

AILA Fall Joint Chapter Conference

FRIDAY, NOVEMBER 4, 2016

7:00-8:00AM – REGISTRATION/CONTINENTAL BREAKFAST

FAMILY/REMOVAL TRACK

8:00-9:00AM

The Big (Not So) Easy – it’s a crimmigration nation:

The U.S. Supreme Court has revitalized the categorical approach and modified categorical approach in immigration proceedings. This panel will advise on the latest developments in the law and provide practice tips for your cases.

- *Descamps, Moncrieffe* - Categorical approach, modified categorical approach
- Understanding divisibility; Means v. Element
- Realistic probability test mumbo jumbo – What is it?
- Victory before the IJ – arguing the statute in motions to dismiss and fighting motion to pre-termit

Olsi Vrapı (DL), Albuquerque, NM

Mary Kramer, Miami, FL

Rachel Bush, Bentonville, AR

9:00-10:00AM

The Commander’s Palace: Three perspectives in removal proceedings-- The IJ, ICE Counsel, and Respondent’s Counsel.

“Adversarial” isn’t always synonymous with “confrontational.” In fact, cooperation between counsel in removal proceedings can often help effectively present the case before the immigration judge. This panel consisting of an Immigration Judge, ICE Counsel, and private practitioners will discuss how to present a successful case in removal proceedings

- Communication with opposing counsel: Can some issues be stipulated in advance?
- Advice from the bench: Outside of just being prepared, what does the IJ want to see and hear?
- Prepping your client for trial: tips on preparing documents and witness testimony

*The Honorable James Nugent, EOIR, Dallas Immigration Judge

*John Allums, Assistant Chief Counsel, Dallas, TX

*Alice Miller, Chief Counsel, Office of Chief Counsel, New Orleans, LA

Kelli J. Stump (DL), Oklahoma City, OK
Barry Frager, Memphis, TN

10:00-10:15AM – **NETWORKING BREAK**

10:15-11:15AM

New Orleans vs. Nawlins: You Can't Say That! Proper Articulation of Particular Social Groups

The definition of a particular social group remains one of the hottest topics in asylum practice. This panel will begin with a brief overview of the social visibility and particularity requirements and the varying ways in which the courts have interpreted them, and will brainstorm ideas for presenting claims involving several specific groups.

- Updates on the PSG analysis
- Best practices for articulating PSGs
- Finding a nexus to connect your PSG to the persecution

Daniel Thomann (DL), Chicago, IL
Paul Zoltan, Dallas, TX
Marco Balducci, New Orleans, LA

11:15-12:15PM

Deconstructing the Gumbo Mumbo Jumbo: Litigator's Update Panel

Each year the Supreme Court issues decisions that have an impact on our members in not only immigration cases but also non-immigration cases. The same could be said for other appellate bodies as well. Join our panel of experts for the latest developments in litigation.

- Supreme Court and Circuit updates/trends and recent decisions
- Splits among circuits
- Anything new before the Supreme Court?

Raed Gonzalez (DL), Houston, TX
*David Funke, Louisville, KY
*Carlos Garcia, McAllen, TX

12:15- 1:45 **LUNCH—CHAPTER BUSINESS MEETINGS**

2:00-3:00PM

Arrested on Bourbon: Detention Issues -- Challenging No Bond determinations and Prolonged detention

The Rocket Docket for detained clients in immigration proceedings is not a fun task. If the client can be released, the case moves slower, giving a better opportunity to build a successful application for relief. This panel will discuss techniques and strategies to obtain bond and release.

- Updates in court procedures/preferences by court on how to file bond
- The Risk Classification Assessment Tool and negotiating a bond with ICE
- How long is too long?: Filing habeas on prolonged detention

Liset Lefebvre Martinez (DL), Baton Rouge, LA
Jessie Miles, El Paso, TX
Jackie Watson, Austin, TX

3:00-4:00PM

Mardi Gras and Motions: Filing Motions Before EOIR

A successful motions practice is key in immigration removal proceedings. This panel will discuss various motions in EOIR proceedings and when and where to file them.

- Federal Rules of Civil Procedure & Evidence Application
- Using strategic motions in your defense strategy: Written Pleadings; Motions to Continue for Pending Applications before USCIS; Motions to Withdraw & Amend Pleadings; Motions for Subpoena and other discovery requests; Motions for Admin. Closure; Termination and Re-papering; Motions to Suppress; making up motions

Nathan Bogart (DL), Fayetteville, AR
Nick Chavez, Dallas, TX
*Matthew Hoppock, Overland Park, KS

4:00-5:00PM

Must (NOT) be 21 to enter: Training 3 and 4 Year Olds in Immigration Law and Representing Children

In 2014, we saw a crisis at the border with an influx of children entering the United States. This has resulted in special dockets in removal proceedings where hundreds of children are not represented. This panel will discuss techniques for effectively representing children in removal proceedings and thinking outside the box for other forms of relief.

- Who has jurisdiction? UACs and asylum applications
- Special Immigrant Juvenile Petitions pending while in proceedings
- Thinking outside of the box: common and uncommon forms of relief
- Ethics & representing children in removal proceedings

Michelle Saenz-Rodriguez (DL), Dallas, TX
Hiroko Kusuda, New Orleans, LA
Julie Flanders, Austin, TX

6:00: American Immigration Council RECEPTION – Venue TBA

BUSINESS TRACK

8:00-9:00AM

ICE, ICE Baby (with a splash of DOL)

ICE and DOL enforcement activity is as prevalent now as it ever was. This panel will provide the latest updates, tips on enforcement trends, and best practices with regards to the Form I-9, E-Verify, Public Access Files, and general DOL site visits.

- ICE Enforcement trends
- E-Verify updates, trends and best practices
- DOL Public Access File Audits
- DOL H-1B Investigations and limits on investigative authority (*Volt Management Corp case*)
- Tips on helping clients through an Audit or Site Visit

Maggie Murphy (DL), Austin, TX
*Eliien Scofield, Atlanta, GA
*Joel Gonzalez, San Antonio, TX

9:00-10:00AM

Playing the Odds with H-1Bs: The Cap and The Gap

Dreaded H-1B season brings with it long work days and nights for lawyers, but also the uncertainty for clients that their foreign national talent will not make the H-1B cap. It's never too early to plan for alternatives, but finding those options is not always easy. This panel will review common and "outside the box" alternatives for the unlucky ones who do not win the H-1B lottery.

- STEM/OPT Extensions in light of the new Regulations
- Other Visa options (H-1B1, E-3, H-3, O-1, F-1/CPT)
- B-1 in lieu of options
- Possibility for L-1 after placement abroad?
- H-4 EAD
- Initiating PERM or other LPR options

Elaine Kimbrell (DL), Metairie, LA
Ari Sauer, Memphis, TN

Ruth Clark, Houston, TX

10:00-10:15AM – **NETWORKING BREAK**

10:15-11:15AM

It's Complicated: Our Relationship Status with PERM

Any Employment-based Immigration Lawyer will tell you, our feelings about PERM vary from complicated to simple, and a few choice words in between. However, we cannot escape the labor certification, so this panel will review PERM basics, as well as tips on how to plan and develop the strongest possible application for your clients.

- PERM basics (process, recruitment, filing)
- Preference Categories and Degree Equivalencies
- Strategy Development and timing considerations
- Roving Employees

Susan Bond, Dallas, TX

Anna Scully, Mobile, AL

*Terry Weir, Houston, TX

11:15-12:15PM

Same PERM, Different Day

The PERM Application has not changed in a number of years, however, the requirements language, method of advertising, and content of the application seem to change with every BALCA decision. This Panel will review the most recent and critical BALCA decisions that impact the way a PERM application should be prepared and submitted to ensure certification on the first try.

- *Matter of Kyuba Inc*
- *Matter of Softpath System, LLC*
- *Matter of Netflix*
- *Matter of Palm Café Restaurant*
- *Matter of Scenic Landscaping*
- *Matter of Infosys Ltd*

Avalyn Langemeir, Houston, TX

David Ware, Metairie, LA

12:15- 1:45 **LUNCH—CHAPTER BUSINESS MEETINGS**

2:00-3:00PM

Mind your Os and Ps!

Most employees will not qualify for these visa types, but there are always the few high-achievers who can benefit greatly from these categories. This Panel will review the eligibility requirements for O and P visas, Agent responsibilities, and tips on evidentiary support

- O and P visa requirements
- How to meet evidentiary requirements
- Agent obligations and getting support from interested organizations
- Dual Intent considerations

Sujata Ajmera, Austin, TX
*Corina Farias, Austin, TX

3:00-4:00PM

YOU GOTTA FIGHT FOR YOUR RIGHT...to place an employee at a Third-Party worksite

Establishing a qualifying employer-employee relationship can be difficult for clients whose employees are regularly placed at a third-party worksite. This panel will review best practices for successfully filing NIV Petitions of this type with USCIS.

- Establishing “control”
- LCA Posting Requirements and Prevailing Wage Requirements
- I-129 Amendment Requirements
- Public Access File Compliance and FDNS visits

Amy Peck, Omaha, NE
Barry Walker, Tupelo, Mississippi

4:00-5:00PM

Crawfish E-2-ffée: Treaty Visas are What’s for Dinner!

With the uncertainty surrounding L-1 adjudications, E-2 Visas can be a very attractive option for clients seeking to invest in an existing enterprise, create a new investment business, or move essential employees to the US to help grow an existing business. This Panel will go over best practices, consular considerations, and E-2 essentials.

- E-2 Consular v In-Country processing
- Basic Requirements
- Eligible employees
- New Office E-2s

Rebecca Massiatte (DL), Dallas, TX
Glen Krebs, Lexington, KY

6:00: American Immigration Council RECEPTION – Venue TBA

SATURDAY, NOVEMBER 5, 2016

FAMILY/REMOVAL TRACK

8:00-9:00AM

Hurricane Season: What to Look for in Changing Immigration Policies

2016 has been a whirlwind. From the Supreme Court's decision on DAPA to the upcoming election, this panel will discuss the most recent Hot Topics in immigration.

- Updates for DREAMers post-Texas v. U.S: process, considerations, pitfalls, and policy based on jurisdiction
- State Side Waivers for family of LPRs
- Hoping for the Best – What the Elections could mean for Immigration

Ben Johnson, Executive Director, American Immigration Lawyers Association

Beth Werlin, Executive Director, American Immigration Council

Bill Stock or other ExComm Member

9:00-10:00AM

Waiting in line for oysters at ACME: DHS is taking too long? Sue them!

With recent terror attacks in the world, it is no coincidence that adjustment and naturalization applications for applicants from certain countries are being subjected to extended security checks. This panel of litigation experts will discuss strategies of filing complaints in federal court when your client's case is substantially delayed.

- Brief overview of CAARP
- Mandamus on Adjustment cases and N-400 pre-interview
- Petition for Hearing on Naturalization in Federal Court
- We've won in federal court, now what?: Drafting a successful claim for EAJA fees

Lance Curtright, San Antonio, TX

Elliott Ozment, Nashville, TN

10:00-10:15AM – NETWORKING BREAK

10:15-11:15

Better than Beignets at Café du Monde!: Saving a Petition after Death of the Petitioner -- Humanitarian Reinstatement, INA 204(I) and I-360 Surviving Spouses

Past immigration laws required that an I-130 be terminated immediately upon death of the petitioner. There are several exceptions to this old rule, and if applied properly, a petition can survive even after death of the petitioner.

- Who is eligible under 204(I), who is eligible under humanitarian reinstatement and who is a I-360 Surviving Spouse?
- Negotiating the maze of processing differences
- Explore affidavit of support substitute sponsor issues
- How to maximize chances of success

Laura Bachman (DL), Tulsa, OK

*Iliana Holguin, El Paso, TX

11:15-12:15PM

Dueling Pianos: Ethical issues in representation and defining “Conflict of Interest” when the parties cannot get along

- Setting the ground rules for the attorney-client relationship before being retained
- Separation and impending divorce while adjustment is pending vs. after adjustment
- What to do when the one party confides and says "don't tell"
- Withdrawal of representation and/or notify USCIS?
- I-864 ethical obligations to a “Joint Sponsor”

Kimberly Sutton (DL), Springdale, AR

Gary Frost, Dallas, TX

12:15-1:30 LUNCH

1:30-2:30PM

There are Gators in the Bayou: Handling the Risky Naturalization Case

Applying for naturalization is not always a good idea. It is critical to determine which cases are sound, which are risky, and which are downright dangerous for your client.

- LPR status: abandoned or questionably obtained
- Criminal convictions
- Divorce shortly after issuance of green card
- Permanent residents who left employment prematurely (or never worked for the petitioner) and other issues in employment-based cases

Dawn Gerhart (DL), Nashville, TN
Irene Mugambi, Dallas, TX
Jennifer Walker Gates, Austin, TX

2:30-3:30PM

Pardoned in the French Quarter: Exploring the I-601A, I-601, and I-212

With the continued failure to pass immigration reform and the recent Supreme Court decision on DAPA, waivers remain one of the most important and effective avenues to immigration relief. This panel will discuss the I-601A, the I-601, as well as filing an I-212 for those with the “permanent bar” and for those who need to bootstrap one to an I-601.

- The I-601A Update – who is eligible?
- Unlawful Re-entry after unlawful presence or removal, but 10 years outside the US – The I-212
- When an I-212 and an I-601 may be needed, and when they must be filed after a consular finding of inadmissibility or presented with an adjustment application

Kathleen Gasparian (DL), New Orleans, LA
Jessie Schreier, Dallas, TX
Melissa Lujan, Oklahoma City, OK

3:30-3:45PM – NETWORKING BREAK

3:45-4:45PM

Some good Voodoo: Immigration benefits to Military and their family members

There are special provisions on place for U.S. Military personnel and their family members. This panel will discuss the special provisions and procedures to apply for such relief.

- MAVNI
- Military Naturalization
- Parole in Place and Adjustment

Carrie Nguyen, Arlington, TX
Roland Lenard, Clarksville, TN
Martin Lester, Hixson, TN

BUSINESS TRACK

8:00-9:00AM

Mimosas, Bloody Marys, and NIV Fundamentals

Remembering the basic principles can often be important in handling more complex immigration matters. This Panel will review the fundamentals of maintenance of status, extensions of status, AC-21, preference categories, and how to explain and guide clients through critical timing issues associated each employee's case.

- Maintenance of Status and Adjustment Eligibility (i.e. maintaining H-1B status, or underlying status during IV process, impact of falling out of status or working without status)
- AC-21 Updates
- EAD considerations for H-4, L-2, E-2 Dependents, DACA recipients, etc.
- Last in Time rule for those switching in and out of different status types

Faye Kolly, Austin, TX
Rob Caballero, Houston, TX
Jeremy Zollinger, New Orleans, LA

9:00-10:00AM

I-140 Days and I-140 Nights

Known as the "Gateway Petition" to permanent residency, the I-140 is filed for many different preference categories. This Panel will discuss common pitfalls, best practices, and give a general overview of what evidence is typically required in support of the Petition for the most commonly used preference categories.

- Ability to Pay
- Company Documentation (large v small businesses)
- Beneficiary's eligibility
- Self-Petitioner considerations
- Impact on NIV status

Dustin O'Quinn (DL) Seattle, Washington
Jeff Zimskind, Allentown, PA
*Terrence Olsen, Chattanooga, TN

10:00-10:15AM – **NETWORKING BREAK**

10:15-11:15

We Can't Help Fallin' in L-1s

No matter how difficult they may be sometimes, the L-1 visa category remains one of the most useful for multi-national employers and they are necessary to keep many businesses globally competitive. This Panel will discuss L-1A and L-1B trends, strategy tips, and policy updates.

- New L-1B Guidance
- Functional Manager L-1As
- Blanket L consular and CBP considerations
- New Office Ls and Extension considerations

Richard Jung, Austin, TX
Laurie Snider, Dallas, TX

11:15-12:15PM

I'm a Saint: Ethics for the Business Immigration Lawyer

Ethical issues arise in a variety of contexts when you represent the interests of both your client and their employee. This Panel will review how to navigate the complex relationship between attorney, client, and client's employee. Topics will include scope of representation issues, fee responsibility, and disclosure of information to either or both parties.

- How to establish clear representation
- Who can pay attorney's fees and filing fees
- When disclosure of documentation or information may be prohibited
- When withdrawal of representation may be appropriate

Sam Rock (DL), Lexington, KY
* Brandon Davis, New Orleans, LA
*Gunther Chestnut, San Antonio, TX

12:15-1:30 **LUNCH**

1:30-2:30PM

Everything has a shelf-life, even paper!

Clients are extremely hesitant to get rid of immigration related paperwork and often choose to keep everything as a precaution. This may not be in their best interest, and it's our job as attorneys to provide guidance on when to turn on that shredder and free up some space on their shelves! This panel will review the most common document retention rules, exactly what documents must be kept and when the retention requirements begin. They will also discuss the pros and cons for keeping documents beyond the required length of time.

- Public Access File Document Retention
- I-9 Form and E-Verify Confirmation page Retention
- PERM Audit File Retention Rules
- H-2B Audit File Retention Rules

Kevin Lashus (DL), Austin, TX
Rick Gump, Dallas, TX

2:30-3:30PM

Prevailing Wage Mambo

Required for both permanent and temporary labor certification applications, Prevailing Wage Determinations are a time consuming endeavor and must be planned for very carefully, lest you lose many months of precious time when a wage comes back too high for the employer to pay. This panel will review best practice tips for submission, alternative wage options, and outline steps that can be taken if a wage determination result is untenable for your client.

- Wage Guidance and Submission tips
- Alternative Wage Surveys
- Requesting a Redetermination
- Determining when to Appeal and when to submit a new Request

Angelica Grado-Wright, Houston, TX
Glen Krebs, Lexington, KY

3:30-3:45PM – **NETWORKING BREAK**

3:45-4:45PM

The Second Line: Handling issues with CBP and DOS

There are some employees who always get placed in secondary when they try to re-enter the US. There are others who fail to review their application before entry or their interview. This Panel will review various CBP and DOS issues that commonly occur and discuss effective and available remedies to help get your client's employee back behind a desk as soon as possible!

- Consular Requests for Supplemental Information
- Avoiding B-1 issues
- Providing comprehensive support letters
- Preparing client for interview
- How to be prepared for secondary
- Deferred Inspection to correct issues with entry

Lisa Sotelo, Dallas, TX
Adam Cohen, Memphis, TN

Conference Program Committee

Kelli J. Stump, Oklahoma City, OK

Nathan Bogart, Fayetteville, AR

Sujata Ajmera, Austin,

Carey Holliday, Baton Rouge, LA