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## Advocates must stand up for children

**Niloufar Khonsari** is an immigration attorney and director of Pangea Legal Services, a nonprofit organization in San Francisco providing immigration legal services in removal defense.



**Bianca Z. Santos** is an immigration attorney and director of Pangea Legal Services, a nonprofit organization in San Francisco providing immigration legal services in removal defense.



We are witnesses to an exodus. Over 60,000 children from Central America have fled to the U.S. since the beginning of 2014. While images of these children in border detention facilities flashed across the news this summer, our office has been confronted with different images. At 16, one client from Guatemala found her cousin "chopped into pieces in a black plastic bag." A Honduran client was brutally raped by a narco-trafficker when she was 14. Another client from El Salvador feared being killed by gangs because his uncle and cousin were killed by gangs when he was 10.

Many of these children risk deportation, and attorneys have been reluctant to take on these Central American gang-based asylum cases. Last week, Politico reported on newly released government data from July 18 to Oct. 21 of this year, noting that two thirds of the children in fast track removal proceedings lacked lawyers. Over half of these children were granted continuances to find counsel. However, 1,542 of 11,392 children were ordered removed, almost all of whom did not have lawyers.

The legal framework for handling refugee claims was set up long before these children set out to seek safety in the U.S. After World War II, nations agreed to not send people back to places where they would be harmed because of their race, religion, political opinion, nationality or membership in a particular social group. Some have argued that people fleeing gangs should be sent back to harm because they are not eligible for asylum and do not have legal rights in this country.

They are wrong. In less than a few weeks between August and September 2014, our office received seven asylum approvals for refugee children. These children explained their reasons for fleeing Central America: gang-based persecution of their relatives or friends, lack of parental protection, threats by gang members who wanted to recruit them as their girlfriend, and other forms of violence by organized, criminal groups such as gangs.

We must fully acknowledge this set of refugees: Central Americans, adults and children, fleeing from gang-based persecution. Some asylum officers, such as those adjudicating our cases, have come around to understand what is happening in Central America. Gangs have infiltrated and control public life in El Salvador, Honduras and Guatemala. They levy taxes that come with high-risk consequences if left unpaid. Sometimes the national police of these countries participate directly in enforcing these

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### SPECIAL REPORT

#### Insurance



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#### Litigation

##### Opting out is yielding mixed results for corporations, attorneys say

Attorneys are closely watching the verdicts rolling in from the few opt-out cases that have gone to trial as they decide whether to go it alone in antitrust litigation.

#### Criminal

**Heroin, of course, is worse than marijuana**  
One of the recurring mysteries of federal drug law is why marijuana is classified alongside heroin in the most serious category of controlled substances, known as Schedule I. By **Alex Kreit**

#### Litigation

##### Oracle settles SAP case for \$359.1 million

Oracle Corp. and SAP AG have reached a \$359.1 million settlement in a lengthy and groundbreaking copyright fight, the companies jointly announced in a court document submitted late Thursday.

#### Government

##### Chief counsel, deputy chief counsel of Assembly Judiciary Committee to step down

Drew Liebert, chief counsel of the Assembly Judiciary Committee and Kevin Baker, deputy chief counsel, are preparing to leave after the end of the year.

#### Litigation

##### State attorney general joins whistleblower suit against BP for inflating prices

Attorney General Kamala Harris has joined a lawsuit against BP Plc, alleging in San Francisco County Superior Court that the oil giant illegally inflates the price of natural gas sold in California.

taxes, creating a unique hybrid state/non-state taxing system. Children, especially girls, are targets of this violence, including rape and other sexual violence. Government non-action translates to government complicity. For many who flee there is no other option to stay safe.

One of the arguments against granting children asylum is that their real goal is to reunite with family members who live in the U.S. But this mixed migration has always been the norm. Post-WWII European children fleeing political or religious persecution similarly reunited with their families in the U.S. The existence of family ties doesn't diminish the fear, threats and persecution the children face if deported. Make no mistake: Underage refugees may be pulled to the U.S., but they have been pushed out from their countries of origin. Without an exception, each child we have seen in 2014 has at least one family member, classmate or friend, who was severely beaten, killed or tortured as a result of organized criminal or gang violence in their countries.

We must work together to ensure that the legal system interprets our asylum principles in a way that keeps up with changing times or we risk repeating the worst mistakes of our history. We must approach this humanitarian issue from a place of inclusion and transparency. The times in history when we practiced exclusion have become moments of collective shame. The problem with "send them back" or fast tracked deportation solutions in this country today is the same as before: They don't acknowledge that we are sending children and adults back to grave risks, including death.

If the starting point can come from a place of inclusivity, we might ask: "How can we responsibly respond to this refugee emergency?" and "What systems do we need to put in place to offer our children protection with the resources we have available?"

The city of San Francisco has been a leader and set a great example by asking these hard questions - and answering with programs that provide the population with critical legal services. On Oct. 1, San Francisco Mayor Ed Lee signed an ordinance appropriating over \$2 million for legal services for unaccompanied children and families on the San Francisco Immigration Court's expedited removal docket. Attorneys and advocates working with our young community members must, too, take bold action, step up, and represent these children. While gang-based cases are challenging, they are winnable and more lawyers must serve these children to ensure their lives are not lost to the complexities of the law.

**Niloufar Khonsari and Bianca Z. Santos** are immigration attorneys and directors of Pangea Legal Services, a nonprofit organization in San Francisco providing immigration legal services in removal defense. They serve on a variety of national immigration and migrants' rights committees.

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## Fired Google worker files class action, claiming misclassification

A technology worker has alleged in a lawsuit that Google Inc. violated federal wage laws by misclassifying him as an independent contractor.

## Solo and Small Firms

### The benefits of the generalist's approach

The partners at commercial litigation shop Gordon & Pollard LLP said variety in casework benefits their clients, creativity and business generation.

## Alternative Dispute Resolution

### Ina L. Gyemant

Retired judge Ina L. Gyemant aspires to be a calming influence when handling mediations and arbitrations. "I like empathizing with people and helping to reduce their stress," she said.

## California Courts of Appeal

### Securities fraud claims lose out in appellate ruling

Online retailer Overstock.com and seven investors were mostly out of luck Thursday as a state appellate panel largely affirmed a San Francisco trial judge's grant of summary judgment on securities fraud claims.

## Litigation

### Latest incarnation of Bratz dolls case will go on

A Los Angeles judge denied a motion by Mattel to dismiss a trade secrets lawsuit by MGA Entertainment. The two are involved in a long-running fight over their dolls.

## Criminal

### Wilson Sonsini employee pleads guilty to insider trading

A Wilson Sonsini Goodrich & Rosati PC information technology employee has pleaded guilty in Manhattan federal court to insider trading.

## Litigation

### Attorneys spar in closing arguments in construction defect suit over attorney's home

In closing arguments in a defect trial, Fred Adelman's attorney contended moisture under the home coupled with a flawed air duct system set the stage for a slew of problems that arose after the close of escrow on Adelman's property.

## Law Practice

### Financial elder abuse attorneys in high demand

Recent changes to elder abuse laws created a rare scenario: a practice area in high demand, with a viable financial model for trial attorneys, which is

mostly being ignored in a market where a staggering amount of attorneys can't find work.

## **Discipline**

### **Disciplinary Actions**

Here are summaries of lawyer disciplinary actions taken recently by the state Supreme Court or the Bar Court, listing attorney by name, age, city of residence and date of the court's action.

## **Intellectual Property**

### **Patent claim construction and distrust**

The U.S. Supreme Court heard argument last month in Teva Pharmaceuticals USA v. Sandoz, a case addressing the scope of appellate review of claim construction rulings. By **Peter S. Menell**

## **Alternative Dispute Resolution**

### **Susskind on winning win-win negotiations**

It was with great eagerness that I dove into Lawrence Susskind's new book, "Good for You, Great for Me: Finding the Trading Zone and Winning at Win-Win Negotiation." By **Jan Frankel Schau**

## **Personal Injury & Torts**

### **Storm clouds are looming over structured settlements**

A new survey highlights structured settlements' benefits. But Executive Life litigation may soon become the industry's nightmare scenario. By **H. Dennis Beaver**

## **Ethics/Professional Responsibility**

### **Attorneys can SLAPP down some suits**

Almost since its inception, the anti-SLAPP statute has served as a valuable tool for lawyer defendants sued by litigants regarding litigation-related conduct. By **Alison Buchanan**

## **Criminal**

### **Support grows to end excessive punishment**

The success of California's Proposition 47 - the ballot initiative that reduces penalties for drug possession and certain property crimes - may mark a new day for criminal justice reform. By **Nazgol Ghandnoosh**

## **Immigration**

### **Advocates must stand up for children**

We are witnesses to an exodus. Over 60,000 children from Central America have fled to the U.S. since the beginning of 2014. And most of them don't have lawyers. By **Niloufar Khonsari and Bianca Z. Santos**

## **Judicial Profile**

### **Randy Rhodes**

Superior Court Judge Los Angeles County (Chatsworth)

**Litigation****War is on after State Bar ousts Joe Dunn**

In a sparse statement Thursday, the California Bar announced it had fired Executive Director Joseph L. Dunn. Almost immediately, Dunn responded with a lawsuit that demanded his job back and punitive damages.

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