



2020 AILA MIDWINTER CONFERENCE: ADVANCED BUSINESS AND REMOVAL

A TROPICAL STATE OF BALANCE:

MASTERING YOUR BUSINESS IMMIGRATION SKILLS WHILE BECOMING YOUR BEST SELF

AND

MASTERING THE ART OF REMOVAL DEFENSE WHILE BECOMING YOUR BEST SELF

This two-track business and removal conference was created to give the advanced-level immigration practitioner the legal knowledge and skills to respond to difficult, cutting-edge issues without losing a sense of self in the process. It combines substantive law panels with expert guidance on exercise, mindfulness, and holistic wellness. You will leave with an understanding of new and innovative ways to increase the success of your practice in these tumultuous times. Join us in Curacao to hone your legal acumen, reinvigorate yourself for the new year ahead, and enjoy all that this beautiful island nation has to offer!

***JANUARY 24, 2020
SANTA BARBARA BEACH & GOLF
RESORT CURAÇAO***

FRIDAY, JANUARY 24, 2020

8:30 am–5:00 pm **REGISTRATION & EXHIBITS**

ADVANCED BUSINESS TRACK

Day Coordinator: *Matthew Maiona, Boston, MA*

7:30 am–8:30 am **YOGA AND MINDFULNESS MEDITATION**
Release tension and increase your focus with an all-levels, hatha yoga class followed by a guided mindfulness meditation. Our expert instructor will focus on optimal alignment in each pose, with an eye toward cultivating flexibility, strength, and balance. No yoga

* = invited, not confirmed

experience? No problem! All are welcome to attend.

Faculty:

Danielle Polen, AILA Director of Publications and Online Resources, and Registered Yoga Teacher (E-RYT500) and Mindfulness Instructor, Washington, DC

8:45 am

WELCOME AND GREETINGS

Jeff Joseph, AILA Conference Program Chair/ Administrative Litigation Task Force Vice Chair, Aurora, CO

8:50 am-9:50 am

HOT TOPICS IN BUSINESS IMMIGRATION

Panelists will take a deep dive into the most current business immigration issues. AILA leaders from the various liaison agencies will report on recent government trends and policies, and provide updates from Congress and the courts.

- Updates from USCIS, DOL, and DOS
- Legislative Update
- Updates from the Courts

Faculty:

Bennett Savitz (DL), USCIS HQ Liaison Committee Chair, Boston, MA

Marketa Lindt, AILA President, Chicago, IL

Sarah Peterson, AILA Board of Governors/ DOL Liaison Committee Chair, Minneapolis, MN

Kenneth Harder, DOS Liaison Committee Chair, Houston, TX

9:55 am-10:55 am

ADVANCED L-1 STRATEGY SESSION

RFEs and denials of previously approvable L-1s are now the new normal. What can a practitioner do to get to approval? Our panel of experts will provide advanced strategies and troubleshoot thorny issues. They also will provide insights into how to set client expectations and draw needed information from clients without compromising the relationship.

- Eliciting Good Job Descriptions from the Client
- Fuzzy Managerial Roles: Is it Better to Frame as Function or Personnel Manager?
- Facing BAHA Head-on
- Trends in L-1 RFEs and Strategies for Overcoming Them
- Using Experts
- Canada: When Is Applying at the Border Still an Option?
- Post-Denial Strategy

Faculty:

Matthew D. Stump (DL), USCIS HQ Liaison Committee, Oklahoma City, OK

Leslie A. Holman, AILA Past President, Burlington, VT

Hudaidah F. Bhimdi, AILA Conference Program Committee/ Rome District Chapter Chair, Fairfax, VA

Jerome G. Grzeca, Milwaukee, WI

10:55 am-11:10 am

NETWORKING BREAK

11:10 am-12:10 pm

FIGHTING IT OUT: COMPETING H-1B AND PERM PRACTICE STRATEGIES

We all have our own ways of preparing H-1B and PERM cases, and it is easy to

* = invited, not confirmed

automatically continue with these same procedures without questioning them. But, maybe there are better ways to handle these cases. Our expert panelists will share their ideas and debate the best approaches. Audience participation will be encouraged.

- How and When to Address OES “All Other” Categories and Other Tricky SOC codes in H-1B Petitions
- Client Management: Charging for RFEs, Travel Questions, Visa Issues, etc.
- Specialty Occupation RFE Response Strategies, How Many and Which Prongs to Address
- How to Enforce Limits on Beneficiary Involvement in Drafting PERM Descriptions, Uncovering the Position’s True Minimum Requirements
- PERM Pre-Recruitment: How Much Documentation to Require Before Recruitment-Beneficiary Documents, Prevailing Wage Determinations, Company Financials?
- PERM Recruitment Choices and Who Places the Ads

Faculty:

Robin Dana O’Donoghue (DL), AILA Program Committee, Cambridge, MA

Eleanor Pelta, AILA Past President, Washington, DC

Vincent Lau, DOL Liaison Committee Vice Chair, Cambridge, MA

Michael P. Nowlan, Detroit, MI

12:10 pm–12:40 pm

LUNCH (INCLUDED WITH REGISTRATION)

PLENARY LUNCH PANEL (COMBINED TRACKS)

12:40 pm–1:40 pm

SELF-CARE AND ETHICS IN THE IMMIGRATION LAW PRACTICE

The primary focus of most law practices is on taking care of others. But we cannot ethically or successfully care for others when we neglect ourselves. Panelists will introduce a holistic approach to tending to overall health and wellness, focusing on mind, body, and soul. They also will provide guidance on how to realize the many benefits of good self-care, including improving overall happiness and success, reducing stress, preventing illness and disease, and avoiding malpractice.

- The Ethical Implications of Self-Care: Are You Really “Competent” If You Are Not Taking Care of Your Mental, Emotional, and Physical Needs?
- Work-Life Balance: Is it Really Achievable, and How Do You Get There?
- Secondary Trauma: Recognizing It in Yourself and Others, Understanding It, and Treating It
- Replacing Unhealthy Habits with Healthy Ones
- The Power of Saying “No”: Delegating in Your Practice and in Your Life So You Don’t Do It All Yourself

Faculty:

Kirby Joseph (DL), Aurora, CO

Laura Mahr, Conscious Legal Minds, Asheville, NC

Donna Peters, Psy.D., P.C., Denver, CO

1:45 pm–2:45 pm

NATIONAL INTEREST WHAT? AN IN-DEPTH LOOK AT NIWs, EXCEPTIONAL ABILITY AND SCHEDULE A

It is easy to shy away from the unknown and things that are perceived as difficult. This is certainly true with National Interest Waiver, Exceptional Ability, and Schedule A cases. Practitioners who do this work will tell you, however, that these cases are not nearly as

* = invited, not confirmed

challenging as they may once have been. Our expert panelists will explore these categories and provide guidance on how to prepare successful petitions, all with the aim of convincing you that, in today's world of unknowns for visa retrogression, perhaps it's time to go where you have not gone before.

- Remembering the Standard of Proof (*Dhanasar*, etc.), How Best to Shoulder the Burden
- Exploring the Differences Between Extraordinary, Exceptional, and National Interest: Are They Really That Far Apart? What Really Makes Them Different?
- The Myth and Mystery of Schedule A, and Practical Tips for Preparing a Case
- Strategizing How Best to Proceed in the Era of Retrogression, USCIS Scrutiny, and Alternate Options (Is a PERM Actually Better?)

Faculty:

Rita Sostrin (DL), Los Angeles, CA

Suzanne B. Seltzer, USCIS HQ Liaison Committee Vice Chair, New York, NY

Jentry Cameron Wheeler, Santa Clara, CA

2:45 pm–2:55 pm

NETWORKING BREAK

2:55 pm–3:55 pm

ALTERNATIVES IN TIMES OF RETROGRESSION: STATUS, SPOUSES, CHILDREN AND MORE

From individuals reaching the maximum allowed stay to children turning 21, panelists will discuss strategies for protecting status and address potential long-term options (will more PERM's than EB-1 I-140's be filed in 2020?).

- Strategies for Max-Out Issues (NIW, Time Recapture, H-1B's, etc.)
- For the Love of the Children: Child Status Protection Act (CSPA) Highlights, Protecting Your Clients' Eligibility Whenever Possible
- Prepare for Next Cap Season Now! Thinking About Retrogression and H-1B Sponsorship (*i.e.*, L-1A's for the First Time Ever)
- Tips for Agility with the Visa Bulletin, Categories, Cross-Chargeability, and Quotas

Faculty:

Elizabeth T. Reichard (DL), New York, NY

William A. Stock, AILA Past President, Philadelphia, PA

Elizabeth A. Goss, Boston, MA

4:00 pm–5:00 pm

STATE DEPARTMENT AFFAIRS: AN INSIDER'S PERSPECTIVE

Mysterious background checks, inconsistent approaches to adjudication, and a myriad of unknowns: how DOS actually operates can be difficult to discern. Our panel of former State Department officials and members of the AILA National DOS Liaison Committee will help you understand what really happens behind the scenes of visa processing.

- How It All Really Works and the Mechanisms in Place
- How Extreme Is "Extreme Vetting"?
- Effective Communication and Provision of Information in Support of Complex Visa Applications
- Dealing with Discretion on the Part of the Consular Officer
- Administrative Processing, What Really Happens When Individuals Are Screened
- Travel Ban Updates on Waivers and Processing

Faculty:

Daniel J. Parisi (DL), AILA Program Committee/DOS Liaison Committee,

Brussels, Belgium

*Mary E. Kramer, AILA Author, Immigration Consequences of Criminal Activity, 8th Ed.,
Miami, FL*

Sandra S. Reguerin, AILA DOS Liaison Committee Vice Chair, Phoenix, AZ

Christopher M. Richardson, Atlanta, GA

5:00 pm–5:30 pm

MEET AND GREET WITH THE U.S. CONSULATE GENERAL CURACAO

Allen Greenberg, Consul General, U.S. Consulate General Curacao

Christian Olsen, Consul, U.S. Consulate General Curacao

ADVANCED REMOVAL TRACK

Day Coordinator:

Donusia L. Lipinski, Myrtle Beach, SC

7:30 am–8:30 am

YOGA AND MINDFULNESS MEDITATION

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Faculty:

Danielle Polen, AILA Director of Publications and Online Resources, and Registered Yoga Teacher (E-RYT500) and Mindfulness Instructor, Washington, DC

8:45 am

WELCOME AND GREETINGS

Sarah Owings, AILA Conference Program Committee/ Board of Governors, Atlanta, GA

8:50 am-9:50 am

DUE PROCESS IN THE IMMIGRATION CONTEXT

Arbitrary decisions, biased decision-makers, increased delays, unpredictable processes—it can feel like there are no rules about how immigration decisions are made. But what exactly is required to satisfy the demands of the Due Process Clause and other procedural requirements? Panelists will discuss current due process standards and evolving case law as it applies to immigration law and procedure, then examine how to challenge decisions that do not meet these standards.

- Does Due Process Exist in the Immigration System? If So, to What Extent?
- Due Process in the Benefits and Interview Process
- Due Process at the Border: What Is CBP Permitted to Do?
- Is Due Process Different at the Consulates?

Faculty:

Sabrina Rachel Damast (DL), Los Angeles, CA

John Gihon, AILA Board of Governors, Altamonte Springs, FL

Jesse M. Bless, AILA Director of Federal Litigation, Washington, DC

9:55 am–10:55 am

EXTRAORDINARY AND CHANGED CIRCUMSTANCE: GETTING PAST THE ONE-YEAR FILING DEADLINE IN ASYLUM

Asylum seekers do not always ask for asylum as soon as they arrive; sometimes they wait

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years. Under what circumstances can they still make a winning case? What qualifies as extraordinary? Panelists will discuss how to use facts to win your case and rely on experts to seal the deal.

- When Does the Clock Start Ticking?
- What Kind of Circumstances Qualify as Changed or Extraordinary?
- Mental Health and the Filing Deadline
- Proving Your Case: Using Expert and Other Testimony

Faculty:

Randall Chamberlain (DL), AILA Conference Program Committee, New York, NY

Vikram K. Badrinath, Tucson, AZ

Sarah Beth Pitney, Washington, DC

Ariel Shidlo, Psychologist, San Francisco, CA

10:55 am–11:10 am

NETWORKING BREAK

11:10 am–12:10 pm

MONITORING AND RESPONDING TO CONDITIONS OF DETENTION

Immigration detention is on the rise. With the increase in usage of a carceral model, responses to and sensitivity regarding the conditions of detention are essential parts of your detention and removal practice. Panelists will focus on filling your toolbox with the right skills to help your clients weather their detention, and provide guidance on what to do when things go wrong.

- Access to Counsel
- What to Do When Your Detained Client Needs Medical Attention
- Using FOIA in Support of Documenting Conditions of Detention
- Approaches to Damages Claims
- Challenging Labor and Employment Law Violations
- When to Go to the Media

Faculty:

Andrew Free (DL), Nashville, TN

Gracie Willis, Atlanta, GA

Lisa Graybill, New Orleans, LA

12:10 pm–12:40 pm

LUNCH (INCLUDED WITH REGISTRATION)

1:45 pm–2:45 pm

ADVANCE TRIAL PRACTICE

Panelists will address how to tackle the constantly changing procedures within the immigration court, from the policies and procedures directed to immigration judges to how trial attorneys are taught to address specific issues within a case. They also will address how to make sure your record is ready for you to litigate, if necessary.

- Using Subpoenas
- Use of Rules of Evidence and Objections to Create a Record
- Direct and Cross-Examination Tips
- Maintaining Credibility, Rehabilitating Your Client, and Challenging Negative Credibility Findings

Faculty:

Anis Saleh (DL), Miami, FL

Thomas K. Ragland, AILA Administrative Litigation Task Force Committee,

Washington, DC

W. Michael Sharma-Crawford, Kansas City, MO

2:45 pm–2:55 pm

NETWORKING BREAK

2:55 pm–3:55 pm

CREATIVE STRATEGIES FOR MOTION TO SUPPRESS AND HABEAS ACTIONS

In this time of increased immigration enforcement actions, attorneys must advocate in a manner that confronts ICE's reliance on legally insufficient documents to detain and remove their clients. Panelists will provide guidance on challenging the legality of ICE warrants in removal proceedings and applying aggressive strategies for relief from detention.

- Case Law Update for a *Post-Rodriguez* World
- When and How to Challenge the Legality of ICE Warrants
- How to Draft Winning Motions to Suppress in Immigration Court
- Practical Considerations When Drafting Emergency Habeas Motions

Faculty:

Susan Church (DL), Boston MA

Justin Burton, Chicago, IL

Gregory Copeland, New York, NY

Zachary Nightingale, San Francisco, CA

4:00 pm–5:00 pm

TAKING THE CASE TO DISTRICT COURT

The Attorney General has limited the ability of immigration judges to administratively close cases for adjudication of applications pending at USCIS. In light of this decision, our expert panelists will advise on what affirmative steps can be taken to push USCIS to adjudicate the application and avoid a removal order.

- Choice of Venue (Adjustment of Status Review)
- Petition for Review of Denial of Continuance: *Caballero-Martinez v. Barr*
- Mandamus: USCIS Delay in Processing Applications
- APA: Arbitrary Denials and Unreasonable Delay Claims

Faculty:

Amanda Keaveny (DL), AILA Conference Program Committee, Charleston, SC

Ira J. Kurzban, AILA Author, Kurzban's Immigration Law Sourcebook/AILA Past President, Miami, FL

Matthew L. Hoppock, AILA FOIA Committee Vice Chair, Overland Park, KS

Jeff Joseph, Conference Program Chair, Aurora, CO

5:00 pm

CONFERENCE CONCLUDES

5:30 pm

RECEPTION

[Business Track Conference Program Committee](#)

Jeff Joseph, Conference Program Chair, Aurora, CO

Michelle Funk, McLean, VA

* = invited, not confirmed

*Janora L. Hawkins, Atlanta, GA
Robin Dana O'Donoghue, Cambridge, MA
Daniel J. Parisi, Brussels, Belgium*

Removal Track Conference Program Committee

*Jeff Joseph, Conference Program Chair, Aurora, CO
Annaluisa Padilla, AILA Past President, La Habra, CA
Sarah Owings, AILA Board of Governors, Atlanta, GA
Hudaidah Bhimdi, Fairfax, VA
Randall Chamberlain, New York, NY
Amanda Keaveny, Charleston, South Carolina*

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