



AMERICAN
IMMIGRATION
LAWYERS
ASSOCIATION

22nd Annual AILA New York Chapter Immigration Law Symposium *Broadway Is Back!*

After a three-year hiatus, (just like Broadway) the New York Chapter Symposium is back!

The immigration process can sometimes feel like watching a show that never ends, filled with long intermissions and unanticipated plot twists. This conference puts a spotlight on the many possible directions the story can take, including those that seem confusing, while providing tips and suggestions to help you take center stage and bring the performance to a successful conclusion! The conference addresses current issues and problems faced by practitioners (including issues unique to New York) and will feature two tracks: (1) employment-based immigration; and (2) family-based immigration and removal. You'll also get the latest news and practical information directly from government representatives and AILA liaisons, as well as opportunities to network with colleagues in the heart of Broadway! The program also will include a special session on cybersecurity to help you meet the new New York MCLE requirement.

December 4, 2023
New York Marriott Marquis
New York, NY

Times listed on the Program are Eastern Time (ET)

Monday, December 4, 2023

8:15 am – 5:00 pm **Registration and Exhibits**

Plenary

8:45 am – 8:50 am **Conference Kickoff**

8:55 am – 9:55 am **“You Ain’t Never Had a Friend Like Me”: How to Balance Cybersecurity and Efficiency in Your Practice (Cybersecurity)**
Recent technological advances, such as cloud-based storage, video calling, text messaging, and artificial intelligence (AI), have helped attorneys create efficiencies in their daily operations as well as managing clients and government

Note: All sessions and events are subject to change without notice.

agencies. But are there dangers associated with these “magical” tools? The panelists will focus on the real-life practical concerns of cybersecurity threats and breaches. In addition, they will discuss ethical considerations relating to the utilization of AI in your practice. Learn how to make technology work for you and keep your workplace safe!

- Are your files secure? Backups, redundancies, and encryption
- Contingency and resiliency: internet outages and “dark” clouds
- Common threats: ransomware, social engineering, leaking, and electronic theft
- Now that you know the dangers, how do you protect yourself?
- Forget lawyers! Hire a bot to write your cases
 - Pros and cons: ethical landmine or genius?

10:05 am – 11:35 am **The Hottest Ticket in Town! The Government Panel**
Come hear the latest updates from your local government officials, including U.S. Citizenship and Immigration Services (USCIS), U.S. Immigration and Customs Enforcement (ICE), U.S. Customs and Border Protection (CBP), and the Executive Office for Immigration Review (EOIR).

11:35 am – 11:45 am **Networking Break**

Business Track

11:45 am – 12:45 pm **Little Shop of Horrors: Complex Maintenance of Status Issues in Business Immigration**
Help your clients rewrite the ending to their immigration story and make it a happy one! The panelists will discuss complex maintenance of status issues and creative strategies for keeping your clients in status.

- Grace periods: regulatory language versus practical implications
- Complicated change of status situations, such as H-1B to B-2, B-2 to H-4, B-2 to F-1, and more
- Impact of Day 1 curricular practical training (CPT)
- Inadvertent overstays

12:45 pm – 1:35 pm **Lunch Break**

1:35 pm – 2:35 pm **Sunset Boulevard: Is the Golden Age of PERM Over?**
On June 1, 2023, as part of its ongoing modernization initiative, the U.S. Department of Labor (DOL) released the new version of Form ETA 9089 accessible in the Foreign Labor Application Gateway (FLAG). Thus culminated the 18-year run of the previous version, which—like some Broadway classics—can be both anachronistically troublesome and comfortingly familiar. Six months post-modernization, the panelists will discuss how changes to the 9089 impact the day-to-day PERM practice and strategies. They also will address the impact of equal pay legislation on PERM as more salary transparency laws are passed in jurisdictions around the United States.

- Familial relationship under the new Form ETA 9089

- Return with a vengeance? *Kellogg* language, and how to deal with alternative requirements
- Specific Vocational Preparation (SVP) level calculations, business necessity, and audits
- Equal Pay Transparency (EPT) laws

2:35 pm – 2:45 pm

Networking Break

2:45 pm – 3:45 pm

Phantom of the Workplace: Worksite Compliance in the Times of Remote/Hybrid Employment

The ability to transition to a remote/hybrid work environment was the saving grace for many businesses during the COVID-19 pandemic. However, this new “normal” also created many difficulties for employers complying with regulations and policies created long before remote work was even possible. The expert speakers for this advanced panel will discuss complex issues and strategies for employers seeking to comply with antiquated rules in the modern world.

- Companies transitioning to fully remote: how to structure various NIV and IV filings, including Es, Ls, Hs, and I-140s
- Notice requirements and actual wage range for H-1Bs/E-3s/H-1B1
- B-1/ESTA in lieu of H: “working” on U.S. soil?
- I-9 remote verification: alternative procedure

3:45 pm – 4:00 pm

Networking Break

4:00 pm – 5:00 pm

Like No Other Show You’ve Seen: Extraordinary Clients

Extraordinary clients have extraordinary goals. The panelists for this advanced session will discuss nonimmigrant (NIV) options for foreign nationals starting careers in the United States, including choosing the best visa category for presenting evidence to USCIS officers for clients in emerging industries. Panelists also will discuss strategies for clients with the long-term goal of becoming permanent residents.

- Working backwards: evaluating and presenting options based on the client’s long-term goals
- Emerging fields and non-traditional evidence for extraordinary ability: what type of evidence should be presented?
- Recommendation letters: value and purpose in the O-1A, O-1B, EB-1A, and NIW contexts
- Criteria for film and television vs. theatre: extraordinary achievement in the industry vs. distinction
- National Interest Waiver (NIW)/EB-1 for Science, Technology, Engineering, and Mathematics (STEM)
- When to consider applying for an NIW instead of an EB-1A

Family and Removal

11:45 am – 12:45 pm

Humanitarian Relief: The Impossible Dream?

“Give me your tired, your poor, your huddled masses yearning to breathe free” ... but then what? Recent regulatory changes have affected how foreign nationals in need can enter the United States with advanced permission. But what can they do once they are here? Does every noncitizen have a claim to political asylum? Can they obtain Temporary Protected Status (TPS)? The panelists for this advanced session will review the changes at the border and discuss how to craft a creative claim for political asylum, if feasible. If political asylum is not viable, the panelists will explore options for foreign nationals who are paroled into the United States or have been granted TPS and discuss strategies for alternate forms of relief.

- Political opinion vs. particular social group as grounds for asylum
- Humanitarian relief: CBP One™, new parole options
- How to use TPS or parole to gain permanent residency

12:45 pm – 1:35 pm

Lunch Break

1:35 pm – 2:35 pm

Litigation: “Climb Ev’ry Mountain”

Removal practice has recently undergone significant changes, including prosecutorial discretion (PD), EOIR docket-management initiatives, and new case law precedents. During this session for intermediate-to-advanced removal practitioners, the panelists will address issues that litigators are currently facing at each stage of a case’s lifecycle: from the filing of a Notice to Appear and navigating opportunities for PD to options for appealing a negative decision and motions to reopen.

- Getting back in front of the judge when the case is off the docket: administrative closure, off-docket notices, and scheduling orders
- The current state of PD, its different forms, and when it is in your client’s best interest
- All about motions: *Pereira/Niz-Chavez*, *Fernandes*, sua sponte motions, joint motions, and motions for newly available relief and changes in the law
- When is going to federal court appropriate for a denied case? Are there still winnable cases?

2:35 pm – 2:45 pm

Networking Break

2:45 pm – 3:45 pm

Waivers of Inadmissibility: “Don’t Rain on My Parade”

Your client is eligible for a family– or employment-based green card, but they are inadmissible and need a waiver. The panelists will provide a quick overview of the available waivers and different standards for each. They also will offer practical guidance for preparing waiver applications: where to file, when to file, and tips that can help get them approved.

- Overview of types of waivers, qualifying relatives, hardship and discretion, and where to file
- How much hardship is enough? Practical advice on what qualifies
- What kind of evidence should you submit? Do you need a psychological evaluation?

- Drafting effective memoranda and exhibits lists
- Spotting other grounds of inadmissibility (*i.e.*, smuggling, mental health, gang affiliation, misrepresentation) and alternatives

3:45 pm – 4:00 pm

Networking Break

4:00 pm – 5:00 pm

Crimmigration: “Once More, with Feeling!”

Our panel of experts will give you a refresher on the basics of crimmigration and how to determine if an offense renders your client removable. As often as you hear it, you still need to hear it again! Speakers will review recent, significant court decisions related to crimmigration. In addition, the panelists will provide practical advice on how to handle Requests for Evidence (RFEs) from USCIS when your client has a criminal history.

- Basic terms and concepts (*i.e.*, categorical, modified categorical, realistic probability)
 - Quick reminder on the difference between inadmissibility and removability, and why it matters
- Update on significant Board of Immigration Appeals (BIA) and U.S. Court of Appeals for the 2nd Circuit cases
- Valuable resources for people who do not practice crimmigration regularly
- Responding to RFEs from USCIS on criminal document requests

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