The following are citations made during the April 20, 2006 ILW.com teleconference on "Adjustment Of Status In Immigration Practice Today" (focus on Family and DV adjustments).

Fact Sheet on Bi-Specialization Filing Procedure for I-129s and I-140s – available on the USCIS website at http://www.uscis.gov/graphics/publicaffairs/factsheets/BiSpecPh01_24Mar06FS.pdf Or access it by going to www.uscis.gov and on the main page there is a new posted topic labeled "USCIS Notifies Employers of Filing Changes for I-129s and I-140s". If you click on that link it brings up a March 24 press release and that press release has a link in it at the bottom of the press release that goes to the 5-page Fact Sheet itself.

Direct Mail Program ("Chicago Lockbox") Rules – see 69 Fed. Reg 67751 (Nov. 19, 2004); 69 Fed. Reg. 77768 (Dec. 28, 2004) (removing certain officers and employees of international organizations and their eligible family members from requirement to submit their Form I-485 to the lockbox facility). Available through the Federal Register website at http://www.gpoaccess.gov/fr/index.html and also on the USCIS website at http://www.uscis.gov/graphics/lawsregs/newlaw.htm

National Benefits Center (NBC, formerly Missouri Service Center or MSC) Frequently Asked Questions (FAQs) – available on the USCIS website at http://www.uscis.gov/graphics/fieldoffices/nbc/aboutus.htm

USCIS Memorandum from Michael Aytes, "USCIS policy regarding Form I-864, Affidavit of Support" – dated November 23, 2005 – available on the USCIS website at http://www.uscis.gov/graphics/lawsregs/handbook/chronpol.htm (reducing the requirement for providing 3 year's worth of sponsor's federal tax returns to just the most recent year in most cases)

DOS Cable – "Revised for Form I-864 Processing" – available on the DOS website at http://travel.state.gov/visa/laws/telegrams/telegrams_1446.html (similar to the USCIS memo cited immediately above)

INS Memorandum from Michael Cronin, "Effect of enactment of the Child Citizenship Act of 2000 on the affidavit of support requirement under INA 212(a)(4)and 213A" – dated May 17, 2001 – reprinted in 78 Interpreter Releases 1005 (June 11, 2001) – states inter alia that "The obligations under Form I-864 come into force when the sponsored alien acquires permanent residence" (i.e., and therefore it is not required that the sponsor's income be sufficient at the time of I-485 filing as long as they become sufficient by the time of I-485 adjudication and approval).

INS Memorandum from Michael D. Cronin, "Clarification of Service policy concerning I-864 affidavit of support" – dated March 7, 2000 – reprinted in 77 Interpreter Releases 418 (Apr. 3, 2000) – states inter alia that "Thus, for INS purposes, the sponsor must be qualified (the I-864 must be sufficient) at the time adjustment of status is approved, not at the time the Form I-485 is filed. . . . If the office chooses to request the Form I-864 at the time of filing for adjustment such office may accept a signed Form I-864 that does not meet requirements. In this type of situation, additional or updated documentation proving eligibility must be submitted at the interview." (NOTE: this memorandum pre-dates Direct Mail, so these days an I-485 might not be accept by the Chicago Lockbox or could be accepted but then quickly RFE'd for an I-864, if a family-based I-485 is filed entirely without an I-864 versus filed with a properly executed I-864 that is just weak on present-day income of the sponsor).

Akhtar v. Burzynski, 384 F.3d 1193 (9th Cir. 2004) – available through WESTLAW and/or LexisNexis and/or the 9th Circuit Court of Appeals' website at http://www.ca9.uscourts.gov/ca9/newopinions.nsf/42DE70D8ACB5B80888256F24005ABF9E/$file/0257037.pdf?openelement (invalidating the age-out provisions of 8 CFR § 214.15(g) with respect to V visa dependents who turned 21).

DOS Answers to AILA Questions (10/20/05) (Updated 11/30/05) – available to members of the American Immigration Lawyers Association (AILA) at InfoNet Doc. No. 05112874 – in Q & A #30, DOS

declines to extend the logic of Akhtar to those former V-2 and V-3 aliens who left the United States when/after they aged-out.

DOL Data on Labor Certifications filed prior to PERM – One of the callers during the Q&A described a situation of being unable to find a copy of a Labor Certification filed in 1998 that would provide her client with 245(i) grandfathering (which would then be invoked by the client to adjust status on a different basis, in this case a DV Lottery win). The DOL website at http://www.flcdatacenter.com/CasePerm.aspx contains SOME records of ETA-750 Labor Certifications that were filed in years past. It has been possible to locate records in here of old ETA-750 cases, at least as of when the case reached the DOL regional office level (not at the earlier SWA level). The caller is recommended to at least try using this website to see if it produces any entry for the Labor Cert filing that can be traced through DOL back to finding the original ETA-750 to obtain a copy for use in claiming 245(i) grandfathering.

Declaration of Michael A. Cannon – dated February 28, 2006 – this explanation of the FBI Name Check system by the Special Chief in charge of the name check program at FBI is a publicly available document. It is Exhibit #3 to Docket Item #4 in the case Atabani v. Gonzalez, US Dist. Ct. of New Hampshire, Civil Docket Case #: 1:05-cv-00457-SM, and can be viewed through the US Federal Court's "PACER" system. Accessing federal court records through a PACER log-in requires registering for PACER first, which can be done online at http://pacer.psc.uscourts.gov/ This declaration provides insight on some of the reasons for increased processing delays in USCIS cases for FBI name checks.

28 USC § 1361 – federal mandamus statute.

INS Memorandum by Michael Pearson concerning "Acceptance of DV-related I-485 Applications During 90-Day Period Preceding Cut-Off Number in the Visa Bulletin" – reprinted in 76 Interpreter Releases 198 (Feb. 1, 1999) – permits filing of an I-485 application for a DV Lottery winner (if otherwise eligible to adjust under INA 245(a), (c), (i), etc.) up to 90 days prior to start of the month for which the DOS Visa Bulletin shows the cut-off for that applicant's geographic region has moved past that winner's regional rank number. NOTE: despite what this memo says, as a practical matter because of the timing of the release of the DOS Visa Bulletin each month, it is more likely that a DV Lottery winner will know the cut-off has surpassed their rank number on the "ADVANCE NOTIFICATION OF THE DIVERSITY (DV) IMMIGRANT CATEGORY RANK CUT-OFFS" chart on the Visa Bulletin only about 5-6 weeks in advance and not a full 90-days in advance. NOTE FURTHER: All DV I-485s must be filed with the Chicago lockbox, unless perhaps a USCIS district office has given very clear confirmation in an individual case that it will accept the DV I-485 locally without going through lockbox first, e.g., maybe a particular district office might consider accepting the 485 locally if it is getting towards the end of the fiscal year.

9 FAM 40.63 N4.7 – concerning the "30/60 Day rule", i.e., situations where a nonimmigrant within a certain time frame after nonimmigrant admission either applied for adjustment of status or began engaging in unauthorized employment.

DOS Cable No 89-State-061119 (concerning immigrant intent as result of DV Lottery application) – reprinted in 66 Interpreter Releases 253 (March 6, 1989), this February 27, 1989 DOS cable states that having applied for the DV lottery (then initially called the OP-1 Immigrant Visa Program) is considered an expression of immigrant intent and thus "Yes" is the proper answer to question in a nonimmigrant visa application on whether an immigrant petition has ever been filed for the nonimmigrant visa applicant or whether the applicant has an interest in immigrating to the United States. The cable does state that having filed a lottery application does not mean that an applicant cannot ever after prove nonimmigrant intent, but naturally 214(b) becomes more of a concern in this situation.