



## FEARLESS LAWYERING: MOBILIZING IN THE NEW ERA OF REMOVAL

*This conference will focus on cutting-edge issues in removal practice, including advanced bond strategies, recent developments in crimmigration, DHS's expansion of bars to asylum, best practices to counter government misapplication of the burden of proof, and how to advocate effectively on behalf of clients in light of the changes promulgated by the new presidential administration.*

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### Friday, September 15, 2017

#### ADVANCED REMOVAL ISSUES

*Day Coordinator:* Rebecca Caporale, Sacramento, CA

7:30 am–5:00 pm **REGISTRATION, INFORMATION, AND EXHIBITS**

8:00 am–8:05 am **WELCOME AND GREETINGS**

*Jesse A. Lloyd, AILA ICE Liaison Committee Vice Chair, Oakland, CA*

8:05 am–9:05 am **UPDATE ON ICE ERO AND ICE OCC POLICY AND PRACTICE**

*While ICE practices have changed dramatically under the new administration, these changes have not been uniform. Some offices have cited “national” policies that aren’t being applied nationally. Panelists will discuss the latest ICE guidance and practices, and how practitioners can adapt their strategies.*

- Is Prosecutorial Discretion Still an Option?
- National Changes and Regional Variations
- New Strategies for the New Environment?
- Administrative Closure

*Faculty:*

*Heather Drabek Prendergast (DL), AILA ICE Liaison Committee Chair, Cleveland, OH*

*Jesse A. Lloyd, AILA ICE Liaison Committee Vice Chair, Oakland, CA*

*Amanda Bethea Keaveny, Charleston, SC*

9:10 am–10:10 am **BOND STRATEGIES AND ARGUMENTS: ADVANCED TOPICS**

*Having a store of successful strategies for securing your client’s release from detention is crucial in the current “enforcement first” environment. Panelists will discuss alternatives for achieving release from detention, and will explore other options to pursue when faced with adverse detention decisions.*

- What to Do When Bond Is Denied the First Time, Reconsideration Options
- Alternative Strategies, Requests to DHS, Rehabilitation Treatment
- Requesting a Hearing When There Is No NTA or Other Charging Document
- Jurisdiction When Detainees Are Moved to Another District

- Prolonged Detention Post-Rodriguez

*Faculty:*

*Sui Chung (DL), AILA Co-Author, Winning on Paper: AILA's Guide to Written Advocacy (coming soon), Miami, FL*

*Jeremy L. McKinney, AILA Secretary, Greensboro, NC*

*R. Linus Chan, Minneapolis, MN*

10:10 am–10:25 am

## **NETWORKING BREAK**

10:25 am–11:35 am

## **STEERING YOUR CASE: STRATEGIES FOR CONFRONTING DHS AND IJ MISAPPLICATION OF BURDEN OF PROOF**

*Understanding which party has the burden of proof is crucial to developing a strategy for contesting charges and establishing relief from removal. Panelists will explore and review burdens of production and persuasion, and expand upon the tools necessary for presenting winning arguments despite challenging interactions with DHS and EOIR.*

- Contesting Allegations and Charges, and Establishing Eligibility for Relief
- What to Do With Incomplete Records of Conviction and Inconclusive Statutes
- Meeting the Burden of Proof for Adjustment of Status, Relief from Removal
- Strategies for Preserving Issues and Considerations for Timing An Appeal

*Faculty:*

*Stephen Manning (DL), AILA Board of Governors, Portland, OR*

*Joseph Hohenstein, Philadelphia, PA*

*Jayashri Srikantiah, Stanford, CA*

11:35 am—12:35 pm

## **ZEALOUS AND ETHICAL ADVOCACY IN THE AGE OF TRUMP**

*Attorneys who represent noncitizens often are viewed with suspicion, especially when these noncitizen clients are undocumented or suspected of civil or criminal violations. The recent government targeting of a national nonprofit organization to cease and desist from providing legal advice and assistance is a case in point, and the fact that this may become a more frequent occurrence requires practitioners to understand their legal rights and obligations. Panelists will lead a discussion about hot topics under the current administration, address recent developments in case law, and provide practical tips for zealous, but still eminently ethical, advocacy.*

- Candor to the Tribunal in the Era of “Alternate Facts”
- Common Circumstances of “Admissions” and Client Confidences
- Using the First and Tenth Amendments to Protect Your Law License
- Protecting Yourself Against Federal Criminal Charges for Giving Advice

*Faculty:*

*Zachary Nightingale (DL), San Francisco, CA*

*Karen T. Grisez, Washington, DC*

*Kari Converse, Albuquerque, NM (Federal defender)*

*Glenda M. Aldana Madrid, Seattle, WA*

12:35 pm–1:35 pm

## **LUNCH (INCLUDED WITH REGISTRATION)**

1:05 pm–1:35 pm

## **LUNCH PANEL: CONGRESSIONAL UPDATE**

*AILA's Director of Government Relations will provide updates on the latest news from DC on Congress and the Administration, and identify ways removal practitioners can help advocate for positive immigration reform.*

*Faculty:*

*Greg Chen, AILA Director of Government Relations, Washington, DC*

1:40 pm–2:40 pm

### **THE MOST RECENT DEVELOPMENTS IN THE CATEGORICAL/MODIFIED CATEGORICAL APPROACHES**

*Understanding and applying the categorical approach is crucial to competently representing clients in removal proceedings or providing advice to criminal counsel. Panelists will explore the evolving landscape of the categorical and modified categorical approaches to determine the immigration consequences of crimes.*

- Determining Minimum Conduct and The “Realistic Probability” Test
- Understanding “Means vs. Elements”: Is That Statute Really Divisible?
- The Meaning Of “Taking A Peek” At Conviction Records
- The BIA’s Expansion Of the “Circumstance-Specific” Approach of *Nijhawan*
- Notable Circuit Court Cases: How Does the Case Law Apply the Categorical Approach?

*Faculty:*

*Michael S. Vastine (DL), AILA Co-Author, Winning on Paper: AILA’s Guide to Written Advocacy (coming soon), Miami Gardens, FL*

*Manuel F. Rios III, Seattle, WA*

*Isaac Wheeler, New York, NY*

2:40 pm–2:55 pm

### **NETWORKING BREAK**

2:55 pm–3:55 pm

### **GOING THROUGH THE MOTIONS TO REOPEN**

*In this era of heightened immigration enforcement, it is vital to be resourceful and have innovative strategies in your toolbox. This advanced-level panel will provide creative strategies for reopening cases before immigration courts and the Board of Immigration Appeals, and will advise on how best to preserve issues for appeal in federal court.*

- Is Reopening Necessary When Your Client Has Been Granted DACA, TPS, VAWA, or a U Visa?
- Developments in Review of Motions to Reopen In Absentia Orders
- Considerations In Filing Motions to Reopen After Reentry or Departure Bars
- When Does Equitable Tolling Apply? How Do You Effectively Invoke It?
- *Lozada*: Maintaining Professionalism and Civility While Building a Strong Case
- Recent Circuit Court Decisions on Sua Sponte Motions to Reopen, and How to Use Them to Your Advantage

*Faculty:*

*Maria T. Baldini-Potermín (DL), AILA Federal Court Litigation Section Steering Committee Chair, Chicago, IL*

*Mark Barr, Denver, CO*

*W. Michael Sharma-Crawford, Kansas City, MO*

4:00 pm–5:00 pm

### **EMERGING CHALLENGES TO ASYLUM BEYOND PERSECUTION**

*Asylum applicants who otherwise establish eligibility for asylum increasingly face bars based on security concerns and/or non-criminal conduct abroad. Additionally, the expansion of these bars by DHS can create problems for asylees when they apply for residency or naturalization. Panelists will identify potential barriers to asylum, and how to defend against imputed or erroneous allegations that subject asylum applicants to terrorism-related inadmissibility grounds.*

- Developments to the Persecutor Bar to Asylum
- Terrorism-Related Inadmissibility Grounds (TRIG) and Understanding Differences in Tier I, Tier II, and Tier III Terrorist Organization Designations
- Challenging a Material Support Designation: Exceptions, Waivers, and Exemptions
- Considerations Before Filing a Writ Of Mandamus for Cases on “TRIG Hold”

*Faculty:*

*Mary E. Kramer (DL), AILA Author, Immigration Consequences of Criminal Activity, 6th Ed., Miami, FL*

*Jay Gairson, Seattle, WA*

*Geoffrey Hoffman, Houston, TX*

### CONFERENCE PROGRAM COMMITTEE

#### *Advanced Removal Issues Track:*

*Jesse A. Lloyd, AILA ICE Liaison Committee Vice Chair, Oakland, CA*

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

*Sui Chung, Miami, FL*

*Amanda Bethea Keaveny, Charleston, SC*

*Zachary Nightingale, San Francisco, CA*

*Heather Drabek Prendergast, AILA ICE Liaison Committee Chair, Cleveland, OH*

*Grace Akers Woods, Senior Director, Education, Washington, DC*