



2023 AILA Annual Conference and Webcast

Wednesday, June 21, 2023

Fundamentals

8:00 am–9:00 am

New Attendee Orientation

Is this your first time attending an AILA Annual Conference? If so, the New Attendee Orientation is for you! Join your colleagues at this session to learn all you need to know to make your Annual Conference experience a great one!

9:00 am–9:30 am

Networking Break

9:30 am–10:30 am

Immediate Relatives and Preference Categories: Who Can Be Sponsored and How?

Panelists will review the various types of familial relationships that can be sponsored for permanent residence or other immigration-related benefits. They also will explain how these relationships are defined and what proof is required.

- How do you prove that the family relationship exists?
 - What do you do when traditional evidence is not available?

- What are the options for widows?

- What are the options for family members who have suffered abuse?

10:30 am–11:00 am

Networking Break

11:00 am–12:00 pm

Marriage-Based Adjustment of Status

Panelists will discuss the various methods for a U.S. citizen to sponsor their foreign national fiancé(e). They also will review important factors that should be discussed with a potential client that is deciding which option to pursue.

- What are the different steps for each possible process?
- How long does each step take? How do you determine this?

- What important factors should you consider when advising clients on the best process for them?

12:00 pm–12:30 pm

Networking Break

12:30 pm–1:30 pm

Basics of Preparing and Submitting the Affidavit of Support

Panelists will discuss the nuts and bolts of this essential, but often overlooked, piece of family-based adjustment of status applications. Basic concepts and calculations will be explained, your role as the attorney will be addressed, and warnings against common pitfalls that lead to unwanted rejection and RFEs will be provided.

- When is a sponsor needed? What form should you use?
- How do you determine whether the petitioner is eligible to be the sole sponsor?
- How are income and assets calculated? What constitutes income?
- When is a joint sponsor needed and who qualifies?
- What type of supporting documents are acceptable?
- What are the sponsor's obligations? What is your role in assisting a joint sponsor?

1:30 pm–2:00 pm

Networking Break

2:00 pm–3:00 pm

Joint Representation and Conflicts of Interest: What to Do When Your Clients Break Up (Ethics)

From honeymoon bliss to post-wedding wars, clients that may seem like the perfect couple unfortunately do not always remain that way. The smart practitioner therefore must have a plan in place in case their clients separate

or divorce. Panelists will discuss considerations to be made at each step of the process when providing joint representation in family-based cases.

- Preparing for a possible conflict of interest
 - Clauses to include in the retainer agreement
 - Ensuring that clients are aware of these clauses and the potential for conflict
- How and when to ethically withdraw your representation when a conflict arises
- Your continuing obligations to clients
 - Maintaining your professional responsibilities

3:00 pm–3:30 pm

Networking Break

3:30 pm–4:30 pm

Preparing for the Adjustment of Status Interview or Hearing

It is important to see your family-based case through to the finish line. The key to this is making sure the interview or hearing goes as smoothly as possible. Panelists will discuss how to prepare your clients, yourself, and your file. They also will advise on how to comport yourself during the interview or hearing, and what to do when issues arise.

- What is your role as the attorney?
- What and how should you advise clients in advance of the interview or hearing?
- Which documents will you need to bring?
- How do you prepare to address potentially sensitive issues: prior applications, criminal issues, possible misrepresentation, etc.?
- What should you do when problems arise? When and how do you ask for a supervisor?

4:30 pm–5:00 pm

Networking Break

5:00 pm–6:00 pm

Lifecycle of a Family-Based Adjustment of Status Case: From Newlywed to Permanent Resident

Panelists will walk you through the entire process that a foreign national, newly married to a U.S. citizen spouse, follows to become first a conditional resident and then a permanent resident.

- I-130 petition requirements
 - Demonstrating a good faith marriage
- Adjustment of status
 - Eligibility to adjust as an immediate relative
 - Identifying and addressing common issues: unauthorized employment, preconceived intent, nonimmigrant visa violations, etc.
- I-864 Affidavit of Support
 - Determining income and assets and proving they meet the requirements
- USCIS field office interview
 - Preparing your clients: documents to bring and common questions to expect
- I-751 petition
 - Explaining conditional residence to clients and managing expectations
 - Filing a joint petition
 - Avoiding a request for evidence (RFE) or interview
 - Handling situations when a waiver is needed and you may be conflicted out

6:00 pm–6:30 pm

Networking Break

6:30 pm–7:30 pm

Naturalization and Derivative Citizenship

Panelists will discuss eligibility to naturalize and the conditions upon

which foreign nationals acquire U.S. citizenship by operation of law. Topics include:

- Residency and physical presence requirements and exemptions
- Admission for permanent residence and post hoc re-adjudication of grants of lawful permanent resident (LPR) status
- Good moral character: When filing for naturalization can get your client into removal proceedings
- English and civics requirements and waiver criteria
- The Child Citizenship Act of 2000 and other laws granting citizenship
- Evidence of derived citizenship: U.S. passport vs. certificate of citizenship

7:30 pm–8:00 pm

Networking Break

8:00 pm–9:00 pm

Common Waivers in Family-Based Cases

Panelists will provide information about how to screen family-based clients for possible inadmissibility. They also will explain which grounds can be waived, what the waiver requirements are, and how to build a strong waiver application.

- How to issue spot for possible grounds of inadmissibility that require waivers
- Misrepresentation and fraud: what they are, when and how to challenge these findings, how to address them in the waiver application
- Common criminal grounds of inadmissibility: when and how these can be waived
- I-601 waivers vs. I-601A waivers: differences in standards of adjudication and when to use one or the other

- The basics of procedure and required evidence for waivers

Business

5:00 pm–6:00 pm

What Happens When Your Case Gets Stuck: Options and Alternatives

While asking Emma and calling the 1-800 number rarely gets cases unstuck, these actions do sometimes encourage USCIS to process and adjudicate pending applications or petitions. Panelists for this intermediate session will address current processing problems and how to resolve them most effectively.

- Scheduling interviews, appointments, and biometrics
- Getting your adjustment of status moving when priority dates become current
 - Submitting medical exams with pending I-485s
- The lockbox: case receipts and improper rejections
- The contact center, Emma, and e-inquiries: strategies, tips, best practices
- Utilizing congressional liaison, the CIS Ombudsman, AILA national, AILA local
- Other strategies: litigation and the writ of mandamus, going premium

6:00 pm–6:30 pm

Networking Break

6:30 pm–7:30 pm

Obtaining the Elusive NIV Consular Appointment and What to Do Once You Get It

Consular processing is more of a challenge than ever. The experts on this intermediate-level panel will discuss the latest trends and strategies for securing nonimmigrant business visas for your clients.

- Finding appointments: strategies and tips (including third-country nationals), drop-box and interview waivers, requests to expedite
- DS-160: pre- and post-submission issues, corrections and additions
- The interview: waivers, how to prepare clients
- What to expect when stuck in administrative processing
- Securing an INA §212(d)(3) waiver

7:30 pm–8:00 pm

Networking Break

8:00 pm–9:00 pm

Remote and Hybrid Workforce Issues and Trends

Immigration policies were not designed for the remote work era. Workers and employers who follow remote and hybrid work practices may unknowingly put themselves at risk of noncompliance with many aspects of the law, exposing them to possible fines or other penalties. Failure to address remote work in immigration policies can be a missed opportunity, and even lead to a compliance nightmare.

- Impact of movement of employee's work location on nonimmigrant visa (NIV) status (H/L/TN/E/O)
- Maintaining and posting compliance documents when there is no physical office
- Permanently remote employees: issues, policies, and procedures
- Properly documenting remote work scenarios in PERM submissions
- Impact on pending immigrant visa (IV) petitions when change in worksite location occurs

Family

5:00 pm–6:00 pm

DACA and Deferred Action for Children: 2023 DACA Update

While the DACA program is constantly updating procedures and benefits, it continues to be the sole manner of relief for many younger people, forcing practitioners to remain up to date on the latest developments. Our panel of experts will identify recent changes to the program, analyze trends, and advise on the most advantageous strategies for representing DACA clients.

- Eligibility and meeting qualifications for DACA
- Recent litigation and agency updates, latest developments in approvals and denials
- Use of advance parole
- When a renewal is not a renewal
- Trends and predictions: strategies and future prospects for DACA holders

6:00 pm–6:30 pm

Networking Break

6:30 pm–7:30 pm

Can I Adjust? TPS, Asylum Applications, Parolees, and Technical Violations

While USCIS places a high standard for allowing adjustment of status (AOS), clients often fail to maintain status for reasons outside their control. Panelists will address the risks and likelihood of success in seeking adjustment for those who are in an authorized period of stay but not traditionally eligible.

- Excusing a technical violation: definition and scope for AOS purposes
- *Matter of Z-R-Z-C-* and recent developments in adjusting TPS holders
- *Matter of L-K, Patel v. Garland* and other relevant litigation

- Long-term prospects for DREAMers and DACA holders

7:30 pm–8:00 pm

Networking Break

8:00 pm–9:00 pm

Criminal Hot Spots in Family-Based Cases

When the beneficiary has an arrest or conviction for domestic violence, or they have used medical marijuana, what are the consequences and what are their options? How is their ability to adjust status impacted? What if the beneficiary has a DUI, fraud, or shoplifting conviction? Panelists for this intermediate-level session will answer these questions and much more.

- Domestic violence offenses: definitions and consequences
- The expanding types of offenses considered as presumptive: crimes involving moral turpitude, DUIs
- Criminal bars and how to overcome them
- Determining when a finding of inadmissibility arises
- Overcoming potential bars or complications to adjustment

Litigation and Removal Proceedings

5:00 pm–6:00 pm

Getting Out of Space Mountain: The Great Writ of Habeas Corpus

The U.S. Supreme Court has continued to chip away at the due process rights of noncitizens and the right to be free from immigration custody. This intermediate-level panel will focus on the availability of the writ of habeas corpus and claims to be raised.

- Habeas petitions
- How to judge when your client's detention has become unreasonable

- Exhaustion of administrative remedies for claims prior to filing habeas petition in district court
- Negotiating with ICE for release pursuant to prosecutorial discretion while habeas petition is pending
- Updates on the *Rodriguez* constitutional arguments

6:00 pm–6:30 pm

Networking Break

6:30 pm–7:30 pm

I Wanna Be Free: Getting Your Client Bond

Representing someone in bond hearings can be incredibly significant, both as a legal advantage and for the well-being of your client. Being released from detention means your client can be in the company of friends and family and avoid harmful detention conditions. They also can better access counsel, which greatly improves their chances of winning their case. Panelists will cover both basic and advanced issues related to bond.

- Mandatory detention
- Abiding transfer
- The growing movement to shut down private detention facilities
- Addressing Interpol red notices
- Regional and local differences

Special Sessions

8:00 am–9:00 am

Managing Burnout in a Post-COVID World

In this post-pandemic — and increasingly chaotic — legal landscape, practitioners find themselves frustrated, overwhelmed, and burned out. The experts on this panel, designed for all levels, will provide practical tips for regaining control and taking care of yourself while also taking care of your business.

- Navigating the chaotic legal landscape and irregular adjudications environment
- Prioritizing your well-being and accomplishing a good work-life balance
- Getting control of the never-ending to-do list
- Setting, measuring, and managing goals with your mental health in mind
- Setting boundaries and mastering “clinical detachment”

9:00 am–9:30 am

Networking Break

9:30 am–10:30 am

The Art of Time Management

So much to do and so little time! Do you feel like you have 30 hours of tasks to complete in a 24-hour day? Panelists will discuss time management strategies that will help you achieve optimum operational efficiencies and reduce stress.

- Prioritizing and delegating tasks
 - Eliminating low priority tasks
- Communicating effectively while adhering to your standard of quality
- Achieving a balance between scheduling and flexibility, leaving time for professional and personal contingencies
- Block scheduling, organizing your calendar based on related tasks
 - Carving out blocks of time for consultations or drafting
- The value of regular administrative or case audits
- Creating time for business development

10:30 am–11:00 am

Networking Break

11:00 am–12:00 pm

Ethically Advising Clients on the Availability of Public Benefits to Immigrants (Ethics)

Noncitizens often arrive in the United States with little more than the clothes on their backs, causing some to consider applying for government benefits. Panelists will analyze the availability of public benefits for these noncitizens. They also will identify complications that can arise when noncitizens collect certain types of benefits.

- Who can collect public benefits? VAWA beneficiaries, asylees, parolees, UFUs, and others
- How does the receipt of public benefits interact with the I-864 and I-134?
- Ethically advising clients on applying for public benefits: When should a public benefits attorney get involved?
- How do you mitigate damage when a client collects benefits through misrepresentation of finances?

12:00 pm–12:30 pm

Networking Break

12:30 pm–1:30 pm

Confronting Extraordinary Conditions: Iraq, Afghanistan, Ukraine, and Venezuela

Troubling times have called for special, temporary forms of relief. Panelists will address the U.S. government's unique approach to protecting certain foreign nationals from embattled regions and will cover the options available to individuals from these countries, including SIJ Status. Panelists will provide real-time updates on not only what citizens from these countries must do to maximize their immigration benefits but also what we can learn from these programs and should advocate for going forward.

- Special parole programs for Ukrainians and Venezuelans and how they are different from other types of parole
- Update on Special IVs for Iraqis and Afghans
- What you need to know about parole and employment authorization
- TPS, best practices, and family-based alternatives for long-term solutions

1:30 pm–2:00 pm

Networking Break

2:00 pm–3:00 pm

Learning to Deal with Denials and Fix Mistakes

Denials and mistakes are inevitable in the practice of immigration law. Panelists will discuss how to identify when it is necessary to fall on the sword and accept a mistake, and they will advise on the best strategies for then moving forward. Panelists also will discuss communicating losses and errors to clients, as well as how to turn negatives into positives for ourselves.

- How to communicate bad news to your client
- When a refund is a good idea or even required
- How to deal with the guilt of losing
- Dealing with angry clients and bad reviews
- How to turn losses into opportunities

3:00 pm–3:30 pm

Networking Break

3:30 pm–4:30 pm

Refocusing Your Lens: How to Build an Anti-Racist Law Practice

Join the AILA Diversity, Equity, and Inclusion Committee and special guests for this important session on how to take steps to build an anti-racist immigration practice.

- Lawyering with an anti-racist lens
- Understanding and recognizing privilege and implicit bias
- How to challenge anti-Black systemic racism in U.S. immigration law

4:30 pm–5:00 pm

Networking Break

5:00 pm–6:00 pm

Future-Proofing Your Practice before It's Too Late

Don't get left in the dust — join this panel to learn more about the latest trends and the future of immigration law practice.

- Technology advances
- Evolving regulation of non-lawyers
- Impact of venture capital
- Responding to better serve evolving consumers
- Clues from AILA's Futures Report
- Data from the 2022 AILA Market Place Study: economic trends, especially labor cost vs. fees

6:00 pm–6:30 pm

Networking Break

6:30 pm–7:30 pm

Today's Practice Automation Tools

As business and individual clients seek better, faster, and more affordable legal services, and our profession seeks to expand justice to more people, many are turning to technology to meet these demands. Lawyers, tech entrepreneurs, and yes, the federal government, are all creating new tools that will help practitioners improve their workflows and reduce their costs of delivering services. Learn from our panel of experts what tools are available in the market today, and how lawyers at firms of all sizes can take

advantage of them.

- Automation: What it is and how it benefits both firms and clients
- Available automation tools and where they may fit in your practice
- Intake bots, document assembly applications, practice management solutions
- Email efficiency using text expansion tools, task automation recipes (Zapier, etc.), appointments calendaring
- Artificial intelligence tools: dealing with the simulation of intelligent behavior in computers
 - Machine learning, natural language processing, and speech/image recognition

7:30 pm–8:00 pm

Networking Break

8:00 pm–9:00 pm

Overcoming Ethical Impediments to Innovation (Ethics)

As lawyers encounter the forces of change brought on by technological innovations, many feel powerless to act because of ethical constraints. From fee sharing with online marketers to having judges respect limited-scope representation agreements, lawyers want to be able to compete in the changing marketplace. Our ethics experts will help you find solutions to these and other issues as you seek to meet the changing demands of consumers and provide greater access to legal services.

- Limited-scope representation
- Online legal services
- Fee sharing with others
- Publicly publishing your fees

Wednesday Special Events

6:00 pm–8:00 pm

Exhibit Hall Opening Happy Hour

Thursday, June 22, 2023

Fundamentals

7:00 am–8:00 am

Common Terms and Concepts

The practice of immigration law is filled with topic-specific jargon, including a multitude of three- and four-letter acronyms, a dictionary's worth of immigration-specific legalese, and more nuances in terminology than any new practitioner can possibly decipher alone. It's almost its own language, and as such, it requires expert guidance to help master it. Panelists on this fundamentals session will do just that, explaining the meanings of immigration-specific concepts and terms, and delving deeper into the unique language and rules essential to the practice of immigration law.

- Foreign national vs. citizen, nonimmigrant vs. immigrant
- Visa, visa waiver, and visa exemption
- Visa expiration vs. petition expiration vs. period of admission
- Changing status, extending status, and adjusting status
 - Consular processing vs. adjusting status
- Inadmissibility vs. removability
- Priority dates, filing dates, and final action dates: understanding the Visa Bulletin

8:00 am–8:30 am

Networking Break

8:30 am–9:30 am

Four-Headed Hydra: The Agencies

Panelists on this fundamentals panel will cover the role and operations of the four cabinet-level departments that administer the Immigration and Nationality Act (INA) and their subagencies.

- U.S. Department of Homeland Security (DHS)
 - U.S. Citizenship and Immigration Services (USCIS)
 - U.S. Immigration and Customs Enforcement (ICE)
 - U.S. Customs and Border Protection (CBP)
- U.S. Department of State (DOS)
 - Consular posts abroad
 - National Visa Center (NVC)
- U.S. Department of Labor (DOL)
 - Office of Foreign Labor Certification (OFLC)
 - Board of Alien Labor Certification Appeals (BALCA)
- U.S. Department of Justice (DOJ)
 - Executive Office for Immigration Review (EOIR)

9:30 am–10:00 am

Networking Break

10:00 am–11:00 am

Getting by with a Little Help from My Friends

Panelists will address common challenges faced by new immigration lawyers and highlight some of the resources offered by AILA to help the novice practitioner.

- Defining the attorney-client relationship
- Managing the expectations of your clients
- Setting boundaries between work and life
- Effective client communications
- Finding a mentor, care and feeding of the mentor-protege relationship

11:00 am–11:30 pm

Lunch Break

11:30 am–12:30 pm

Immigrant Visa Allocation and the Visa Bulletin

Attendees of this fundamentals panel will learn the criteria for the INA's preference categories, the three key pieces of information needed to read the Visa Bulletin, and more.

- Immediate relatives vs. preference categories
 - Movement between the preference categories
- The Child Status Protection Act
- Death of the petitioner in family-based cases and humanitarian reinstatement
- Priority date retention
- Transfers of underlying basis of eligibility in employment-based cases

4:00 pm–5:30 pm

Procedural Immigration Law

How do you go about getting the immigration benefit your client wants? This fundamentals panel will address common procedural vehicles used to obtain immigration benefits from USCIS, DOL, and U.S. consulates abroad.

- Adjustment of status
- Change of status
- Extension of status
- Consular processing
- Interaction between nonimmigrant visa (NIV) and immigrant visa (IV) processing

Business

7:00 am–8:00 am

Workshop: Deep Dive into Responding to H-1B RFEs

This advanced interactive workshop will present and explore best practices in developing responses to the latest requests for evidence (RFEs) in H-1B petitions.

- The latest trends in H-1B specialty occupation RFEs

- Occupations and Standard Occupational Classification (SOC) codes that provoke an RFE
 - SOC mismatches
 - “Specialty occupation” challenges and SOC code updates
- Responding to the four prongs, use of the Occupational Outlook Handbook (OOH), O*Net, expert opinions, and strategies
- Beneficiary qualification: nexus issues, combo evaluations, and non-conforming degrees

8:00 am–8:30 am

Networking Break

8:30 am–9:30 am

Alternatives to the H-1B You and Your Client Should Consider

Panelists will provide an overview of immediate and long-term options and considerations for nonimmigrants who do not have a clear-cut path forward but are looking to extend their stay in the United States. They also will examine practical considerations when advising clients on timelines and strategy, as well as potential pitfalls.

- Back to school: issues with first-term CPT on future petitions
- Whether the I-539 change of status to B1/B2 is worth the trouble
- Creative NIV alternatives worth consideration
- Long-term options that require a client to temporarily leave the United States
- When labor certification is an option

9:30 am–10:00 am

Networking Break

10:00 am–11:00 am

Labor Condition Application: More than Meets the Eye

Employers who petition for an H-1B

visa make certain attestations to the government. Panelists will explore these attestations, as well as potential employer and counsel liabilities in the labor condition application (LCA) process.

- Public access folder (PAF): requirements, retention, and compliance
- Concerns surrounding third-party worksites, including determining wage levels and drafting issues
- The remote workforce: determining “home office” location and posting requirements
- Trends in electronic public access files and LCA postings
- The Fraud Detection National Security (FDNS) site visit: What to do, how to counsel, and triggers for home office visits

11:00 am–12:30 pm

Lunch and Exhibit Hall Break

Family

7:00 am–8:00 am

Dissecting the Intersection of Family Court and Immigration

Family law often plays a key role in immigration practice. Family court proceedings and dispositions, ranging from marriage to divorce, custody, adoption and guardianships, survivors of violence, and more, can have a critical impact on immigrant clients. Panelists will dissect the complex intersection of family court issues and federal immigration laws.

- Using the family court process to support affirmative and defensive immigration applications
 - 42B relief, I-130, I-360s, I-485s, and more
- How to obtain marriage, hardship, and domestic violence

evidence through the family court process

- Managing immigration deadlines affected by family court proceedings
- Domestic violence, restraining orders, and other proceedings for victims

8:00 am–8:30 am

Networking Break

8:30 am–9:30 am

NVC and DOS Consular Processing for Family

Immigrant visa processing for family-based cases at the consulate has distinct steps and procedures that, at times, vary considerably from adjustment of status. Advocating for clients becomes even more difficult at the consulate when a case is denied. Panelists will help practitioners get it right the first time when dealing with difficult or high-volume consular posts. They also will advise on best practices for working with clients abroad who require waivers and communicating the complexities of the process to clients during representation.

- Overcoming denials at difficult consulates
- Errors and communication with consular officers
- I-601 and I-212 waivers
- Evaluating and advising clients on risks of consular processing
- Ethical communication and disclosure for duration of representation

9:30 am–10:00 am

Networking Break

10:00 am–11:00 am

The Council Presents the Complicated State of Immigration Policy in Biden's Third Year
The whirlwind of policy changes has continued in the third

year of the Biden administration. What is the current situation at the southern border, and where are we headed nationally with a divided Congress? Though some processing times have begun to improve at USCIS and DOS, how have Trump-era policies continued to impact overall immigration trends to the United States? And what are the latest trends in interior enforcement and detention issues? Join the American Immigration Council for a discussion of where the administration has made meaningful progress, where it has failed to meet its commitments, and what comes next in the world of immigration policy.

11:00 am–12:30 pm

Lunch and Exhibit Hall Break

Litigation and Removal Proceedings

7:00 am–8:00 am

Don't Let It Go: Contesting NTAs

The notice to appear (NTA) must be served on the respondent in a particular manner and contain specific factual and procedural information. All NTAs are charging documents, but not all charging documents are NTAs. It is important for attorneys to object to and otherwise challenge the NTA on the record of proceedings if service is improper, the content is deficient or inaccurate, there are grounds to contest the respondent's removability, or the evidence has been unconstitutionally obtained.

- How and when the NTA is served and how service is evidenced to the court
- Identifying defective/deficient NTAs
- Motions to terminate, both involving *Pereira v. Sessions* and without

- Motions to re-NTA, motions to suppress
- Considerations to discuss with respondents in reviewing factual allegations

8:00 am–8:30 am

Networking Break

8:30 am–9:30 am

Opposing the Government's Evidence before Immigration Judges

Once evidence is admitted formally or informally before an immigration judge, it becomes part of an official court record. Panelists will discuss the evidentiary standards that apply in immigration court proceedings, as well as tips on how to make and respond to objections in order to protect clients' due process rights.

- Subpoenas and preserving the record on prejudice
- Responding to "proffer" of evidence by DHS
- The due process clause: assertion of guarantees (constitutional, statutory, and regulatory)
- Burden shifting

9:30 am–10:00 am

Networking Break

10:00 am–11:00 am

Opposing DHS Evidence before the Immigration Court

DHS often submits documents at the last minute, including police blotters from local newspapers. What constitutes evidence, its admissibility, its relevance, and the burdens of proof and persuasion can be confusing at times for both parties and the immigration judge. Experts on this advanced panel will address timely and important evidentiary issues that arise in challenging removability, preserving the record for higher review, and winning relief in

removal proceedings.

- Burden of proof and burden of persuasion
- Motions to suppress and “fruit of the poisonous tree”
- Motions in limine
- Motions for issuance of subpoenas
- ICE policy memorandum regarding First Amendment rights of noncitizens

11:00 am–12:30 pm

Lunch and Exhibit Hall Break

**Government and Liaison
Committee Open Forums**

7:00 am–8:00 am

**Detention Ombudsman Open
Forum**

8:00 am–8:30 am

Networking Break

8:30 am–9:30 am

**U.S. Customs and Border
Protection (CBP) Open Forum**

9:30 am–10:00 am

Networking Break

10:00 am–11:00 am

**U.S. Department of State (DOS)
Open Forum**

Plenary

12:30 pm–12:45 pm

Plenary Kick-off

12:45 pm–1:15 pm

Keynote Address

1:15 pm–2:30 pm

President’s Installation

Join your fellow AILA members to hear from AILA’s outgoing president, Jeremy L. McKinney, about AILA’s accomplishments over the past year. Following this,

AILA’s incoming president, Farshad Owji, will share his vision for AILA’s future. Don’t miss this chance to get to know Farshad and hear his plans for continuing to strengthen AILA during his tenure!

3:00 pm–4:00 pm

Networking Break

4:00 pm–5:30 pm

**Hot Topics Strategy Session with
the AILA National Officers**

Thursday Special Events

6:00 pm–7:00 pm

**AILA Annual Membership
Meeting and Annual Awards**

Friday, June 23, 2022

Fundamentals

7:30 am–8:30 am

**Anatomy of a Removal
Proceeding I**

Representing clients in removal proceedings requires skill, innovation, and perseverance. Panelists on part one of this two-part fundamentals session will provide you with the essentials you need to be an effective litigator in immigration court.

- Commencement of proceedings: reviewing the notice to appear
- Deportability vs. inadmissibility
- Determining who bears the burden
- Available forms of relief

8:30 am–9:00 am

Networking Break

9:00 am–10:00 am

**Anatomy of a Removal
Proceeding II**

Now that the basics have been covered, panelists in part II of this

two-part fundamental session will focus on the procedural side of representing clients in removal proceedings.

- Master calendar hearings
- Motions, applications, and evidence
- Prosecutorial discretion requests
- Prehearing briefs
- Individual hearing: preparing for it and the procedure involved
- Inadmissibility and deportability

10:00 am–10:30 am

Networking Break

10:30 am–11:30 am

Cancellation Fundamentals

Panelists will discuss how EOIR-42B and EOIR-42A applications for cancellation of removal can be used to overcome inadmissibility and deportability in removal proceedings. They also will address best practices for demonstrating hardship effectively.

- LPR and non-LPR cancellation requirements
- Continuous residence and what stops the clock
- Exceptional and extremely unusual hardship to a qualifying relative
- Good moral character, criminal convictions, and other “moral failings”
- Establishing your client merits a favorable exercise of discretion

11:30 am–12:00 pm

Networking Break

12:00 pm–1:00 pm

**Crimmigration: Immigration
Consequences of Criminal
Activity**

Our clients sometimes get into serious legal trouble. Panelists for this session will provide a primer on the common grounds of removability that arise from

criminal activity. They also will identify and discuss available options for relief.

- Common criminal grounds of removability as reflected in state and federal criminal statutes
- Definition of a “criminal conviction” for immigration purposes
- Post-conviction relief in criminal court affecting removability

1:00 pm–2:00 pm

Lunch Break

2:00 pm–3:00 pm

Detention Fundamentals

Representing detained clients can be one of the more difficult and demanding immigration practice areas. Panelists for this fundamentals session will discuss several issues related to detention practice, including client access, bond hearings, and mandatory detention.

- Accessing and communicating with your client
- Release, parole, and bond
- Mandatory detention
- Bond requests and hearings

Business

7:30 am–8:30 am

Options for Non-Physician Medical Professionals

Allied healthcare workers are critical to the U.S. healthcare system. Panelists will discuss options for bringing trained professionals to the United States. They also will address limited visa options, Schedule A, credentialing, foreign recruitment, and common pitfalls.

- Overview of allied healthcare workers: nurses, OTs, PTs, and SLPs
- NIV options for allied healthcare workers

- IV options and retrogression issues
- Schedule A, prevailing wages, and changes in employment
- Common pitfalls for employers

8:30 am–9:00 am

Networking Break

9:00 am–10:00 am

Hot Topics in Compliance, Including Form I-9

The pandemic and the rise of remote work have led to significant changes in the employment eligibility verification compliance landscape. Panelists for this intermediate-to-advanced session will provide an overview of where things stand today, and they will examine the issues you need to be aware of to help clients maintain compliant programs in this ever-changing environment.

- Current Form I-9 version: What was changed?
- Compliance for remote workers: best practices for preventing violations and utilizing authorized representatives
- How ICE is handling employer practices under the temporary “virtual” policy
- Latest developments in USCIS efforts to allow alternatives to in-person document review
- E-Verify issues
- Social security “no-match” letters

10:00 am–10:30 am

Networking Break

10:30 am–11:30 am

Form I-9 Notices of Inspection: What to Do When ICE Comes Knocking

Panelists for this intermediate session will provide an overview of the I-9 inspection process. They will advise on how to represent your client effectively throughout the process, including negotiating

with the government and challenging government findings.

- Best practices for responding to a notice of inspection (NOI)
- Notice of technical and procedural failures, suspect documents, and/or intent to fine
- ICE fine matrix
- Working with your client to correct/defend and negotiate with ICE
- How and when to challenge through OCAHO

11:30 am–12:00 pm

Networking Break

12:00 pm–1:00 pm

Tricky Turns for TNs

This intermediate session will cover current trends and challenges with TN adjudications at the border and at consulates. These include management consultants, scientific technicians/technologists, agriculturalists, economists, and other hard-to-define occupations.

- Considerations at different ports of entry
- Current trends at consulates in Mexico
- When U.S. licensure is required
- Challenging categories: management consultants, scientific technicians/technologists, agriculturalists, economists
- Qualifying sales professionals as TN professionals
- Strategies when the applicant is a manager or executive of listed occupations

1:00 pm–2:00 pm

Lunch Break

2:00 pm–3:00 pm

Working with Experts to Facilitate Pre-Immigration Tax Planning

Clients who spend significant

amounts of time in the United States, even in nonimmigrant status, may become U.S. tax residents. Panelists will focus on topics of particular importance to business and investor visa practitioners, including the intersection of immigration status and tax law, and how clients can optimize their tax positions with a proactive approach to tax planning.

- When nonimmigrants become “residents” for tax purposes: taxation of worldwide income and applicable exceptions
- Selecting the optimal business entity (LLC vs. corporation) and the right type of tax professional (CPA vs. tax attorney)
- Obtaining a FEIN for clients who are outside the United States
- The importance of properly maintained books and tax filings for employment-based IV and NIV applications
- Pre-immigration tax planning, use of tax treaties to optimize the client’s tax obligations

3:00 pm–3:15 pm

Networking Break

3:15 pm–4:15 pm

Treaty Trader/Investor Visas: Beyond the Basics

The treaty trader (E-1) and treaty investor (E-2) visa categories allow nationals of countries with which the United States maintains a treaty of commerce and navigation to be admitted to the United States to invest in a U.S. entity or engage in international trade. Panelists will cover considerations for practitioners trying to decide whether E-1 or E-2 visas are viable options and, if so, if they are the most appropriate option for your client.

- Issues surrounding nationality, dual nationality, and corporate nationality
- Sources, types, and amounts

of qualifying investments, including gifts and loans

- Substantiality and marginality
- Strategic consideration surrounding change of status and extension of status on processing at a consulate
- Material changes and amendments

4:15 pm–4:30 pm

Networking Break

4:30 pm–5:30 pm

Risky “Business”: Permissible and Impermissible Activities

The B-1 is one of the most useful, and arguably most confusing, visa categories for employers and employees alike. The most obvious use — to attend business meetings or participate in brief trainings in the United States — is often unintentionally exploited by employers who misunderstand the permissible uses under the B-1 visa. However, when properly used, the B-1 visa can be a valuable tool for a wide range of employers, particularly when other visa types are not readily available, applicable, or are time consuming or difficult to obtain.

- Permissible business activities: Foreign Affairs Manual, Matter of Hira, and regulations
- Work authorization: B-1, B-1 in lieu of H-1/H-3, after-sales service, and more
- B-1 vs. ESTA: benefits and drawbacks
- Procedural issues, including consular backlogs
- Aftermath: bridging and maintenance of status issues
- Determining when a visitor for commercial purposes crosses the line
- Scenarios: volunteering, working for a foreign entity, independent contractors, etc.

Family

7:30 am–8:30 am

VAWA and Self-Petitions for Battered Spouse, Children, and Parents

In this country, more than 20,000 calls are placed daily to domestic violence hotlines, with our immigrant clients comprising many of these victims. Panelists will address the resulting potential impacts on victims’ legal status, as well as their immigration options. They also will discuss eligibility considerations and using VAWA as a bridge between other benefits when clients are not eligible to adjust.

- Ethical considerations representing clients with VAWA claims
- Filings, RFEs, and related procedural issues
- Recent updates: policies, memos, and adjudication trends
- VAWA for indirect victims: parents, children, and removal respondents
- Proving and documenting non-physical abuse
- Screening for and advising on abuse in light of cultural and societal considerations

8:30 am–9:00 am

Networking Break

9:00 am–10:00 am

Creative Strategies to Overcome Marriage Fraud Presumptions

Bona fide marriages are the cornerstone of successful I-130 petitions and family-based adjustments. Understanding and avoiding the risks of a finding that a client has entered into a marriage for the sole purpose of circumventing immigration laws is critical. Also crucial is recognizing the “red flags” of marriage fraud and sham marriages. Our expert panelists will cover these defined terms, caselaw, presumptions and

burden of proof, and strategies for responding to USCIS concerns about possible fraud.

- Classic indicators of fraud
- Documenting not-so-apparent bona fides and viable marriages
- Responding to Notices of Intent to Deny (NOIDs) and §204(c) findings
- Fraud Detection and National Security (FDNS) investigations and best defense practices

10:00 am–10:30 am

Networking Break

10:30 am–11:30 am

Family-Based Hardship Waivers

Waiver applications requiring a showing of “extreme hardship” to a family member who is a U.S. citizen or lawful permanent resident (LPR) present evidentiary hurdles that seem inordinately high, particularly given the paucity of regulations from USCIS outside the criminal context and lack of DOS guidance for consular processing immigrant visa cases. Panelists will discuss meeting the hardship standard and advise on best practices for filing waiver cases. They also will address how to assess eligibility, risks, and timing of waiver filings.

- Adjustment of status vs. consular processing, using advance parole
- When prior unlawful presence under INA §212(a)(9)(B) no longer applies
 - USCIS Policy Alert PA-2022-15
- I-601 vs. I-601A: procedures and milestones
- Documenting hardship: primary/secondary evidence and psychological evaluations
- Section I-212 waivers: process and strategies
- Strategies for cases in proceedings

11:30 am–12:00 pm

Networking Break

12:00 pm–1:00 pm

Tips, Tricks, and Pitfalls in Submitting Family Cases

The first major hurdle in any family-based case is the successful filing and acceptance of the petition or application by the Service Center or Lockbox. Rejections can cost your client weeks or even months. Panelists will alert practitioners to traps for the unwary, give time-tested tips and tricks to get filing fees and fee waivers correct, and advise on how to increase chances of having filings accepted with fewer RFEs.

- Tips to get filing fees and fee waivers correct
- Packaging the case and getting past the mailroom
- Initial evidence and filing strategies: up-front or at the interview
- Interview waivers
- Complicated I-864 and financial sponsor issues
- Managing changes of address for clients and counsel

1:00 pm–2:00 pm

Lunch Break

2:00 pm–3:00 pm

Representing Clients with Criminal Histories, CIMT, and §212(h) Waivers

Whether filing for a nonimmigrant visa or an immigrant visa, your otherwise inadmissible client may be eligible for a waiver. Panelists will provide an overview of immigrant and nonimmigrant waivers, focusing on who qualifies and how to file.

- Reading criminal dispositions and understanding what constitutes a “conviction” for immigration law purposes
- Deciding what documents to provide

- Filing a waiver before consular processing and interview, when to file the waiver
- Potential arguments for a single conviction
- Applicability of §212(c), §212(h), and other waivers

3:00 pm–3:15 pm

Networking Break

3:15 pm–4:15 pm

Determining whether Your Client Is a U.S. Citizen

A lesser known but powerful tool that is commonly used for children, the N-600 can also greatly benefit adults. Panelists will dive into the mechanics of filing an N-600 application and analyzing eligibility for acquiring citizenship. They also will address managing pitfalls and documentation challenges.

- Filing the N-600 for children and adults
- Rules before and after the Child Citizenship Act (CCA), looking at the date of birth
- Effects of being born in and out of wedlock
- Best practices to determine whether your client qualifies for the N-600
- Affidavits and other alternatives when primary source documents are lacking

4:15 pm–4:30 pm

Networking Break

4:30 pm–5:30 pm

Section 245(i) and Grandfathering: A Refresher

Several decades have passed since the inauguration of INA §245(i) as a means to adjust for entries without inspection (EWIs) and overstays subject to the three- and ten-year bars. Panelists will review the body of case law and rules permitting §245(i) adjustment, the interplay with §245(a), §245(c), and I-601A waivers, derivative benefits, and

documentation challenges.

- Background of INA §245(i)
- Documenting §245(i) eligibility
- Beneficiary's history and changed circumstances
- Evaluating eligibility for §245(i) beneficiaries beyond the principal

Litigation and Removal Proceedings

7:30 am–8:30 am

“The Trial” in Immigration Court

Respondents are not public speakers, and some aren't great listeners in court either. Panelists will give suggestions for mapping out an effective trial proceeding for your client at their merits hearing from start to finish.

- Effective use of opening and closing statements
- Techniques for direct examination that aid your client in being responsive to the questions asked
- Handling witness badgering and other aggressive tactics used by ICE attorneys
- Preparing for cross-examination and immigration judge questioning
- Objections: how to pick your battles
- Exposing inaccuracies of interpreters
- Protecting expert witness from ICE challenges

8:30 am–9:00 am

Networking Break

9:00 am–10:00 am

Your Client's Greatest Weapon: The Use of Storytelling in Immigration Court

Weaving a compelling narrative that incorporates your specific facts in a way that resonates with the judge can be a critical tool for practitioners. Panelists

will focus on how to prepare your case to present a compelling record of events that will make your audience feel invested. They will advise on preparing the application, supporting your case, and successfully navigating the final merits hearing.

- Developing a theme for your case
- Building rapport and trust to get your client to open up
- Preparing the application and exhibits in support
- Dress rehearsal before the show
- Showtime at hearing

10:00 am–10:30 am

Networking Break

10:30 am–11:30 pm

Dispositive Motions: Requests for Administrative Closure, Dismissal, Termination, Status Dockets, and Prosecutorial Discretion

As immigration practitioners, we often can see where we need to take our client, but how do we get there from here? And what do we do when the best course of action is simply to avoid the status quo, but OPLA unilaterally seeks to maintain it? Panelists will advise on choosing and pursuing maneuvers to get your client in the best position to pursue collateral relief or minimize damages if the status quo is kept.

- Why you might object to the government's motions to dismiss and available alternatives
- Administrative closure as an alternative to termination
- Recognizing termination as an order foreclosing the government from issuing new NTA or re-calendarizing a terminated NTA
- Using the sword (collateral estoppel) vs. the shield (res judicata)

11:30 am–12:00 pm

Networking Break

12:00 pm–1:00 pm

What Just Happened? Client and Witness Preparation

We all want to avoid surprise testimony. To this end, it is important to determine what methods of witness preparation are optimal for your client. Panelists will address how best to prepare for the rigors of the immigration courtroom experience.

- Shock and awe: helping your client handle inflammatory statements or accusations from ICE attorneys
- Qualifying expert witnesses and preparing for ICE attorney attempts to disqualify experts
- Consulting with OPLA before the hearing to narrow issues
 - Determining the possibility of stipulated agreement to relief
 - Dealing with barriers to relief
- Dealing with difficult judges and when to object
- Preparing your witnesses for court TV (WebEx)

1:00 pm–2:00 pm

Lunch Break

2:00 pm–3:00 pm

The Kids Are Not Alright: Ethically Representing Children in Removal Proceedings (Ethics)

Everyone has heard stories and seen pictures of children crossing the border into the United States, but what happens to them after they get here? How do they hire a lawyer and advocate for themselves in court? It may be easier to do this if they entered with a parent or guardian, but that isn't always true. Panelists will discuss:

- Treatment of unaccompanied children at the border
 - Assignment to shelters or release to family/guardians

- How a child who is barely old enough to speak is able to defend themselves
- Ethical representation when an adult hires you
 - Representing both the adult and the child vs. only the child
 - When and how to ethically sever a child's case from their parent's case
- Treatment of unaccompanied children in court and in the asylum process
 - Helping minors craft their application and tell their story effectively
 - Where to file their asylum applications

3:00 pm–3:15 pm

Networking Break

3:15 pm–4:15 pm

I Think My Client Lied: Ethical and Practical Obligations in Immigration Court (Ethics)

Everyone dreads the day when they discover that information provided by the client was not true. When it does happen, what does it mean for you as their attorney, and for them as a respondent? Panelists will discuss:

- When fraud must be reported
- Implications of filing a frivolous asylum application
- What to do when you learn (or suspect) that a client is using/has used fraudulent documents in immigration court
- When, if ever, it is okay to file an application with USCIS that will send your client into removal proceedings
- When to consider withdrawing and how to do so

4:15 pm–4:30 pm

Networking Break

4:30 pm–5:30 pm

COVID Killed the In-Person Trial Star: Telephonic and Televideo Hearings

Telephonic and televideo hearings are not new to immigration court. In recent years, however, EOIR has rapidly and widely expanded the use of mandatory virtual technologies in immigration hearings. This practice raises due process concerns for noncitizens in removal proceedings. Experienced panelists will share their insights on how to adapt one's trial tactics for this format.

- When and how to object to a video proceeding
 - What to expect from WebEx: the pros and cons to merits hearings via video
- Tips on best preparing your client to give testimony
 - Demeanor, tenor of voice, and how to react to inconsistencies and contradictions
- How to affect the tone of virtual proceedings in favor of your client
- What to do when you or your client experiences technical difficulties

Government and Liaison Open Forums

7:30 am–8:30 am

CIS Ombudsman Open Forum

8:30 am–9:00 am

Networking Break

9:00 am–10:00 am

U.S. Citizenship and Immigration Services (USCIS) Open Forum

10:00 am–10:30 am

Networking Break

10:30 am–11:30 am

Executive Office for Immigration Review (EOIR) Open Forum

11:30 am–12:00 pm

Networking Break

12:00 pm–1:00 pm

U.S. Immigration and Customs Enforcement (ICE) Open Forum

1:00 pm–2:00 pm

Lunch Break

2:00 pm–3:00 pm

U.S. Department of Labor (DOL) Open Forum

Saturday, June 24, 2023

Fundamentals

7:30 am–8:30 am

Alphabet Soup: Working Nonimmigrant Visas

Panelists will provide an overview and exploration of the basic elements for the most common business-based nonimmigrant visas and statuses, with an emphasis on helping your corporate and employee clients make the best choice (when a choice exists).

- B-1: What is allowed and what is not?
- H-1B: What are the odds of success?
- Treaty Visas: TN, H1B1, E1 and E2
 - E2 vs. EB-3 visas
- O and P
- L: Intermittent Ls, individual vs. blanket Ls
- H-2A and H-2B

8:30 am–9:00 am

Networking Break

9:00 am–10:00 am

More Alphabet Soup: Other Nonimmigrant Visas

Panelists will explore nonimmigrant visas and statuses used by foreign nationals looking to come to the United States for reasons other than employment. They will address everything from

foreign government officials, to journalists, to students.

- A, G, and NATO visa
- C/D: crew and transit
- B-2: visitor for pleasure
- F, M, and J: students and scholars
- I: journalists
- R-1: religious workers
- Q: cultural exchange
- S, T, and U: crime-related visas

10:00 am–10:30 am

Networking Break

10:30 am–11:30 am

Understanding the Basics: The Labor Certification (PERM) Process

The employment-based permanent residence process generally requires the U.S. employer to test the job market and obtain a certification from the U.S. Department of Labor (DOL). If you've never prepared a labor certification, join this session for the nuts and bolts of client representation, the first of the three stages of the employment-sponsored green card. Panelists also will provide an overview of the PERM process.

- Dual representation and ethical considerations in the PERM context
- Who is permitted to pay the fees and expenses
- Considerations in preparing the prevailing wage request
- Preparing for the immigrant petition while drafting the PERM
- Recruitment process, the recruitment report, and the importance of timing
- Making your PERM case “audit proof” while still preparing for an audit
- ETA Form 9089: employer registration, attorney registration, preparing and filing the form

11:30 am–12:30 pm

Lunch Break

12:30 pm–1:30 pm

The Employment-Based Green Card: EB-1 to EB-5

Panelists will discuss the criteria for the five employment-based preference categories, numerical limits and processing delays, and related concepts. They also will advise on strategies and best practices relating to the often complex and technical employment-based immigration process.

- EB-1: extraordinary ability, outstanding scholars and researchers, multinational executives and managers
- EB-2: exceptional ability and advanced degrees, and national interest waivers
- EB-3: professionals, skilled and unskilled workers, and more
- EB-4: special immigrants
- EB-5: immigration through investment

1:30 pm–2:00 pm

Networking Break

2:00 pm–3:00 pm

The H-1B and Its Alternatives

Panelists will cover core elements of the H-1B classification to establish foundational knowledge of the H-B process and its criteria. They also will cover possible alternatives to the H-1B for those for whom an H-1B may not be immediately available.

- Eligibility criteria and the evolving definition of a “specialty occupation”
- H-1B cap and how to navigate the registration process
- Alternatives to the cap
 - H-1B part-time with cap-exempt employers
 - Other nonimmigrant visas

- Preparing a labor condition application (LCA), postings, and public access file
- Six-year limit and options to extend beyond this limit
- Considerations when an H-1B employee's position changes

3:00 pm–3:30 pm

Networking Break

3:30 pm–4:30 pm

I-9 Compliance for Corporate Clients

Panelists will discuss the operation of the immigration employment eligibility system. Specific topics to be covered include verification of work authorization, policies and procedures for properly completing Form I-9, verifying and retaining the I-9, and employment authorization documentation.

- Form I-9: anatomy of the form and best practices for completing it
- Checklist of documents and information needed for an audit
- The pros and cons of E-Verify and how it works
- The factors that trigger an I-9 audit
- Risks and penalties for noncompliant employers

4:30 pm–5:00 PM

Networking Break

5:00 pm–6:00 PM

The Newest Cybersecurity Threats to Your Practice

Cybersecurity incidents frequently cost a law firm hundreds of thousands of dollars and weeks of downtime these days. What is more, your firm is an ideal target, with loads of personal information of clients, employees, and a thriving business. Our expert panelists will walk you through your ethical obligations and will provide practical advice on how to be sufficiently prepared for the

next attack.

- What is new in cybercrime and how should you address it
- Understanding your ethical and professional obligations to protect confidential client and law firm data
- Cybersecurity and privacy policies and protocols
- How to prepare, including cybersecurity insurance
- What to do when there has been a breach
- Claims or damages that a firm could have to deal with

Business

7:30 am–8:30 am

Prevailing Wage Determinations: DOL Delays, Recruitment Timing, and Form ETA 9141 Completion

Panelists will discuss timing issues with PERM recruitment as they relate to delayed issuance of prevailing wage determinations by DOL. They also will cover drafting and reviewing of the ETA 9141 with alternate requirements, specifying job sites, unanticipated work locations and travel, handling vague questions on the ETA 9141, and strategizing the proposed occupational code.

- How to complete and review the ETA 9141 with alternate requirements
- Handling vague questions on the ETA 9141
- Drafting notice of filing to align with the prevailing wage determination
- When and whether to launch recruitment prior to prevailing wage issuance
- Standard occupational classification (SOC) issues
 - Choosing the proposed occupational code
 - Challenging an occupational code determination

8:30 am–9:00 am

Networking Break

9:00 am–10:00 am

Mastering the Complexities of PERM

Panelists will provide insight into counseling employers on PERM strategies for their PERM programs, including what constitutes good faith recruitment. They also will discuss drafting job descriptions to ensure consistency across positions (for requirements and preference category), and to ensure the description is tight but not tailored.

- Good faith recruitment
- The impact of remote, telecommuting, hybrid, onsite, and peripatetic workers
- Inconsistent employer requirements and PERMs for a current or future position
- Audit triggers, including relationships with owners and combined occupations
- Tips for drafting recruitment, Delitizer cases, and employment experience letters

10:00 am–10:30 am

Networking Break

10:30 am–11:30 am

PERM-Based Employment Petitions: EB-2 and EB-3

Panelists will discuss the preparation of the employment-based I-140 petition for EB-2 and EB-3 cases. Topics to be addressed include the pros and cons of concurrent filing versus separate filing of the I-140 and I-485, premium processing strategies, and advising and informing small employers and start-up companies to avoid the “ability to pay” pitfall.

- Best practices for demonstrating qualifications and degree equivalency
- Are special skills required or advisable?

- Documenting experience and special skills, including addressing an RFE
- Ability to pay prevailing wage basics in EB-2 and EB-3 cases
 - Creative “ability to pay” strategies for small companies and start-ups

11:30 am–12:30 pm

Lunch Break

12:30 pm–1:30 pm

Representing the Exceptional and the Extraordinary: EB-1 and NIW Cases

Panelists will cover the preparation of the employment-based I-140 petition for EB-1A and EB-2 national interest waiver (NIW) cases. Topics to be discussed include managing client expectations, recent policy changes for EB-2 NIW cases, common strategic issues, and documentation challenges.

- Documenting eligibility for EB-1 applicants
 - Awards, high salaries, original contributions, critical role, and more
- Utilizing documentation presented in O-1A petitions when transitioning to EB-1
- NIWs: Showing that an occupation is in the “national interest”
- New guidance on NIW petitions for STEM graduates and entrepreneurs
- Case strategies, including multiple I-140s and concurrent filing of I-485s

1:30 pm–2:00 pm

Networking Break

2:00 pm–3:00 pm

O-1A and O-1B: Extraordinary Ability and Entertainers

Panelists for this intermediate session will cover current trends in O-1B and O-1A adjudication,

as well as the role of an agent petitioner. They also will provide expert insights and reflections on USCIS's 2022 policy guidelines for O-1A STEM cases and the usages of comparable evidence. Finally, panelists will address practical considerations when working with clients to build the best case.

- Standards and criteria for business, athletics, and education (O-1A) vs. arts and motion pictures
- Who may serve as an agent and the benefits and pitfalls
- Recent policy changes
 - New guidance on STEM fields
 - The use of Kazarian analysis in O-1A
- Advising clients in the crafting and production of documentation of extraordinary ability
- The attorney's role in crafting expert testimonials

3:00 pm–3:30 pm

Networking Break

3:30 pm–4:30 pm

P Nonimmigrants: Maybe Not Extraordinary, but Still Got Skills...and Options to Enter the United States

Panelists for this intermediate session will consider the vast utility of the P classification. Amateur and professional athletes, leagues and individuals, and culturally unique performers will be discussed.

- P-1A classification types
 - Internationally recognized individual athletes
 - COMPETE Act petitions for members of teams and leagues
- Creative uses of the P-1S classification for support personnel
- Options for professional and amateur athletes

- Who can file a petition? Special considerations for agent-filed petitions
- How to define “culturally unique performers and artists”: Interpreting *Matter of Skirball Cultural Center*

4:30 pm–5:00 pm

Networking Break

5:00 pm–6:00 pm

New Era for EB-5 Investor Visa Program: Impacts of EB-5 Reform Act of 2022

Major programmatic changes resulted from enactment of the EB-5 Reform and Integrity Act of 2022 (RIA) in March 2022. Panelists will discuss recent (and potential) changes to the policy manual to implement RIA, as well as carryover rules for grandfathered cases. They also will address the impacts of Behring litigation and the subsequent court-approved negotiated settlement on new and existing regional center-related forms and filings. Other topics will include:

- Special TEA set-asides for line skipping
- Interplay of immigration and securities law under the RIA
- Preparing source/path of funds under RIA and regulatory requirements
- Review of USCIS policy and guidance since the passage of RIA
- Changes to the “direct” or “standalone” EB-5 investor program

Family and Humanitarian

7:30 am–8:30 am

Dual Representation of Spouses and Ethical Pitfalls (Ethics)

Panelists will examine common scenarios that play out when an attorney represents both spouses in an immigration case. Topics to be

discussed include when spouses separate, divorce, or engage in domestic violence. Panelists also will address the application of ABA Model Rules 1.7 and 1.9.

- Key clauses to have in your dual representation agreement
- Conversations with clients, before and after the conflict
- Handling a separation or divorce ethically
- Dealing with domestic violence allegations
- Ethically reengaging with returning clients

8:30 am–9:00 am

Networking Break

9:00 am–10:00 am

Affidavits of Support: Best Practices and Public Charge Issues

Form I-864 is legally enforceable against the sponsor in a family-based immigrant visa (IV) case with onerous ongoing obligations. Panelists will unpack who is required to file the I-864, the appropriate version of the form, and types and quality of supporting documentation. They also will discuss “household,” “domicile,” “income,” and other terms of art, as well as tips on documenting financial assets and income to avoid public charge issues.

- I-864 issues: joint sponsors, intending immigrants' income, proving income for independent contractors, I-864EZ, and self-sponsors
- When to file Form I-134
- 40 quarters accrued: when you can use this for exemption
- Timing and sources of qualifying income and assets calculation
- Making sure the sponsor or joint sponsor understand the contractual obligation to the government under the I-864

10:00 am–10:30 am

Networking Break

10:30 am–11:30 am

Post-Denial Options for Family-Based Petitions

Forum or venue, judicial review, filing fees, processing times, paper records versus calling witnesses, and other factors weigh into choosing how to pursue relief for clients following an unfavorable outcome at USCIS. Panelists will help attendees evaluate where and how best to advocate for the overcoming of a USCIS denial.

- Strategic considerations: refile, reopening, and appealing denials
- Whether exhaustion of administrative remedies is required before federal court
- Jurisdictional and factual issues in the context of discretionary relief
- Best practices for appealing I-130 denials to the BIA

11:30 am–12:30 pm

Lunch Break

12:30 pm–1:30 pm

SIJ: Affirmative and Defensive I-360 Filings

It is imperative for Special Immigrant Juvenile (SIJ) classification practitioners to understand the interplay of state courts and orders, immigration options, and filings. It's also important to know the various benefits involved, including deferred action, work authorization, and relief from removal, among others. Panelists will explore the nuances of filing Form I-360 and adjustments while recognizing the role of state courts in the process. They also will identify and discuss the essential elements of custody orders.

- Eligibility, affirmative filings, and local office interviews
- RFE and NOID trends

- State court developments
- Unaccompanied minors and SIJs in removal proceedings
- Visa availability requirements
- Utilizing SIJs for Afghans and Ukrainians

1:30 pm–2:00 pm

Networking Break

2:00 pm–3:00 pm

Challenges in Derivative Refugee/Asylum Status Applications

Congratulations! Your client won asylum or received refugee status. The next step may be to help that client's potential derivative family members. Panelists will analyze who qualifies, timelines, deadlines, how to waive the two-year deadline, ethical quandaries when representing multiple family members, and related issues. Attendees will leave this session knowing strategies and best practices for successful I-730s filings.

- Understanding the forms: filing the I-730 and/or I-590 with best evidence
- When (and when not) to include a derivative on asylum applications
- How do to deal with after-acquired relatives and waive the two-year filing deadline
- Best practices in applying for I-730's for previously omitted derivatives
- Creating the record and preparing clients for interview

3:00 pm–3:30 pm

Networking Break

3:30 pm–4:30 pm

Avoiding Surprises at Interviews: Prior Orders, Convictions, and Other Secrets

Due diligence in representing clients involves gathering up-front information for the client's benefit

and as part of the attorney's duty of candor to the tribunal. Creating a relationship of communication and trust is the best way to get the most information from the client. Panelists will discuss leveraging the client first, and alternative sources second, to minimize the chances of being blindsided by surprises and avoid representing a client in legal peril due to surprises that should not have been missed.

- Pre-filing and post-filing diligence: criminal records, social media, FDNS, third-party sources
- Preparation of clients for difficult interviews, including Stokes interviews and testimony under oath
- Being prepared for derogatory information coming to light, apprehensions, and other worst-case scenarios at interview

4:30 pm–5:00 pm

Networking Break

5:00 pm–6:00 pm

Managing Moving Parts in Family-Based Cases: Priority Dates, Interfiling, Automatic Conversions, CSPA

Changed circumstances are integral to representing a client, particularly in light of current lengthy adjudication times. Panelists will focus on changes that result from family case processing, including dynamics of evolving family relationships (particularly marriage and its termination), children and their age, employment sponsorship, and Visa Bulletin developments.

- Evaluating and advising on immigrant visa preference category impact
- Automatic conversion and retaining preference category
- Migrating employment-based petitions to family-based petitions

- Child Status Protection Act (CSPA) protections in the face of adjudication delays
- Lawful permanent resident (LPR) adjustment trends and prospects

Litigation and Removal Proceedings

7:30 am–8:30 am

Litigating before the BIA: From Filing a Notice of Appeal to Decisions and Motions

Winning in immigration court has become increasingly difficult in recent years. It is important to know, therefore, that the fight to obtain relief for your client doesn't have to end at that point. Panelists will discuss the mechanics of how to appeal to the BIA and how to prevent an adverse decision from becoming final.

- Mechanics of appeals to the BIA
 - Deadlines, notices of appeal, identifying the type of relief sought, briefing, standards of review
- Motion practice before the BIA
 - Motions to reopen, motions to reconsider, motions to remand, motions for stay of removal, administrative closure
- Preserving an administrative record for optimal litigation positioning in federal court

8:30 am–9:00 am

Networking Break

9:00 am–10:00 am

Filing a Petition for Review and Beyond: Battling in Circuit Courts

When the BIA fails to provide the relief sought, filing appeals with the federal circuit courts of appeals is the next step. Panelists will advise on key strategies for

drafting the petition for review, motions for stays of removal, evaluating and addressing a client with a troublesome administrative record, and using subsequent case law developments to your advantage when you have lost at the BIA.

- Federal court appeals
 - Petitions for review (PFR), motions for a stay of removal, briefings, oral arguments
- Holding a PFR in abeyance and other collateral relief
- Requesting mediation and negotiating with OIL
- What to do when DHS bypasses the BIA
- Reinstatement, administrative removal, and visa waiver overstay

10:00 am–10:30 am

Networking Break

10:30 am–11:30 am

Putting on the Gloves: Preparing for Federal District Court Litigation

Filing your first case in federal district court can be intimidating. From jurisdictional statutes to the mechanics of filing and service of process, there is much to learn. Panelists will discuss the types of cases that can be litigated, and address the basics of federal court litigation and communications with the U.S. Attorney's Office for the district. They also will discuss setting realistic expectations with clients and co-counsel.

- Applying for admission to district court, CM/ECF login
- Identifying federal statutes for jurisdiction and parties
- Pro hoc vice admissions
- Drafting the court cover sheet, complaint, and memorandum of law, with local rules and FRCP in mind
- Serving the defendants and U.S. Attorney's Office

- Timelines and filing deadlines
- Making the government pay: Equal Access to Justice Act (EAJA)

11:30 am–12:30 pm

Lunch Break

12:30 pm–1:30 pm

Pursuing Multiple Forms of Relief While Simultaneously Litigating before EOIR

Panelists will discuss seeking multiple forms relief before USCIS, DOS, DOL, state courts, or local law enforcement while simultaneously pursuing relief before EOIR. They also will advise on how to avoid frivolous findings on asylum claims or negative findings by the court.

- Maintaining simultaneous SIJS prerequisite state court proceedings, filing Form I-360, and awaiting a visa number with a pending asylum before the court, and a client not wanting to lose access to EAD
- Securing U cert, pending U petition, awaiting availability for a U visa
- Asylum claim that is on the way to the BIA, clients who fear losing EAD
- Keeping non-frivolous asylum claims open while pursuing employment visas
- Keeping IV application open and preserving derivatives' status

1:30 pm–2:00 pm

Networking Break

2:00 pm–3:00 pm

The Changing Face of Immigrant Rights Litigation Post Aleman Gonzales

Panelists will focus on using class action lawsuits to challenge statutes and agency interpretations. Panelists also will discuss recent court decisions and offer creative strategies to

circumvent limitations on injunctive relief and the ability of noncitizens to pursue their rights.

- Overview of relevant case law
- *Garland v. Aleman Gonzales* and the practical consequences and precedent
- Practice tips to preserve relief
- Role of non-litigation strategies
- Multi-plaintiff or organizational plaintiff lawsuits as an alternative to class actions

3:00 pm–3:30 pm

Networking Break

3:30 pm–4:30 pm

Mandamus Actions against Immigration Agencies

A mandamus action is a lawsuit filed in federal district court, complaining that your client's case is suffering an unreasonable delay, or that action on it has been unlawfully withheld. Panelists will discuss:

- Scenarios that justify the filing of a writ
- Properly preparing the case record and client for a mandamus action
 - Other forms of resolution that should have been exhausted already
- Scope of review differences between USCIS and DOS
- How to file and serve the complaint
- Seeking EAJA fees

4:30 pm–5:00 pm

Networking Break

5:00 pm–6:00 pm

Litigation Skills for Family Immigration Practitioners

Enough waiting already! Our experts will present successful litigation tips and strategies for building the record during USCIS interviews, arguing the burden of proof has been met, and

showing the application is ripe for adjudication. The panelists will discuss when to know and how to take the case to federal court or the BIA when other means to pressure USCIS to act are exhausted.

- When to stop waiting and go to federal court
- Seeking a remedy: BIA, AAO, and/or federal court
- Preserving and building the record for litigation
- Zealous advocacy at interviews and in immigration and court proceedings

Law Practice Management

7:30 am–8:30 am

Career Progressions and Transitions

Your professional priorities and goals will vary based on the phase of your career you're in. Panelists will discuss what attorneys should focus on at each phase to facilitate growth, advancement, and work-life balance.

- Becoming an invaluable associate with partnership track potential
- Transitioning to the bench, foreign service, or other government agencies
- Negotiating compensation and career advancement plans
- Transitioning to working on your business rather than in your business
- The semi-retired or nomad attorney
- Succession plans, selling and divesting of a law practice before you burn out

8:30 am–9:00 am

Networking Break

9:00 am–10:00 am

Ethical Considerations of Fee Setting (Ethics)

Setting fees can be challenging in light of extensive backlogs at the immigration agencies and in the courts, frequently changing laws and policies, and changed client circumstances. The experts on this panel will discuss the factors one might consider in setting fees while adhering to the rules of ethics and antitrust laws.

- Thinking about your firm as a business and avoiding the temptation of discounting fees
- Selecting fee types: flat, hourly, and hybrid
 - How trust accounts fit into the picture
- The importance of not locking yourself into perpetual representation
 - Structuring fees for removal and other long-duration cases
- How to talk to colleagues about fees without violating the rules of ethics
- Carveouts and contingencies in flat fee setting
- Carve outs and contingencies in flat fee setting

10:00 am–10:30 am

Networking Break

10:30 am–11:30 pm

Using Remote Workers in Your Practice

In the wake of the "Great Resignation" and the COVID-19 pandemic, many offices turned to all-virtual or hybrid service delivery models, relying in whole or in part on remote employees and contractors. Panelists will cover everything you need to know about working with remote employees and contractors while minding your ethical obligations and your bottom line.

- Ethical considerations of virtual outsourcing to non-employees
 - Foreign virtual assistants hired through staffing companies

- Training and ethically supervising productive remote workers
- Hardware and software considerations to ensure data security and confidentiality
- Terminating remote workers while protecting your clients and your business
- Tax and employment law implications of hiring remote workers inside and outside the United States

11:30 am–12:30 pm

Lunch Break

12:30 pm–1:30 pm

Marketing Your Practice on Social Media

Social media has transformed the legal marketing landscape, but many practitioners feel out of touch with these new trends and are overwhelmed by the constant pressure of having to produce content. Our panel of experts, each of whom has leveraged social media to grow their practice, will discuss their success stories and common pitfalls to avoid.

- Selecting the best social media platform to connect with your target audience
- Using social media to market niche practices
- Discovering your social media personality
 - Using social media successfully even if you are not comfortable with TikTok dances and trending content
- Likes, comments, and going viral: how to read social media analytics and measure your marketing success

1:30 pm–2:00 pm

Networking Break

2:00 pm–3:00 pm

Using Traditional and Social Media to Lift Your Profile and

Advocate for Your Clients

The political climate is constantly changing, and the impact of these changes on immigration law means that practitioners must always search for new and better ways to represent their clients and be successful. Working with reporters, getting your name in print, and amplifying your work on social media are just some of the ways to do this. Panelists will advise on how to work with traditional media and build your online presence through social media platforms to raise your profile and better advocate for your clients.

- How does traditional and social media engagement help you?
- How to use the press to your advantage
 - How does AILA work with reporters?
 - How do you engage with reporters and get their attention?
 - Leveraging your expertise through opinion pieces
 - What resources does AILA have to make this easy?
- How can you leverage video?
- What are the differences in how platforms treat video?

3:00 pm–3:30 pm

Networking Break

3:30 pm–4:30 pm

The Buck Stops Here: Setting Expectations Through Effective Communication

Do you feel like you spend so much time on the phone with clients that you never have time to do actual case work? Tired of the same questions over and over? Unsure of how to set boundaries? The experts on this panel will provide tips on effective communications policies and procedures that reduce stress and frustration for both you and your client.

- Creating an effective communications policy and sticking to it
- Automating communications through the use of case management system workflows
- Texting with your clients: managing response time expectations through policies and advance notices
- How to use your “Out of Office” responder effectively
- Setting up “Legal Triage”: routing communications to staff based on the nature of the inquiry
- Managing excessive communications while complying with ethical obligations

4:30 pm–5:00 pm

Networking Break

5:00 pm–6:00 pm

Representing Military Families in Adjustment, Consular Processing, and Naturalization

USCIS provides a host of unique benefits to past and present service members and their families. Panelists will identify the naturalization benefits, protections for family members, hardship issues, and survivor benefits available to this unique and extraordinary group. They also will discuss ways to maximize these protections and benefits.

- Determining whether to apply for parole-in-place or request deferred action
 - What to do when the relative is in removal proceedings or has a prior removal order
- Effectively using the presumption of extreme hardship when applying for an inadmissibility waiver or canceling removal
- Requirements for naturalization of service members and their families
- Survivor benefits

Special Sessions/ Business Workshops

7:30 am–8:30 am

How to Take Care of Your Brain

Our brain is our strongest asset as an attorney. It is critical, therefore, that we protect and strengthen our brains to be the best version of ourselves in both our professional and personal lives. Panelists will discuss a variety of things we can do to keep our brains healthy, as well as how we can incorporate these steps into our routines.

- The importance of quality sleep
 - What it means to sleep well
 - How to identify your best sleep schedule
- Mental acuity exercises to maintain performance and stave off brain fog
- Eating the best foods to boost your brain and memory
- Finding the right kind of support group
- Restorative activities: exercise, yoga, meditation, and taking time to do nothing at all

8:30 am–9:00 am

Networking Break

9:00 am–10:00 am

Cultural Competency to Eliminate Bias (Bias)

Unlike their colleagues in other areas of law, immigration attorneys are required to have the ability to understand and interact effectively with many cultures across the globe in order to obtain success for their clients. These cultures have different metrics for success and self-care, however, so how do we navigate them? Further, how do practitioners deal successfully with clients from various backgrounds and cultures while also taking everyone's mental health into account?

- Cultural competence: Why is this skill set critical for immigration attorneys?
- Dealing with different cultural perspectives
 - What approaches are best for both you and your clients?
- Are the client's cultural expectations of service and results in line with yours?
- Effective communication strategies
 - Is your client keeping you fully informed about their case?
 - How will the government receive their story?

10:00 am–10:30 am

Networking Break

10:30 am–11:30 am

Ethically Building and Keeping a Book of Clients: Laying the Framework with Family-Based Clients (Ethics)

Developing networks of clients in a family-based immigration practice starts with building relationships with individual clients. Panelists will cover how to lay a framework with new clients. The discussion will range from maintaining conditional legal permanent residence, to I-751 removal of conditions, to naturalization. They also will share practice strategies that have been proven to work, such that clients not only return for representation on their subsequent matters, but they also refer their relatives and friends to you. Finally, panelists will introduce additional practice tools to help you engage clients profitably and ethically.

- Initial consultations, building trust, and accepting new cases
- Cultivating, maintaining, and firing long-term clients
- Retainer agreements and reasonable fees for long-standing clients
- Client file retention requirements

- Conflict of interest waiver checks
- Marketing practices to existing and past clients

11:30 am–12:30 pm

Lunch Break

12:30 pm–1:30 pm

Knock, Knock: When Law Enforcement Visits Immigrants

Every immigration attorney eventually gets the dreaded call: "An agent came to my house and wanted to talk to me..." or "When I was coming back into the United States, CBP held me and asked me questions about...". How your client finishes that sentence is a matter of client counseling and control. What you want to hear is, "I told the agent to call you." Unfortunately, far too often, that is not what your client says. How you advise your client, both before this conversation happens and after, can have a tremendous impact on their immigration status; failure to do so at all may have criminal consequences!

- Counseling your client on how to respond to law enforcement agents
 - At home, at work, at the border, and at an embassy
- What to do when a client has already spoken with a law enforcement agent without an attorney
- When your client should talk with law enforcement
 - Pros and cons
 - Success and horror stories

1:30 pm–2:00 pm

Networking Break

2:00 pm–3:00pm

Immigrants List Panel

3:00 pm–3:30 pm

Networking Break

3:30 pm–4:30pm

Workshop: Deep Dive into PERM Issues

Panelists will discuss advanced issues relating to PERM/green card strategies and provide drafting samples for the issues that arise on the PERM ETA-9089. Other topics to be discussed include strategies for PERM filings with nonimmigrant max outs, lengthy prevailing wage determination processing times, the impact of layoffs and corporate mergers and acquisitions, and changes in the work location in the middle of the PERM process.

- What is considered “normal to the occupation”
- Supervised recruitment
- When after-acquired experience with the employer can be used for the PERM
- Layoffs, corporate mergers, and acquisitions
- Strategies for H-1B/L-1 maxing out before PERM certification
- Ability to Pay
 - Required initial evidence and supplementary documentation
 - Concerns with consolidated financials and tax return issues

4:30 pm–5:00 pm

Networking Break

5:00 pm–6:00 pm

Workshop: Deep Dive into Responding to L-1 RFEs

Panelists on this advanced, interactive workshop will discuss and advise on best practices in developing responses to the latest RFEs in L-1 petitions.

- Specialized and advanced knowledge: best practices, supporting documentation, and strategies
- Executives and managers: Can one be both? Functional manager latest trends
- New office and small business Ls: special considerations
- Source and amount of compensation
- Mobile, remote, and intermittent workers; workers outside the United States

Saturday Special Events

8:00 pm–11:00 pm

AILA Saturday Night Party at the House of Blues in Disney Springs