



## 2018 AILA MIDWINTER CONFERENCE

### BREAKING DOWN THE WALL: IMMIGRATION PRACTICE IN THE AGE OF TRUMP

*The new presidential administration has ushered in a new era of unforeseen changes for the practice of immigration law. This has left many attorneys feeling frustrated, disoriented, and unsure how to navigate successfully through what seems like a murky, obstacle-laden path forward. With this in mind, this advanced-level, dual-track conference was designed to provide an opportunity for both business and removal practitioners to share recent experiences and engage in high-level discussions concerning best practices for successful representation of clients in the current political climate. Participants will also brainstorm on tactics and strategies for breaking down whatever “walls” might be encountered in immigration law practice during these tumultuous times.*

**FEBRUARY 2, 2018**  
**GRAND FIESTA AMERICANA CORAL BEACH**  
**CANCUN, MEXICO**

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### February 2, 2018

*Day Coordinator:* Sheila Mahadevan, AILA New Members Division Steering Committee Chair, Washington, DC

8:30 am–5:00 pm **REGISTRATION, INFORMATION, AND EXHIBITS**

#### **TRACK I: ADVANCED BUSINESS**

8:55 am–9:00 am **WELCOME AND GREETINGS**  
*Michelle Funk, AILA Business Track Conference Program Chair, McLean, VA*

9:00 am–10:00 am **I-140 PETITIONS: POST-KAZARIAN AND DHANASAR**  
*Panelists will provide an update on current USCIS adjudications practices in light of both Matter of Kazarian and the new Matter of Dhanasar.*

- Making Your Case under the *Dhanasar* Criteria
- “National Importance” vs. “National Scope”
- Establishing That Your Client Is Well Positioned to Advance the Proposed Endeavor
- Proving Certain Requirements Should Be Waived: The Job Offer and Labor Certification
- Recent AAO Decisions Interpreting the *Kazarian* Final Merits Determination
- Defining What Constitutes “Research,” “National Interest,” and “International” Prominence

*Faculty:*

*Dagmar Butte (DL), AILA Board of Governors, Portland, OR*  
*Anastasia Tonello, AILA President-Elect, New York, NY*  
*Gerard M. Chapman, Greensboro, NC*  
*Suzanne B. Seltzer, New York, NY*

10:05 am–11:05 am

**ADVANCED PERM ISSUES**

*Panelists will provide an update on the current issues and trends that are occurring at DOL. They will address computer occupations, BALCA trends, and the DOL systems and processes for responding to audits.*

- Recent BALCA Decisions: What Is New and Interesting?
- DOL Technology Changes: Helpful or Hurtful? How Well Is It Working?
- Section H-14: Quantifying Skills Update
- Emerging Issues

*Faculty:*

*Catherine L. Haight (DL), Los Angeles, CA*  
*Deborah J. Notkin, AILA Past President, New York, NY*  
*Sarah K. Peterson, AILA Board of Governors/DOL Liaison Committee Chair,*  
*Minneapolis, MN*  
*Vincent W. Lau, DOL Liaison Committee Vice Chair, Cambridge, MA*

11:05 am–11:20 am

**NETWORKING BREAK**

11:20 am—12:20 pm

**VIVA MEXICO! WHAT TO KNOW BEFORE PROCESSING IN MEXICO**

*Sending clients to an unfamiliar consular post can cause angst. Panelists will discuss the complexities of processing cases at consular posts in Mexico, what to expect there, and strategies to consider when assisting clients through these posts.*

- Which Post Do I Use? Determining the Appropriate Location
- Mexican TNs: Cedula, Titulo, and Other Common TN Issues
- Evolution of E Visa Processing in Mexico
- Best Practices when Communicating with the Post
- Third-Country Nationals: When TCNs Can Process through Mexico

*Faculty:*

*Lynn Marie Lee (DL), USCIS International Operations Liaison Committee Co-Chair,*  
*Springfield, VA*  
*Ramon E. Curiel, San Antonio, TX*  
*Steve Pattison, Portsmouth, NH*  
*David Strashnoy, Los Angeles, CA*  
*\*Consular representative*

12:20 pm–1:35 pm

**LUNCH (INCLUDED WITH REGISTRATION)**

1:00 pm–1:30 pm

**LUNCH PANEL: HOT TOPICS**

- AC-21 Regulation: One Year Later
- Executive Orders Fallout: Fraud and Compliance Issues
- Updates on Litigation Against the Administration
- Adjudication Trends

*Faculty:*

*Kevin W. Miner (DL), AILA Board of Governors, Atlanta, GA*  
*Marketa Lindt, AILA 1st Vice President, Chicago, IL*  
*Betsy Lawrence, AILA Director of Government Relations, Washington, DC*

1:35 pm–2:35 pm

**ADVANCED H-1B ISSUES**

*In an ever-increasing global and technologically advanced business world, traditional notions of employment have been expanding to encompass mobile and remote*

*workforces. Panelists will discuss how to accommodate these non-traditional employment situations, increasing site visits, and other issues facing frequent travelers.*

- *Matter of Simeio: Two Years Later*
- *Peripatetic Workers, Roving Employees, and the Definition of “Worksite”*
- *“Putting American Workers First”: Targeted Site Visits*
  - *Unverifiable Employers*
  - *H-1B Dependent Employers*
  - *Offsite Workers*
- *Travel Issues: Pending Petitions*

*Faculty:*

*Diane M. Butler (DL), AILA Board of Governors, Seattle, WA*

*Sheila Mahadevan, New Member Division Chair, Washington, DC*

*Kevin Robert Lashus, Austin, TX*

2:40 pm–3:40 pm

### **DIVERSIFYING YOUR PRACTICE IN A RESTRICTIONIST PERIOD**

*Due to the profound paradigm shift in the political landscape, business practitioners are increasingly considering other options within immigration law. Panelists will discuss growing your practice, ethical considerations when taking on new case types, and responsibilities when guiding others.*

- *Expanding Your Employment-Based Practice*
- *Consider Removal Work: How to Prepare Yourself and Your Practice*
- *How to Avoid Malpractice*
- *Responsibilities and Establishing Boundaries When Mentoring Colleagues*

*Faculty:*

*Leigh N. Ganchan (DL), Houston, TX*

*T. Douglas Stump, AILA Past President, Oklahoma City, OK*

*Maria F. Glinsmann, Gaithersburg, MD*

*Jeff Joseph, Aurora, CO*

3:40 pm–3:55 pm

### **NETWORKING BREAK**

3:55 pm–4:55 pm

### **SOMETIMES, YOU JUST HAVE TO SUE TO GET WHAT YOU NEED: THE BASICS OF IMMIGRATION LITIGATION**

*It’s no secret that there has been a huge increase in immigration-related lawsuits against the government since the new administration took office. Business immigration practitioners cannot be left out of this “brave new world.” Panelists will discuss the basics of business immigration litigation, and give tips on how you can maximize the services you provide to your corporate clients.*

- *Types of Actions*
- *Establishing an Administrative Record*
- *Exhausting Administrative Remedies*
- *Mechanics of Filing: Where, When, and How to File*
- *Damages*

*Faculty:*

*Justin Burton (DL), Chicago, IL*

*Thomas K. Ragland, Washington, DC*

*Brian Schmitt, New Windsor, MD*

*Leslie K. Dellon, Staff Attorney (Business Immigration), American Immigration Council, Washington, DC*

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## **TRACK II: ADVANCED REMOVAL**

\* = *invited, not confirmed*

Day Coordinator:	*TBD
8:55 am–9:00 am Committee	<p><b>WELCOME AND GREETINGS</b>  <i>Kelli J. Stump, AILA Removal Track Conference Program Chair/EOIR Liaison  Chair, Oklahoma City, OK</i></p>
9:00 am–10:00 am	<p><b>DETENTION ISSUES</b>  <i>As part of the president’s new campaign to ramp up deportations, more money has been invested in private detention facilities. With the increased number of detention beds, practitioners can expect more challenges to bond and mandatory detention. Panelists will discuss how to challenge mandatory detention and argue for a bond with either ICE or the immigration judge.</i></p> <ul style="list-style-type: none"> <li>• Arriving Aliens and Mandatory Detention: How to Negotiate Parole</li> <li>• Negotiating a Bond with ICE Upon Apprehension of the Client</li> <li>• Filing a Bond Motion: It’s More than a Formality These Days</li> <li>• Bond Appeals: It Doesn’t Cost a Thing, So Do It!</li> </ul> <p><i>Faculty:</i>  <i>Kelli J. Stump (DL), AILA Removal Track Conference Program Chair/EOIR Liaison  Committee Chair, Oklahoma City, OK</i>  <i>Jeremy L. McKinney, AILA Secretary, Greensboro, NC</i>  <i>Ruben Luis Reyes, AILA Board of Governors, Phoenix, AZ</i></p>
10:05 am–11:05 am	<p><b>DO WHAT IRA KURZBAN DOES: DENY!</b>  <i>Many practitioners in the immigration court setting focus mainly on the relief phase of proceedings and neglect to zealously advocate for their client at the pleadings stage. It is time for you, as an immigration attorney, to put the government's feet to the fire and advocate for your client at all stages of proceedings! If you worked in Ira Kurzban's firm, and you admitted or conceded any charges, you'd get fired! So do what Ira does: deny!</i></p> <ul style="list-style-type: none"> <li>• The New Normal: Denying Allegations in the NTA</li> <li>• When Is It Strategically Advantageous to Admit and Concede?</li> <li>• Burdens of Production and Proof</li> <li>• Common Objections to Documentation Submitted by DHS</li> <li>• Due Process Issues Relating to Timing and Preparedness of DHS Counsel, and Moving to Terminate at a First Master</li> <li>• Dealing with Recalcitrant Judges and DHS Counsel</li> </ul> <p><i>Faculty:</i>  <i>Olsi Vrapi (DL), Albuquerque, NM</i>  <i>Victor D. Nieblas Pradis, AILA Past President, City of Industry, CA</i>  <i>Jodi Goodwin, Harlingen, TX</i>  <i>W. Michael Sharma-Crawford, Kansas City, MO</i></p>
11:05 pm–11:20 pm	<b>NETWORKING BREAK</b>
11:20 pm—12:20 pm	<p><b>MOTIONS, MOTIONS, MOTIONS</b>  <i>Outside of motions to reopen, motions practice is almost nonexistent in immigration court. In an effort to zealously and aggressively represent clients, you should attempt to make full use of motions practice, from discovery and production through suppression and the end of proceedings to maximize your client’s chances of a favorable outcome.</i></p> <ul style="list-style-type: none"> <li>• Motions to Compel Production of Documents, Witnesses, or Testimony</li> <li>• Motions to Suppress</li> <li>• Motions to Terminate and Administratively Close</li> <li>• Creative (but Obscure and Underutilized) Motions</li> </ul> <p><i>Faculty:</i></p>

*Rekha Sharma-Crawford (DL), Kansas City, MO*

*Joseph S. Porta, Los Angeles, CA*

*\*Marc Van Der Hout, AILA Board of Governors, San Francisco, CA*

12:20 pm–12:35 pm

**LUNCH (INCLUDED WITH REGISTRATION)**

12:35 pm–1:35 pm

**LUNCH PANEL: LITIGATION AND RECENT ISSUES IN ASYLUM CASES**

*Now, more than ever, zealous advocacy and bold litigation are essential at all stages of proceedings. These skills affect every stage of removal proceedings, although unique issues arise depending on the type of case. Panelists will address a number of developing issues with asylum/withholding of removal cases, as well as unique defense strategies.*

- PSG: Creative Ideas in Identifying Particular Social Groups Based on Family Association
- Mental Health Issues: Identifying a Client's Mental Health and Competency Issues, and Using Them to Secure Safeguards and to Develop a PSG
- One-Year Bar: Arguing Against Application of the One-Year Bar for Asylum
- TRIG: Addressing and Fighting Terrorism-Related Inadmissibility Grounds

*Faculty:*

*Ally Bolour (DL), AILA Board of Governors/Annual Conference 2018 Chair,  
Los Angeles, CA*

*Yemi Getachew, San Jose, CA*

*Daniel Thomann, Chicago, IL*

1:35 pm–2:35 pm

**LITIGATING IN U.S. DISTRICT COURT: MANDAMUS AND HABEAS CORPUS**

*Litigation against the government in today's world is inevitable. Panelists will explore ways to pursue adjudication of applications pending with USCIS, and identify effective strategies to seek release from custody those detained by ICE. The legal issues associated with these actions also will be addressed.*

- Are You Ready to Litigate? Habeas Corpus and Mandamus Actions in U.S. District Court: Legal Strategies to Determine When It's Time to File Suit
- Creative Uses of Habeas and Mandamus Petitions
- When to Seek a TRO or Preliminary Injunction
- Getting Paid for Your Work: EAJA Fees for Prevailing Parties

*Faculty:*

*Anthony Drago Jr. (DL), Boston, MA*

*Maria Baldini-Potermin, Federal Court Litigation Section Steering Committee Chair,  
Chicago, IL*

*Mark Barr, Denver, CO*

2:40 pm–3:40 pm

**REPRESENTING INDIVIDUALS WITH FINAL ORDERS OF REMOVAL: WHAT CAN YOU DO?**

*After years of living in the United States subject to a final order of removal, the lives of most people change considerably. Many noncitizens with final orders have families and other responsibilities they need to take care of, and they must administer to these responsibilities even while ICE pursues them to effectuate their removal from the United States. These clients need knowledgeable attorneys who can help them successfully navigate the complexities of the immigration system. Panelists will explore options for how best to achieve this.*

- Motions to Reopen: Preparation Strategies, When to File
- Are Joint Motions to Reopen Available in the Current Administration?
- Strategies for Dealing with the Office of Chief Counsel
- When Is It Time to Consider Options Aside from Reopening?
  - Stays of Removal
  - Waivers and Other Ideas to Get Around a Final Order of Removal

*Faculty:*

*Michelle Saenz Rodriguez (DL), AILA Board of Governors, Dallas, TX*

*Matt Adams, Seattle, WA*

*Cheryl David, New York, NY*

3:40 pm–3:55 pm

**NETWORKING BREAK**

3:55 pm–4:55 pm

**ETHICAL ISSUES IN REMOVAL PROCEEDINGS: A NEW WORLD OF PRACTICE**

*In the wake of the new administration's tough stance on immigration, removal practitioners are now seeing older cases (formerly administratively closed during the Obama administration) recalendared. Likewise, ICE is now enforcing removal orders for individuals that previously had been granted stays of removal for years. Finally, with the new executive actions, ethical issues have and will continue to arise. Panelists will discuss the attorney's role after administrative closure and reopening, advising a client with an order of supervision, and "advising" obligors, family members, and friends.*

- Ethical Obligations When Cases Are Recalendared After Previously Being Administratively Closed
  - You Did All the Work Already: Can You Charge a New Fee?
- Advising Clients with Orders of Supervision: Can You Tell Your Client Not to Show Up at an ICE Check-In?
- Dealing with Obligors Who Are Not Your Clients
- Managing Expectations of Family Members, Do-Gooders, and Well-Wishers
- Dealing with Dabblers

*Faculty:*

*Andrew K. Nietor (DL), San Diego, CA*

*Reid Trautz, Director, AILA Practice and Professionalism Center, Washington, DC*

*Meghan Moore, Wyoming, MI*

4:55 pm

**CONFERENCE CONCLUDES**

**Conference Program Committee**

**Michelle Funk, AILA Business Track Conference Program Chair, McLean, VA**

**Tu Cam T. Castillo, San Francisco, CA**

**Lynn Marie Lee, Springfield, VA**

**Susan M. MacLean, Chicago, IL**

**Sonal J. Mehta Verma, Rockville, MD**

**Kelli J. Stump, AILA Removal Track Conference Program Chair, Oklahoma City, OK**

**Anthony Drago Jr., Boston, MA**

**Andrew K. Nietor, San Diego, CA**

**Olsi Vrapı, Albuquerque, NM**

**Grace Woods, AILA Senior Director of Education, Washington, DC**