



2020 AILA ATHLETICS, CULTURE, ENTERTAINMENT, AND SCIENCE (ACES) VIRTUAL CONFERENCE

Back by popular demand!! After an incredibly successful inaugural conference last year in Hollywood, the ACES Interest Group is delighted to virtually host our 2nd ACES Immigration Conference. This advanced-level CLE conference expands beyond arts and entertainment to include panels focused on athletics, science, and business. Experienced panelists explore immigration issues routinely faced in these practice areas, providing practical guidance on how to avoid common pitfalls and overcome the latest hurdles, as well as discussing how these options have become viable alternatives to other categories restricted by the administration. Experts will also provide up-to-date COVID-related challenges and adjudication trends in these fields.

This in-depth virtual conference offers attendees two options for participation. Focus on a particular field of interest by registering for a single day or register for both days for a comprehensive experience at a discounted registration rate. Day one will focus on Arts, Entertainment, and Sports while day two will cover Business, Science, Education, and Green Cards. All registrations include a bonus pack of three (3) additional pre-recorded sessions covering O/P Fundamentals, Ethical Considerations, and NIV Waivers. You won't want to miss this exciting and timely conference!

OCTOBER 1-2, 2020
AILA NATIONAL VIRTUAL CONFERENCE

“All Times Indicated Below Are Eastern Time”

THURSDAY, OCTOBER 1, 2020

TRACK 1: ARTS, ENTERTAINMENT, & SPORTS

Day Coordinator: *Zabrina V. Reich, Buffalo, NY*

11:30 am – 11:55 am **VIRTUAL EXHIBITS**

11:55 am–12:00 pm **Welcome and Greetings**
Fuji Whittenburg, AILA Conference Program Chair, Calabasas, CA

12:00 pm–1:00 pm **How to Get to “Extraordinary” for the ‘Not So Ordinary’: Working with New Artists & Athletes and Clients in Lesser Known Fields**

* = invited, not confirmed

This panel will explore case filing strategies and provide best practices for difficult petitions for new and emerging artists, entertainers, and athletes; as well as established clients seeking to work in unusual, non-traditional, or out-of-the-mainstream occupations (e.g., social media influencers, Youtubers, e-gamers, e-sports, triathletes, axe throwing, motocross riders, mentalists, motorcycle designers, drone racers) and others who might be extraordinary in a lesser known field.

- Strategies for Clients in Lesser Known Fields
- Making the Leap from OPT to O-1: Practical Tips for Building and Presenting Evidence for the New Young Client
- Ethical Considerations for Effectively Managing Client Expectations
- Best Practices for More Challenging O and P Cases Including RFE Trends, Validating and Defining the Field, and Discussing Legal Standards
- Overcoming and Avoiding Common Pitfalls for Younger Artists and Athletes

Faculty:

Eileen F. Morrison (DL), Newton, MA

Cory Caouette, San Jose, CA

G. Fabricio Lopez, Burbank, CA

James W. Hollis, Silver Spring, MD

1:00 pm–1:25 pm

NETWORKING BREAK

1:25 pm–2:25 pm

O’S AND P’S FOR THE BOLD AND THE BEAUTIFUL IN ARTS, SPORTS AND ENTERTAINMENT

This advanced-level panel will provide an in-depth discussion of how to set up your O and P petitions for success. Topics will range from sponsorship and consultation issues, to what constitutes a sufficient “deal memo.” Are O-1s reserved only for the ultra-famous? Is freelancing allowed? Panelists will address these questions and more while diving into the details of representing individuals in the arts, entertainment, and sports industries.

- Pros and Cons of Agency vs. Employer Sponsorship
- Contracts, Deal Memos, and Itineraries—Petitioner vs. End Users; How to Demonstrate Who’s Who to USCIS; and “Permission Slips”
- Strategies for Avoiding Common RFEs, Including Those Challenging Itineraries, Deal Memos, USCIS Doing a Search of the “Public Record,” Etc.
- Ethics Issues Concerning Self-Sponsorship, Sponsorship by a Company Owned by the Beneficiary, and Sponsorship by Attorneys

Faculty:

Rita Sostrin (DL), Woodland Hills, CA

Jamie Cheung, New York, NY

Steven M. Ladik, Dallas, TX

Ian David Wagreich, Chicago, IL

2:25 pm–2:50 pm

NETWORKING BREAK

* = invited, not confirmed

2:50 pm–3:50 pm

THE GOOD, THE BAD AND THE UGLY: RFES, DENIALS, TRAVEL BANS & OTHER HOT TOPICS

The experts on this panel will discuss adjudication trends and boilerplate/ultra vires language in RFES, as well as recommend case strategies in the time of travel bans, agency closures, and ever-increasing denial rates for O-1 and P-1 visas. Creative legal arguments and a back-to-the-basics review of the regulations to help you win and a discussion of post-denial options and strategies will also be covered.

- COVID-Related Hot Topics—Dealing with Travel Restrictions; Requesting “Essential Worker” Exemptions; “Flag Poling;” and Quarantines and Other Production Restrictions
- Practical Tips for Dealing with Common RFES Under the Current Administration
- What to Do After the Case Has Been Denied?—Refiling, AAO Appeal vs. Federal Litigation Under the Administrative Procedures Act
- Recent Notable Decisions in Federal Court and in the AAO
- Current Trends and Tips for Creating an Administrative Record for Better Litigation and Appeal Outcomes

Faculty:

Donald L. Mooers Jr. (DL), Silver Spring, MD

Alexis S. Axelrad, AILA Board of Governors/CBP Liaison Committee Chair, New York, NY

Robert H. Cohen, Columbus, OH

Genie Doi, Torrance, CA

3:50 pm–4:30 pm

Networking Break (Virtual Exhibits or Sponsor)

4:30 pm–5:30 pm

POST-APPROVAL ISSUES & CONCERNS: YOUR CASE HAS BEEN APPROVED, NOW WHAT?

Many issues arise post-approval ranging from consular processing and international travel to changes in employment and I-9 verification—and now, COVID-19 and travel restrictions. Panelists will address various challenges including expediting visa appointments, DS-160 issues, international travel considerations, and the latest information available on consular processing at U.S. Embassies/Consulates worldwide.

- How to Expedite the Various Stages of the O/P Visa Process and Is It Still Possible?
- Potential Obstacles to Your Client’s Visa Application (DS-160) and Interview Outcome for Post-COVID Issues
- Travel Considerations Including Travel Bans and National Interest Exceptions (NIE)
- I-9s in the O and P world—Do You Need One? Who Completes It? What Documents Are Required?

Faculty:

Fuji Whittenburg (DL), AILA Conference Program Chair, Calabasas, CA

Catherine L. Haight, Marina Del Rey, CA

* = invited, not confirmed

Daniel J. Parisi, London, UK

FRIDAY, OCTOBER 2, 2020

TRACK 2: BUSINESS, SCIENCE, EDUCATION, & GREEN CARDS

Day Coordinator: Erin Trabookis, Charlotte NC

11:55 am–12:00 pm

WELCOME AND GREETINGS

Laya Kushner, AILA Conference Program Vice-Chair, Charlotte, NC

12:00 pm–1:00 pm

O-1A – HOW EXTRAORDINARY IS EXTRAORDINARY?

This panel will review best practices, case law, and USCIS policy as they apply to O-1A occupations outside of sports, arts, and entertainment. Critical to this area of practice is (1) defining your client's field of expertise, and (2) managing client expectations. Experts will discuss practical approaches to avoid pitfalls and provide ideas on how to recognize, and address, current RFE trends.

- Strategic Considerations for Choosing O-1A vs. O-1B
- Dissecting the Components of a Successful O-1A Petition
- How Best to Assist Your Client in the Document Collection Process
- Current RFE Trends and Response Strategies

Faculty:

Matthew Lee (DL), Centerville, MA

Flavia Santos Lloyd, Irvine, CA

Elissa J. Taub, Memphis, TN

Karin Wolman, New York, NY

1:00 pm–1:25 pm

VIRTUAL COFFEE BREAK

1:25 pm–2:25 pm

PUBLIC CHARGE & ETHICAL ISSUES

With the introduction of the I-944 for Immigrant Visas, the administration has increased scrutiny on wage issues, employer's ability to pay the offered wage, and other related issues. Under the guise of BAHA, agencies are scrutinizing itineraries and other evidence including availability of U.S. workers in essential support roles. This essential session will focus on ethical issues attorneys and their clients face when drafting petitions and required evidence. Experienced attorneys will share their thoughts on how to best navigate these ethical dilemmas.

- The I-944 and the Attorney's Role in Completing It
- Itineraries—Conveying a Firm Upcoming Performance Schedule in an Uncertain Time
- Petitioner Asset Levels During an Economic Meltdown—What Is the Attorney's Duty to Confirm Ability to Pay Wage?
- Public Charge Issues
 - Are There New Ethical Issues for Attorney and Petitioner Arising from the I-129 Public Charge Section?
 - What Is the Attorney's Duty to Obtain Beneficiary's Financial History?

* = invited, not confirmed

- Special Considerations for the Starving Artist/Athlete

Faculty:

Ksenia A. Maiorova (DL), Orlando, FL

Dan H. Berger, Northampton, MA

Cyrus D. Mehta, New York, NY

Greg McLawsen, Seattle, WA

2:25 pm–2:50 pm

VIRTUAL COFFEE BREAK

2:50 pm–3:50 pm

“I WANT A GREEN CARD” ... BUT DO YOU REALLY?

This in-depth panel discusses issues to consider before applying for the green card, from taxes to travel and other consequences of applying for permanent residence. Experts will discuss the initial meeting with the client including strategy, timing, and managing client expectations with ever-changing immigrant visa availability, executive orders, advance parole, and travel restrictions.

- Issues to Discuss with Your Client, and Their Managers, Agents, Coaches, etc. Before Rushing Out to File the I-140
- IV vs AOS—Presidential Proclamations; Travel Considerations; and Can Advance Parole Be Expedited?
- Will EB-1 Retrogress Again and How to Maintain Nonimmigrant Status
- Filing Multiple I-140s—Strategy and Timelines
- Maintaining vs. Abandoning Permanent Residence Including Re-Entry Permits and I-407 Strategies

Faculty:

*Laya Kushner (DL), AILA Conference Program Vice-Chair,
Charlotte, NC*

Clayton Cartwright, Columbus, GA

Aja Pardini, New York, NY

Amy Maldonado, East Lansing, MI

3:50 pm–4:30 pm

NETWORKING BREAK (VIRTUAL EXHIBITS OR SPONSOR)

4:30 pm–5:30 pm

EXTRAORDINARY, EXCEPTIONAL OR IN THE NATIONAL INTEREST? A DEEP DIVE INTO THE STORMY WATERS OF EB-1S AND EB-2S

Whether your client is extraordinary, exceptional, or serves the U.S. national interest, the final “prize” of permanent residence is the same. How do we as practitioners decide which road to take to that final destination? This panel will explore best practices for strategizing clients’ immigrant visa options in today’s era of subjective adjudications, RFEs, and visa retrogression. We will discuss advanced strategies, current case law, and the government’s latest interpretation of Kazarian and Dhanasar.

- Extraordinary vs. National Interest Waivers—Discussing the Application of Kazarian and Dhanasar Standards
- Pros and Cons of Schedule A, Group II, Including Qualifying Under the Various Standards
- Positioning the Facts and Legal Arguments for Success While Giving Clients a Realistic Perspective

- Adjudication Trends, Common RFEs, and Best Practices and Strategies
- When All Else Fails—How to Handle a Denial

Faculty:

Gerard M. Chapman (DL), Greensboro, NC

Kathleen L. Grzegorek, Los Angeles, CA

David J. Wilks, Buffalo, NY

5:30 pm

CONFERENCE CONCLUDES

BONUS PRERECORDED SESSIONS

O-1 AND P-1 FUNDAMENTALS

The O and P visa categories are a great addition to any new immigration attorney's arsenal. This session will provide nuts and bolts guidance on how to argue—and win—cases filed for individuals of extraordinary ability in the arts, sciences, business, and athletics. It will feature a fast-paced, lively, and comprehensive format to provide practical down-to-earth advice and to prep newer attorneys for the in-depth conference sessions.

- Assessing the Potential Case: O, P, or Other Category? Is B-1 Appropriate?
- O-1 Extraordinary Ability: Criteria and *Kazarian*
- The Athlete-Client: O or P?
- Understanding P-2 and P-3
- O and P Essential Support and Family Members: Who Qualifies?
- FAQs: Itineraries, Deal Memos, Current State of Advisory Opinions in Various Fields, Current State of USCIS Processing/RFE Trends

Faculty:

Richard Yemm (DL), Santa Monica, CA

Zoe Kevork, Tarzana, CA

William Spitz, Brooklyn, NY

Jacqueline Villalba, Miami, FL

NAVIGATING ETHICS ISSUES WITH O'S AND P'S

From attorney involvement in developing evidence to support the client's case to assessing viability of the petitioner and "freelancing" work in the U.S., over the course of an ACES case many ethics questions arise. This panel will explore a variety of common ethical issues attorneys encounter during practice in this arena and will provide guidance on how to ethically navigate these muddy waters.

- Degree of Attorney Involvement in Developing the Petition—Where Is the Line?:
 - Who Drafts Reference Letters?
 - Use of PR Firms for Press/Media Articles
- Ethical Issues Related to Evidence:
 - Accolades Earned While in the U.S. as a Visitor
 - Itineraries & Deal Memos Covering Three Years
 - Certified English Translations

* = invited, not confirmed

- Ethics Pitfalls Surrounding Changes in Employment and Determining When an Amended Petition Is Necessary
- How to Ethically Explain Gaps in Employment & Other Status Issues

Faculty:

Kenneth Craig Dobson (DL), New York, NY

Ann Cun, San Leandro, CA

Dora M. Komura, Pasadena, CA

WAIVERS . . . YOUR CLIENT DID WHAT?!!! INADMISSIBILITY ISSUES FOR O'S AND P'S

This fast-moving session will provide advocates with the tools they need to assist clients when potential inadmissibility issues arise either before or during the O and P visa consular interview. Fortunately, options are available to address most transgressions but knowing how to recognize these issues early is often the key to successfully managing these pressure-packed situations. Experts on this panel will prepare practitioners and will delve into how to assist clients that find themselves on the wrong side of a DUI, drug, shoplifting, fraud, or other charge; how to address the resulting issues, and how to know when a formal waiver is required. They will share their insights on 212(d)(3) waivers and Matter of Hranka, and also distinguish the expansive NIV waiver options from the more limited IV waivers.

- What Offenses Qualify for an NIV Waiver? When Is a Waiver Not Required?
- Preparing the Waiver Application and Addressing the *Hranka* 212(d)(3) Factors
- Engaging the Consulate to Support the Waiver Application
- Expediting Waiver Applications at the ARO—Can It Be Done?
- Practice Pointers From the Pros

Faculty:

Zachary Robert Dussault (DL), Charlotte, NC

Leslie Holman, AILA Past President, Burlington, VT

Camiel Becker, Oakland, CA

Steven D. Heller, Lewes, UK/New York, NY

CONFERENCE PROGRAM COMMITTEE

Fuji Whittenburg, Conference Program Chair, Calabasas, CA
Laya R. Kushner, Conference Program Vice Chair, Charlotte, NC
Matthew Lee, Centerville, MA
Donald L. Mooers Jr., Silver Spring, MD
Ksenia A. Maiorova, Orlando, FL
Rita Sostrin, Woodland Hills, CA

Emmie R. Smith, AILA Director, Professional Development, Washington, DC