

and repeated personal vouching for her client” was “unfairly prejudicial” and required a remand for a new trial. **Gilster v. Primebank**, \_\_\_ F.3d \_\_\_ (8th Cir. 04/04/2014).



■ **Award of Summary Judgment to Non-Moving Defendant Reversed.** Where only some defendants sought summary judgment in a Section 1983 action but the district court granted summary judgment to “all” defendants, the 8th Circuit reversed the portion of the summary judgment order that dismissed the claims against the non-moving defendants, finding that “the denial of notice and opportunity to be heard requires a remand.” **Montgomery v. City of Ames**, \_\_\_ F.3d \_\_\_ (8th Cir. 04/10/2014).



■ **CAFA Removal; Amount in Controversy; Motion to Dismiss.** Where the plaintiffs commenced a putative class action in the Missouri courts; the action was removed under CAFA and then dismissed under Fed. R. Civ. P. 12(b) (6) because, among other things, the plaintiffs did not allege any pecuniary loss. The 8th Circuit affirmed the dismissal, rejecting the plaintiffs’ argument that the action should not have been removed because their inability to establish any loss necessarily meant that the action did not meet the \$5 million threshold for CAFA removal. **Grawitch v. Charter Communications, Inc.**, \_\_\_ F.3d \_\_\_ (8th Cir. 05/02/2014).



■ **Forum Selection; Claims Transfer; Antitrust Claims.** While finding that the plain language of 28 U.S.C. §1404(a) precludes transferring only a portion of an action, Judge Kyle granted multiple antitrust defendants’ motions to transfer claims against them to the separate forums specified in forum-selection clauses of their purchase agreements by first severing the claims against them, pursuant to Fed. R. Civ. P. 21, and then transferring those new actions. Judge Kyle further rejected the plaintiff’s arguments that the forum-selection clauses did not apply to its antitrust claims or that the “strong preference” for alleged coconspirators to be tried together outweighed the forum-selection clauses.

**Valspar Corp. v. E.I. DuPont de Nemours & Co.**, \_\_\_ F. Supp. 2d \_\_\_ (D. Minn. 04/21/2014).



■ **Fed. R. Civ. P. 15(a)(1)(B); Multiple Amendments to Complaint as Matter of Course.** Where the plaintiff had previously amended his complaint as of right, the defendants moved to dismiss the amended complaint, and the plaintiff filed a second amended complaint without seeking leave of court, Judge Frank adopted a report and recommendation by Magistrate Judge Rau which rejected the plaintiff’s argument that *each time* a defendant files a motion to dismiss under Fed. R. Civ. P. 12(b), (e) or (f), the complaint can be amended as a matter of course under Fed. R. Civ. P. 15(a)(1)(B). **Soto v. John Defendants 1-5**, 2014 WL 1607615 (D. Minn. 04/15/2014).



■ **Sanctions-Related Orders.** Judge Erickson reversed an order by Magistrate Judge Noel which had imposed sanctions on the plaintiff and its counsel following an evidentiary hearing relating to alleged fraud on the court, finding that the magistrate judge lacked authority under Article III to determine whether the plaintiff had committed fraud on the court. **AF Holdings LLC v. Doe**, 2014 WL 1285757 (D. Minn. 03/31/2014).

Judge Frank imposed Rule 11 sanctions against plaintiff’s counsel, finding that he had “asserted and maintained unsupported claims” against one group of defendants even “after it became apparent that the claims should have been dismissed,” and that he had given “evasive responses” when asked to clarify which claims in a complaint of “over 200 paragraphs” were asserted against which defendant. Plaintiff’s counsel was ordered to pay \$10,860, which represented the defendant’s attorney’s fees and expenses incurred since the Rule 11 motion was filed.

Judge Frank also scheduled a hearing on all defendants’ motion for an order to show cause why the same attorney should not be held in civil contempt, where the attorney had failed to pay any portion of more than \$3,500 in fees and costs the defendants were

awarded previously in connection with several prior motions to compel. **Henderson v. City of Minneapolis**, 2014 WL 1153466 (D. Minn. 03/21/2014).

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## IMMIGRATION LAW

### JUDICIAL LAW

■ **Local Ordinances: Pennsylvania; Renting to Undocumented Immigrants.** The Supreme Court denied certiorari in a 3rd Circuit case holding Pennsylvania local ordinances fining landlords renting to undocumented immigrants and denying permits to businesses hiring such individuals were unconstitutional on federal preemption grounds. **City of Hazleton v. Lozano**, 724 F.3d 297 (3rd Cir. 2013), cert. denied, 571 U.S. \_\_\_ (03/03/2014). <http://www.supremecourt.gov/Search.aspx?FileName=/docketfiles/13-531.htm>



■ **Local Ordinances: Texas; Renting to Undocumented Immigrants.** The Supreme Court denied certiorari in a 5th Circuit case holding a local ordinance, that sought to prevent undocumented immigrants from renting housing in the Dallas suburb, was unconstitutional on federal preemption grounds. **City of Farmers Branch v. Villas at Parkside Partners**, 726 F.3d 524 (5th Cir. 2013), cert. denied, 571 U.S. \_\_\_, (03/03/2014). <http://www.supremecourt.gov/Search.aspx?FileName=/docketfiles/13-516.htm>



■ **Local Ordinances: Nebraska; Renting to Undocumented Immigrants.** The Supreme Court denied certiorari in this 8th Circuit case holding the city of Fremont’s ordinance barring landlords from renting housing to undocumented immigrants was not unconstitutional on federal preemption grounds. “We conclude the Plaintiffs have failed to establish that any of the Ordinance’s rental provisions are facially preempted by federal law. In so holding, we obviously express no opinion as to the wisdom of these provisions as a matter of federal, state, or local public policy.” **Keller v. City of Fremont**, 719 F.3d 931 (8th Cir. 2013), cert. denied, 572 U.S. \_\_\_ (05/05/2014). <http://www.supremecourt.gov/Search.aspx?FileName=/docketfiles/13-1043.htm>



■ **Convention Against Torture: Withholding of Removal and Relief Denied.** The 8th Circuit Court of

Appeals declined to review the immigration judge's denials of withholding of removal and relief under the Convention Against Torture, finding that the Guatemalan petitioner did not present "any evidence indicating that persons who identify [MS-13] gang members to police suffer greater crime than other members of the population who resist gang violence"... nor for that matter, does the record "compel the conclusion that it is more likely than not that Somoza will be tortured with the acquiescence of a public official." **Garcia v. Holder**, No. 13-1949, slip op. (8th Cir. 03/19/2014). <http://media.ca8.uscourts.gov/opndir/14/03/131949P.pdf>



■ **Due Process: Competence of Interpreter.** In a recent case, the 8th Circuit Court of Appeals found that the immigration judge did not violate the petitioner's right to due process because the court-appointed Mandarin Chinese interpreter was in fact competent. "Given the suspicious timing of Yang's alleged conversion to Christianity and her lack of evidence proving that she was a member of the St. Louis Chinese Baptist Church, minor translation errors relating to Baptist religious practices or the Bible or the harassment of Yang's Christian friends in China would not undermine the IJ's decision". **Yang v. Holder**, No. 13-1426, slip op. (8th Cir. 04/04/2014). <http://media.ca8.uscourts.gov/opndir/14/04/131426P.pdf>

ADMINISTRATIVE ACTION

■ **Haiti: Temporary Protected Status; Re-registration Period.** On March 3, 2014, the secretary of homeland security extended temporary protected status (TPS) to January 22, 2016 for those Haitians currently holding that status on account of the continued disruption of living conditions resulting from the devastating effects of the 2010 earthquake there. The re-registration period was initially scheduled to run from March 3, 2014 to May 2, 2014. On May 2, 2014, the Department of Homeland Security announced that the re-registration period would be extended to July 22, 2014. <http://www.gpo.gov/fdsys/pkg/FR-2014-05-02/html/2014-10177.htm>



■ **Country Reports on Terrorism.** On April 30, 2014, the Department of State released its annual *Country Reports on Terrorism for 2013*. The publication covers the period, January 1 to December 31, 2013, with a country-by-country

assessment of acts of international terrorism, counterterrorism measures, and an examination of state sponsors of terrorism, terrorist safe havens, and various terrorist organizations. <http://www.state.gov/j/ct/rls/crt/2013/index.htm>



■ **Visa Waiver Countries: Chile.** The Visa Waiver Program allows eligible citizens, nationals, and passport holders from designated countries to apply for admission to the United States as non-immigrants for a period of 90 days or less without first obtaining a nonimmigrant visa, provided they are otherwise eligible for admission. On February 28, 2014, the secretary of homeland security, in consultation with the secretary of state, designated Chile as a country now eligible to participate in the Visa Waiver Program. 78 Fed. Reg. 17852-54 (03/31/2014). <http://www.gpo.gov/fdsys/pkg/FR-2014-03-31/pdf/2014-07254.pdf>



■ **Immigrant and Nonimmigrant Visas Report.** The Department of State recently released data on immigrant and nonimmigrant visas issued at foreign service posts for the years, 2009 to 2013. Immigrant visa categories include immediate relatives, special immigrants, Vietnam Amerasian immigrants, family-sponsored preference, employment-based preference, Armed Forces Special Immigrants, Diversity Immigrants, and Schedule A workers. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>



■ **South Sudan: Travel Ban on Certain Persons.** Finding the situation in South Sudan unstable amid widespread violence, human rights abuses, and attacks on peacekeepers, and thus a threat to the national security of the United States, President Obama declared a national emergency and suspended entry into the United States of individuals linked in any manner to such activities there. 79 Fed. Reg. 19283-85 (4/7/2014). <http://www.justice.gov/eoir/vll/fedreg/presdocs/pd07apr14.pdf>  
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PROBATE & TRUST LAW

JUDICIAL LAW

■ **Burden for Seeking Elective Share; Spouse Under Conservatorship.** Minn. Stat. §524.2-212 requires a protected surviving spouse to obtain court autho-



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