



## 2021 AILA FALL CONFERENCE AND WEBCAST: ATHLETICS, CULTURE, ENTERTAINMENT, AND SCIENCE (ACES) & BUSINESS HOT TOPICS

Whether your practice focuses on arts and entertainment, athletics, science, or business, the 2021 AILA Fall Conference has you covered! This advanced-level CLE conference, to be held October 12, 2021, in Las Vegas, features two tracks—one devoted to ACES issues, the other focusing on hot topics in business immigration. You can choose to attend the conference in person or partake from the comfort of your home or office via virtual webcast. Additionally, in the event you happen to miss a session or can't attend during the live conference, recordings from BOTH tracks will be made available to all registrants.

**ACES Track:** Our faculty of nationally renowned experts will advise on best practices for navigating the issues routinely faced in these areas of immigration law. They also will examine the latest RFE trends and provide guidance on cutting-edge strategies for dealing with the complex problems that have emerged in recent years.

**Business Hot Topics Track:** This track explores the latest in employment-based immigration hot topics. Panels include a discussion of creative “outside the box” strategies for dealing with the latest issues, a deep dive into B-1 visas, a quick how-to on nonimmigrant waiver applications, and an exploration of non-PERM immigrant visa alternatives.

OCTOBER 12, 2021  
THE VENETIAN RESORT HOTEL CASINO  
LAS VEGAS, NV (and WEBCAST)

*~Note: All Times Listed Below Are Pacific Time~*

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### TRACK 1: ACES

- 7:30 am – 5:00 pm      **REGISTRATION AND EXHIBITS**
- 8:15 am – 8:20 am      **OPENING REMARKS**  
*Laya Kushner, Conference Committee Chair, Charlotte, NC*
- 8:30 am – 9:30 am      **YAY! THE PETITION WAS APPROVED! NOW THE HARD PART BEGINS: SECURING EXPEDITED VISA INTERVIEWS AND NATIONAL INTEREST EXCEPTIONS**  
*Once upon a time, getting a petition approved at USCIS was the hardest part of the immigration process for artists and entertainers. Now, in the wake of COVID travel bans and embassy*

(DL) = discussion leader  
\* = invited, not confirmed

*closures, obtaining a visa interview has become nearly impossible. Panelists will advise on best practices for successfully procuring a U.S. visa stamp. The discussion will include the mechanics of scheduling an interview, when you can avail yourself of “waiver of an interview,” and third-country national visa processing.*

- COVID Update: Long After the Travel Bans, the Legacy of NIEs Will Continue to Live on at Consular Posts
- Bottleneck of Visa Appointments: Who Is Prioritized (Really)? and Making the Best Case for an Emergency or Expedited Interview
- Bringing in Congressional Support Help
- How Far Should a Client Go for a Visa Interview?
  - Is Applying in a Third Country Really an Option?

*Faculty:*

*Amanda Brill (DL), London, UK*

*Lynn Marie Lee, Clifton, VA*

*Sharvari (Shev) Dalal-Dheini, AILA Director of Government Relations, Washington, DC*

9:30 am – 9:55 am **NETWORKING BREAK**

9:55 am – 10:55 am **AGENT REPRESENTATION ON AN O OR P**

*This panel of experts will discuss the convoluted regulations covering agent-sponsored O and P petitions. The experts will provide real-life examples of agents, evidentiary considerations, and employment verification for agent-sponsored individuals.*

- Who Can Be an Agent? The “Agents as Petitioners” Regulation
- The Benefits of Having an Agent Sponsor the Petition, Agent Obligations
- Agent for Foreign Employer and Loan Out Company Agents
- Agent-Sponsored Petition: Evidence That Must Be Submitted, Where Can the Beneficiary Work
- I-9 Requirements

*Faculty:*

*Amanda Gupta (DL), Brooklyn, NY*

*Catherine L. Haight, Marina Del Rey, CA*

*G. Fabricio Lopez, Burbank, CA*

10:55 am – 11:15 am **NETWORKING BREAK**

11:15 am – 12:15 pm **IS THAT A REAL THING? STRATEGIES FOR CASES IN NEW AND EMERGING FIELDS**

*Human beings are constantly inventing new fields of endeavor. How do you approach filing a case in a field for which USCIS officers are likely unfamiliar?*

- Exploring New and Emerging Fields: Diversity Equity and Inclusion Positions, Street Artists, Social Media Influencers (e.g., Tik Tok and YouTube Stars), Competitive Eaters, Axe Throwing, etc.
- Documenting the Existence of the Field Through Major Media or Industry-Specific Media
- Laying a Solid Foundation with Expert Letters Providing Context for the Field and the Beneficiary’s Place in It
- Metrics: Measuring Like to Like
- Strategies for Winning Cases in a New Field That Is Not Public-Facing

*Faculty:*

*Eileen F. Morrison (DL), Newton, MA*

*Gabriel Castro, Walnut Creek, CA*

*James Hollis, Memphis, TN*

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12:15 pm – 1:00 pm **LUNCH BREAK**

1:00 pm – 2:00 pm **HERE WE GO AGAIN: RFE TRENDS**

*You've done everything right and prepared a strong case, but still end up with an RFE. What is USCIS looking for? The experts on this panel will identify the latest RFE trends, and discuss advanced, cutting-edge strategies for delivering success for clients in today's challenging climate.*

- Submitting Agent Contracts, Contracts/Agreements for Work, Petitioning Agent Letters, and Itineraries
- Itineraries: How to Respond to an RFE When Original Engagements Are Cancelled After the Filing; Pivoting to Activities That Can Accommodate Pandemic Protocols
- How to Respond When USCIS Decides the Beneficiary Is in a Different Field
- When USCIS Discounts or Ignores Subject Matter Expert Letters
- How to Respond to an "Independent Research" RFE
- High Salary/Other Remuneration RFEs (EB-1A and O-1A)
- Preponderance of the Evidence Standard
- Value of Independent Authoritative Sources of Evidence and Government Reports

*Faculty:*

*Fuji Whittenburg (DL), AILA DOS Liaison Committee Vice Chair, Calabasas, CA*

*Dan Berger, Northampton, MA*

*Karin Wolman, New York, NY*

2:00 pm – 2:30 pm **NETWORKING BREAK**

2:30 pm – 3:30 pm **STRATEGIES FOR ESSENTIAL SUPPORT PERSONNEL**

*Panelists will discuss P-1S and O-2 petitions for support personnel, including how to handle multiple beneficiary petitions. From personal assistants to parents of minors, coaches to masseuses, who can qualify and who else is coming to assist in the artistic or athletic performance?*

- Some Less Typical Support Positions to Consider
- What Evidence Must Be Submitted
- Considering the Visa Needs for Support Personnel and Impact on the Choice for Principal Beneficiary's Status
- Demonstrating Essentiality and Unavailability of US Workers to do the Job
- Consulting Organization and Labor Union Consultation Issues
- What Happens to a Support Person When the Primary Beneficiary Stops Working?
- Separate and Apart: When the Principal O or P Is Working Remotely

*Faculty:*

*Becki L. Young (DL), AILA Client Resources Committee Chair, Silver Spring, MD*

*Raymond McEntee, Chicago, IL*

*Sherrod Seward, Charlotte, NC*

3:30 pm – 4:00 pm **NETWORKING BREAK**

4:00 pm – 5:00 pm **TO GREEN CARD OR NOT TO GREEN CARD? STRATEGIES AND CONSIDERATIONS REGARDING APPLYING FOR PERMANENT RESIDENCY**

*The travel restrictions imposed during the Covid-19 pandemic have helped to highlight the advantages of becoming a legal permanent resident (LPR). However, the decision to apply for a*

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*green card, as opposed to remaining temporarily on an O or P visa, is not necessarily an easy one, as the costs (literally) and benefits for each option must be taken into account. Focusing specifically on artists and entertainers, panelists will discuss the factors that must be considered in deciding whether to remain in nonimmigrant status or become an LPR.*

- Making an Initial Assessment: Tax Considerations Are Only Part of the Discussion
- Impact on Essential Support Personnel When the Principal Beneficiary Becomes an LPR
- Review of Criminal Matters
- Specific Benefits of Holding a Green Card During the Pandemic

*Faculty:*

*Ian David Wagreich (DL), Chicago, IL*

*Lauren DeBellis Aviv, New York, NY*

*Mark D. Koestler, New York, NY*

## **TRACK 2: BUSINESS HOT TOPICS**

8:15 am – 8:20 am **OPENING REMARKS**

*Allen Orr, AILA President, Washington, D.C.*

8:30 am – 9:30 am **A DEEP DIVE INTO B-1 VISAS**

*Our panel of experts will focus on the many uses of B-1 visas and ESTA for artists, athletes, support personnel, employees, and dependents.*

- B-1 Issues: Temporary Intent, Use by Support Personnel
- Amateur Entertainers and Athletes
  - Entertainers vs. Reality TV Participants
  - Amateur Try-Outs for Sports Teams
- Domestic Workers and Cohabiting Partners of Artists or Athletes
- Showcasing at Music Festivals and Recording in the United States

*Faculty:*

*Sylvia Livits-Ayass (DL), New York, NY*

*Ksenia Maiorova, Orlando, FL*

*Kushal Naishad Patel, New York, NY*

9:30 am – 9:55 am **NETWORKING BREAK**

9:55 am – 10:55 am **WAIVERS**

*Does your client have a caution or conditional discharge for minor marijuana possession? Drunk driving? Panelists will discuss the ins and outs of putting together an inadmissibility waiver application, including whether to do it yourself or refer out.*

- Determining If Your Client Requires a Waiver
- *Matter of Hranka*
- How to File §212(d)(3) Waivers at the Embassy or Consulate
- What About Visa-Exempt Canadians? E-Safe?
- When to Call in the Crimmigration Experts

*Faculty:*

*Lu (Kevin) Wang (DL), Syracuse, NY*

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

*Abtin Bahador, Bellingham, WA*

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10:55 am – 11:15 am **NETWORKING BREAK**

11:15 am – 12:15 pm **ETHICS: MANAGING CLIENT EXPECTATIONS AND HOW TO BILL**

*Despite the end of the Trump administration, difficult immigration cases remain the norm. RFEs, consular readjudications, and outright unsubstantiated denials not only have wreaked havoc on standard billing practices, they also have changed the way we communicate with clients and manage their expectations. Panelists will help you understand your ethical obligations in this challenging climate, identify best practices for how to manage demanding clients, and advise on how to ensure that you are still able to make a living.*

- How Best to Describe the Immigration Process to Minimize Client Angst and Frustration
- When Things Go Off the Rails: Keeping the Client Informed and Apprised
- Managing Staff, Billing, and Expectations When a Case Takes Longer Than Expected
- Separating the Service Center and Consular Components to Ensure Reasonable Fees
- PTSD in the Legal Profession: How to Learn from a Case, Whatever the Result

*Faculty:*

*Kenneth Craig Dobson (DL), AILA Lawyer Well-Being Committee Vice Chair/AILA Ethics Committee, New York, NY*

*Amy Maldonado, AILA Board of Governors East Lansing, MI*

*Peter L. Ashman, Las Vegas, NV*

*Genie Doi, Torrance, CA*

12:15 pm – 1:00 pm **LUNCH BREAK**

1:00 pm – 2:00 pm **EB-1 v. EB-2 NIW: CREATIVE WAYS TO USE MATTER OF DHANASAR**

*The experts on this intermediate panel will discuss strategies when deciding whether to pursue an EB-1 vs. EB-2 National Interest Waiver (NIW). The panel will cover the strength of evidence, timing of the case, underlying status, and potential issues related to nonimmigrant visa renewals. They also will advise on how to articulate Dhanasar arguments in the context of sports, science and the arts.*

- EB-1A Criteria and Final Merits Determination: Pros and Cons, the Risks of NOIDs
- How to Evaluate the Evidence Presented in Light of Strict Scrutiny by USCIS on EB-1As
- The Structure of an EB-2 NIW
- Strategies to Make an NIW Work in Arts, Business, or Sports

*Faculty:*

*Flavia Santos Lloyd (DL), Irvine, CA*

*Jeff Joseph, AILA Treasurer, Aurora, CO*

*Andrea B. Huerta-Rodriguez, Miami, FL*

2:00 pm – 2:30 pm **NETWORKING BREAK**

2:30 pm – 3:30 pm **SCHEDULE A, GROUP II**

*Panelists will review the nuts and bolts of how to file this underutilized EB-2 category. What is required, and how much is DOL involved? What are the employer and employee criteria? Panelists also will explore how exceptional ability can be articulated by employers in the sciences and arts.*

- Evidence to Support Widespread Acclaim in the Field of Endeavor
- EB-3 vs Schedule A, Group II
- Procedural Steps

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- Practical Examples

*Faculty:*

*Rita Sostrin (DL), Woodland Hills, CA*

*Zachary Robert Dussault, Charlotte, NC*

*Kathleen L. Grzegorek, Los Angeles, CA*

3:30 pm – 4:00 pm

**NETWORKING BREAK**

4:00 pm – 5:00 pm

**CONSULAR PROCESSING VS. ADJUSTMENT OF STATUS IN EMPLOYMENT-BASED CASES**

*With nearly untenable delays in the issuance of employment authorization and advance parole documents, as well as consular delays unthinkable only 18 months ago, how do we choose between these two options, and do we even need to? Learn from the experiences of AILA experts to develop the best strategy possible for yourself and your clients.*

- Things to Consider When Deciding to File Via Adjustment or Consular Processing
- Best Strategies to Ensure Continuous Work Authorization Throughout the Adjustment Process
- How Best to Ensure Access to the United States During a Lengthy Consular Process: Is ESTA an Option?
- When and How to File Both an Application for Adjustment and for Consular Processing
- How to Steer Clear of the Potential Downfalls of an Understaffed Premium Processing Unit

*Faculty:*

*Anastasia Tonello (DL), AILA Past President, New York, NY*

*Kathleen Campbell Walker, AILA Past President, El Paso, TX*

*Rachel Baskin, Rockville Centre, NY*

5:00 pm

**ACES CONFERENCE CONCLUDES**

**CONFERENCE PROGRAM COMMITTEE**

*Laya R. Kushner, AILA Conference Program Chair, Charlotte, NC*

*Amanda Brill, London, UK*

*Cory Caouette, San Jose, CA*

*Catherine L. Haight, Marina del Rey, CA*

*Steven Ladik, Dallas, TX*

*Flavia Santos Lloyd, Irvine, CA*

*Eileen Morrison, Newton, MA*

*Emmie R. Smith, Director of Professional Development, Washington, D.C.*

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