



PRESS RELEASE

FOR IMMEDIATE RELEASE

Contact:

Scott Bryan
Web & Communications Manager
American College of Trial Lawyers
949.752.1801
sbryan@actl.com

College Opposes Proposed Limitations on Counsel's Ability to Represent Detainees Effectively

IRVINE, Calif.-May 7, 2007 – The Board of Regents of the American College of Trial Lawyers has issued a statement opposing the protective order proposed by the United States Government for proceedings in the United States Court of Appeals for the District Of Columbia to review the determinations by military tribunals that detainees at the Guantanamo Bay Naval Station are enemy combatants.

In 2004 a comprehensive protective order was entered in the District Court for the District of Columbia governing the conduct of counsel representing detainees in the then pending habeas corpus proceedings. The Government proposes more restrictive limits on counsel for the review proceedings in the Court of Appeals. Specifically, the Government's proposal (i) would limit counsel to three visits to their client after counsel's retention, (ii) would limit counsel's access to classified information to only that information as to which the Government had determined counsel had a "need to know," and (iii) would subject written communications between counsel and their detainee clients to review and to redaction to the extent the communications did not fall within a narrow definition of "legal mail."

The College's Board of Regents believes that the protective order previously entered in the District Court represents "an appropriate balancing of national security needs and the requirements of counsel to provide effective representation."

In contrast, the Board of Regents believes that the proposed limitation to three visits does not, in the unique circumstances of the detentions at Guantanamo Bay, permit achievement of the "reasonable objectives of counsel," namely, the establishment of client trust, the development of facts "necessary to mount an effective defense," and the adjustment of defense strategy to "shifting developments in the law." The proposed limitation on access to classified information, which would enable the Government to withhold portions of the record from counsel, would, in the Regents' view, "severely restrict counsel's ability to seek a Court of Appeals reversal of an "enemy combatant" determination by a military tribunal. Finally, the proposed power to scrutinize and redact privileged communications will "obviously impair the attorney-client relationship."

The Board of Regents believes that the foregoing limitations "have not been shown to be either required or appropriate." Moreover, taken together, the limitations would "severely hamper the effective representation of detainees by counsel."

The American College of Trial Lawyers is an honorary association comprised of experienced trial lawyers in the United States and Canada who have mastered the art of advocacy and adhere to the highest standards of ethical conduct and professionalism. The College is dedicated to furthering the administration of justice and improving the ethics and standards of the trial profession. The College's fellowship represents all branches of trial practice, enabling the organization to speak with a balanced voice on important issues affecting the legal profession and the administration of justice. The organization's current membership includes nearly 5,700 lawyers and Judicial Fellows. Approximately 30 Fellows, appearing in their own names and not as representatives of the College, are currently representing detainees at the Guantanamo Bay Naval Station.

###