statement" requirement of Fed. R. Civ. P. 8(a)(2). ***Nygard v. City of Orono***, 2024 WL 69927 (D. Minn. 1/5/2024).

Fed. R. Civ. P. 22; interpleader; attorney's fees. Resolving a dispute over the proceeds of a life insurance policy in an interpleader action, Judge Blackwell awarded the insurer only a "modest" portion of its requested attorney's fees, finding that most of its fees could have been avoided had it brought a discharge motion instead of waiting for the case to be decided on summary judgment. ***Banner Life Ins. Co. v. Bultman***, 2024 WL 86313 (D. Minn. 1/8/2024).

Service on registered agent; timing of removal; equitable estoppel rejected. Where the plaintiff attempted to serve the defendant by mail via its registered agent but the registered agent had moved and the mailing was returned, the plaintiff then served the defendant via Commissioner of Commerce and the defendant removed the action more than 30 days after the commissioner was served but within 30 days of when it received the service, Judge Wright rejected the plaintiff's argument that the defendant was equitably estopped from arguing that its removal was timely as a result of its failure to update the correct address of its registered agent with the commissioner, and denied the plaintiff's motion to remand. ***Broadhead, LLC v. AXIS Ins. Co.***, 2024 WL 111137 (D. Minn. 1/10/2024).

Fed. R. Civ. P. 68; FDCPA; request for attorney's fees reduced. Finding that time spent in connection with state court matters was not compensable, that time spent after acceptance of a Rule 68 offer of judgment was excessive, and reducing the attorney's hourly rate from $450 to $350 an hour, Judge Menendez reduced an attorney's fee requested from more than $29,000 to just over $12,000. ***Woodward v. Credit Serv. Int'l Corp.***, 2024 WL 228454 (1/22/2024).

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Immigration Law

JUDICIAL LAW

BIA failed to meet requirements for reasoned decision-making when it issued a single sentence explanation. On 2/1/2024, the 8th Circuit Court of Appeals reversed the Board of Immigration Appeals' (BIA) denial of the petitioner's appeal to reopen his case. The petitioner, a Liberian citizen, was admitted as an asylee to the United States in 2008. Following several criminal convictions, USCIS issued a Notice of Intent to Terminate Asylum Status and placed him in removal proceedings. The petitioner conceded removability but requested a waiver of inadmissibility for humanitarian purposes, which was denied by the immigration judge (IJ). His appeal to the BIA was also unsuccessful, but the case was remanded to the IJ for the sole purpose of determining if his asylum status should be terminated since the IJ failed to explicitly decide that question.

While on remand to the IJ, the petitioner began to consistently take psychiatric medications for his mental health symptoms—depression, bipolar disorder, schizophrenia, and post-traumatic stress disorder. With an improvement in his condition, the petitioner shared new information with his attorney about his mental health struggles and trauma suffered in Liberia. His attorney followed up with a motion to reopen his case before the IJ. The IJ denied the motion, finding the BIA's remand was restricted solely to the issue of termination of asylum because that body retained jurisdiction. The IJ also formally terminated the petitioner's asylum and ordered his removal to Liberia. The BIA, following an appeal, held that the IJ did indeed have jurisdiction over the new claims and additional evidence. It noted, however, that the petitioner failed to meet the motion to reopen standard requiring him to show "evidence of his mental health issues and of his past and feared harm if returned to Liberia are new, previously unavailable, or would likely change the result in his case."

On appeal to the 8th Circuit Court of Appeals, the petitioner argued the BIA failed to provide a reasoned explanation for its application of the motion-to-reopen standard. The court agreed, noting the BIA's single-sentence explanation did not meet the requirements for reasoned decision-making without spelling out how the elements of a motion to reopen applied to the petitioner's case. The court held the BIA's decision was an abuse of discretion, without rational explanation, and failed to consider all factors presented by the petitioner. The court granted the petitioner's petition for review and remanded the case to the BIA for further proceedings. ***Davis v. Garland***, Nos. 22-3262 and 23-1229, *slip op.* (8th Circuit, 2/1/2024). *https://ecf.ca8.uscourts.gov/opndir/24/02/223262P.pdf*

Guatemalan petitioner denied asylum based on a claim of threats received for father's unpaid debt. On 1/30/2024, the 8th Circuit Court of Appeals held that the petitioner neither demonstrated that he suffered past persecution on account of a protected factor, nor provided credible, specific evidence that a reasonable person in his position would fear persecution if returned to Guatemala. ***Gaspar-Felipe v. Garland***, No. 22-3372, *slip op.* (8th Circuit, 1/30/2024). *https://ecf.ca8.uscourts.gov/opndir/24/01/223372P.pdf*

BIA did not exceed permissible scope of review of immigration judge's decision by engaging in its own fact-finding. On remand from the Supreme Court following its 2023 decision in *Santos-Zacaria v. Garland*, 598 U.S. 411 (2023) (noncitizen need not request discretionary forms of administrative review, like reconsideration of an unfavorable Board of Immigration Appeals (BIA) determination, to satisfy §242(d)(1)'s exhaustion requirement), the 8th Circuit Court of Appeals held that the BIA, while denying discretionary special rule cancellation of removal, permissibly weighed the evidence of nonphysical harm that the petitioner caused to his ex-girlfriend and her daughter differently than the immigration judge – all without impermissibly finding facts or disregarding the immigration judge's factual findings. The court found, furthermore, that it lacked jurisdiction to review the immigration judge's decision denying cancellation of removal as a matter of agency discretion. Nor, for that matter, did the petitioner's claim that the BIA's decision was internally inconsistent and unreasoned prove sufficient to establish jurisdiction. ***Mencia-Medina v. Garland***, No. 20-1724, *slip op.* (8th Circuit, 1/23/2024). *https://ecf.ca8.uscourts.gov/opndir/24/01/201724P.pdf*

■ **Court lacks jurisdiction to review BIA refusal to grant *sua sponte* relief.** In December, the 8th Circuit Court of Appeals held that it lacked jurisdiction to review the Board of Immigration Appeals' refusal to grant *sua sponte* relief to the petitioner while also denying his request for equitable tolling, finding that he attempted to raise new arguments for the first time in his petition for review. "Simply put, [he] petitions us to review issues on which the Board did not rule. Thus, he fails to comply with 8 U.S.C. §1252(d)(1)'s requirement to exhaust all administrative remedies...Whatever the merits, [he] should have articulated these arguments to the Board in either of his two motions, but he did not." ***Essel v. Garland***, No. 22-2615, *slip op.* (8th Circuit, 12/28/2023). *https://ecf.ca8.uscourts.gov/opndir/23/12/222615P.pdf*

■ **No ineffective assistance of counsel: Petitioner failed to show evidence of persecutory motive behind burning of his home in Guatemala.** In December, the 8th Circuit Court of Appeals found the immigration judge's denial of withholding of removal and Convention Against Torture (CAT) protection was supported by substantial evidence. The court concluded that the Board of Immigration Appeals (BIA) properly denied the petitioner's first motion to reopen based on ineffective assistance of counsel, reasoning that the petitioner's failure to know who was responsible for burning down his home in Guatemala foreclosed any reasonable likelihood of a persecutory motive. "Thus any failure of the IJ to further develop the record is immaterial." He was, consequently, not prejudiced by his counsel's presumptively deficient performance. The court held the BIA properly denied the petitioner's second motion to reopen based on *Mendez Rojas* class membership given his failure to qualify for class membership and lack of prejudice. ***Pascual-Miguel v. Garland***, Nos. 20-2397 and 23-1072, *slip op.* (8th Circuit, 12/27/2023). *https://ecf.ca8.uscourts.gov/opndir/23/12/202397P.pdf*

■ **Conviction for sexual abuse of a minor is an aggravated felony.** In December, the 8th Circuit Court of Appeals held the Board of Immigration Appeals (BIA) did not err when it adopted the generic federal definition of sexual abuse of a minor contained within the criminal procedure statute, 18 USC §3509(a)(8)—as opposed to 18 U.S.C. §2243(a)—to determine that the petitioner's Minnesota conviction for sexual abuse of a minor under Minn. Rev. Stat. Sec. 609.324 properly qualified as an aggravated felony. As such, "he is deportable." The court denied the petition for review. ***Aguilar-Sanchez v. Garland***, No. 22-3598, *slip op.* (8th Circuit, 12/4/2023). *https://ecf.ca8.uscourts.gov/opndir/23/12/223598P.pdf*

ADMINISTRATIVE ACTION

■ **USCIS issues initial instructions for FY2025 H-1B cap season.** In late January, U.S. Citizenship and Immigration Services (USCIS) announced updates for the FY2025 H-1B cap season, including, among other things, measures "to strengthen the integrity and reduce potential for fraud in the H-1B registration process." The initial registration period for the FY2025 H-1B cap will open at noon (ET) on 3/6/2024 and run through noon (ET) on 3/22/2024. **News Release**: "USCIS Announces Strengthened Integrity Measures for H-1B Program." (1/30/2024). *https://www.uscis.gov/newsroom/news-releases/uscis-announces-strengthened-integrity-measures-for-h-1b-program* **89 Fed. Reg. 7456** (2024). *https://www.govinfo.gov/content/pkg/FR-2024-02-02/pdf/2024-01770.pdf* For more information about the H-1B process, *see* **USCIS' H-1B Cap Season webpage**: *https://www.uscis.gov/working-in-the-united-states/temporary-workers/h-1b-specialty-occupations-and-fashion-models/h-1b-cap-season*

■ **DHS notices extending and/or redesignating TPS.**

Syria: On 1/29/2024, the U.S. Department of Homeland Security announced the extension of the designation of Syria for temporary protected status (TPS) for 18 months from 4/1/2024 through 9/30/2025. Those wishing to extend their TPS must re-register during the 60-day period running from 1/29/2024 through 3/29/2024. The secretary also redesignated Syria for TPS for an 18-month period, allowing Syrians to apply who have continuously resided in the United States since 1/25/2024 and been continuously physically present in the United States since 4/1/2024. The registration period for these new applicants, under the redesignation, runs from 1/29/2024 through 9/30/2025. **89 Fed. Reg. 5562** (2024). *https://www.govinfo.gov/content/pkg/FR-2024-01-29/pdf/2024-01764.pdf*

El Salvador, Haiti, Honduras, Nepal, Nicaragua, and Sudan: On 12/14/2023, the U.S. Department of Homeland Security (DHS) announced the lengthening of the re-registration periods for the extension of TPS designations for El Salvador, Haiti, Honduras, Nepal, Nicaragua, and Sudan for Temporary Protected Status (TPS) from 60 days to the full 18-month designation extension period of each country. According to DHS Secretary Alejandro N. Mayorkas, "DHS is extending the re-registration periods for a number of reasons, including that certain beneficiaries have not been required to re-register for TPS for several years due to pending litigation and related continuation of their documentation, confusion within the beneficiary population, and operational considerations for USCIS." TPS re-registration periods are as follows: **El Salvador:** 7/12/2023 through 3/9/2025; **Haiti:** 1/26/2023 through 8/3/2024; **Honduras:** 11/6/2023 through 7/5/2025; **Nepal:** 10/24/2023 through 6/24/2025; **Nicaragua:** 11/6/2023 through 7/5/2025; **Sudan:** 8/21/2023 through 4/19/2025; **88 Fed. Reg. 86665** (2023). *https://www.govinfo.gov/content/pkg/FR-2023-12-14/pdf/2023-27342.pdf*

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Intellectual Property

JUDICIAL LAW

■ **Copyright: Lack of sufficient creativity not protectable.** A panel of the United States Court of Appeals for the 8th Circuit recently affirmed a decision from United States District Court for the Western District of Missouri holding that copyright holder's asserted work lacked a sufficient degree of creativity to be protectable. Ronald Ragan developed a "guest sheet" intake form for use with prospective automotive customers and received a copyright registration in 1999. Circa 2000, Ragan claimed that a first auto dealership infringed his work. The lawsuit was later dismissed. In 2015, Berkshire Hathaway Automotive Inc. (BHA) acquired the other auto dealer and continued to use the form. Ragan sued BHA, alleging that BHA