



2022 AILA FALL CONFERENCE & WEBCAST

Join us for the long-awaited 2022 AILA Fall Conference and Webcast in Lahaina, Hawaii! The conference offers two advanced tracks: one in Business, the other in Removal/Family. The Business track features panels on consular processing updates, planning around the H-1B cap, problems concerning inadmissibility, L-1/EB-1C issues, remote work issues and solutions to the most difficult problem cases. Experts in the Removal/Family track, meanwhile, will examine current issues in asylum, crimmigration, complicated citizenship cases, and creative strategies to address I-130 and I-485 denials. Both tracks also will address current trends in the law and upcoming issues affecting your practice. This conference is not to be missed!

SEPTEMBER 11, 2022 HYATT REGENCY MAUI RESORT AND SPA LAHAINA, HI

TIMES LISTED ON THE PROGRAM ARE HAWAII STANDARD TIME ZONE (GMT-10)

7:20 am–5:00 pm

REGISTRATION, INFORMATION, AND EXHIBITS

TRACK I: BUSINESS

7:40 am–7:50 am

WELCOME AND GREETINGS

Bushra A. Malik, Business Track Chair, Troy, MI

7:50 am–8:50 am

ALOHA! (HELLO!): CONSULAR PROCESSING UPDATES

As clients and consular posts settle into a new normal, practitioners must stay on top of changes in visa processing. The experts on this panel will discuss lingering issues caused by the pandemic and summarize the long-term and permanent changes in consular processing.

- Ongoing Pandemic Issues
- Returning Residents
- Expediting Nonimmigrant Visa Appointments
- Qs E-2 Applications
- Immigrant Visa Issues: Timing, Rescheduling Appointments, and Changing Posts

Faculty:

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

Aaron Karnell, Rockville, MD

Christi Hufford Jackson, London, England

Jeremy A. Weber, Wyong, New South Wales, Australia

8:50 am–9:05 am

NETWORKING BREAK

9:05 am–10:05 am

ERUPTION OF REGISTRATIONS: LONG TERM CREATIVE PLANNING AROUND THE H-1B CAP

With over 400,000 H-1B registrants in the latest H-1B registration, finding alternatives to the cap-subject H-1B is increasingly important for U.S. employers. Our expert panelists will discuss the options available for foreign national employees in an environment where selection in the H-1B lottery is increasingly less likely.

- Continuing with OPT/STEM OPT and the Risks of Using CPT
- Alternative Nonimmigrant or Dependent Visa Options
- Concurrent and Cap-Exempt H-1B
- Straight to Permanent Residence
- Transferring Abroad and Planning for Return

Faculty:

David W. Cook (DL), Fall Conference Committee, Columbus, OH

David J. Wilks, Fall Conference Committee, Buffalo, NY

Meghan Covino, Detroit, MI

Hannah Faith Little, Charlotte, NC

10:05 am–10:25 am

NETWORKING BREAK

10:25 am–11:25 am

CRACKING THE COCONUT: ADVANCED L -1 / EB-1C TOPICS

The last few years have brought to light unprecedented issues for L-1s and EB-1Cs. The faculty for this panel will examine these issues and advise on best practices for how to address them and move your case forward.

- Direct Remote Employment (*i.e.*, *Chartier*), How to Fulfill the “One Year in Three” Requirement, Limitations of Extended Business Travel
- Newer Office Issues: COVID Slowing Hiring Plans; Current Status of the “Lease” Requirement When Many Offices are Fully Remote; Creative “Business Plans”; Owner, Beneficiary, and Salary Issues
- Fastest Ways to Blanket Eligibility and Extending Blanket L I-129Ss at a Service Center When Travel Is Not Possible
- Closures of Offices Abroad (*e.g.*, Russia) and How They Affect L-1s, I-140s (Successor Issues, etc.)
- Latest on Work Authorization for Spouses

Faculty:

Claire S. Pratt (DL), Fall Conference Committee, San Francisco, CA

Roujin Mozaffarimehr, Business Section Steering Committee Chair, San Jose, CA

Ellen Freeman, Pittsburgh, PA

Kushal Naishad Patel, New York, NY

11:25 am–12:00 pm

LUNCH BREAK (INCLUDED WITH REGISTRATION)

12:00 pm–1:00 pm

BRAVING THE TIDAL WAVE OF MISTAKES: HOW TO SOLVE PROBLEMS AND MISTAKES CREATED BY THE GOVERNMENT, YOUR CLIENT, AND OTHERS

Frustration levels of immigration practitioners are at an all-time high. The panelists will address solutions for the most difficult types of cases.

- USCIS Service Center Inaction and Mistakes
- DOL Prevailing Wage Determinations and PERM Audits/Denials
- I-539 Adjudications and EAD Issues

- CBP I-94 Corrections and Travel History Issues
- Litigation

Faculty:

Bushra A. Malik (DL), Business Track Chair, Troy, MI

Jeff Joseph, AILA Second Vice President, Denver, CO

Nicole Simon, USCIS Case Assistance Committee Chair, Philadelphia, PA

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

1:00 pm–1:15 pm

NETWORKING BREAK

1:15 pm–2:15 pm

SURFING THE J-1 TWO-YEAR HOME COUNTRY REQUIREMENT

A past J issue always wipes out your case at the worst time—e.g., when a Certificate of Sponsorship (COS) H filing is due or an O-1 employee is needed tomorrow. The panelists will examine how to quickly analyze whether someone is subject to the two-year home country requirement. They also will help your clients understand their nonimmigrant (NIV) and immigrant (IV) visa options, whether by satisfying the requirement or applying for a waiver, or traveling to apply for a visa.

- The Effects of the Two-Year Requirement on NIV COSs (INA §248(a)) and Visa Applications (INA §212(e)): H/L vs. O-1
- How to Determine if Someone Is Subject to §212(e): Reviewing and Understanding the DS-2019 and Related Documents
- Are Advisory Opinions Worth It?
- Satisfying or Waiving the Requirement: Practical Overview and Timing
- J-2 Issues

Faculty:

Jennifer Minear (DL), AILA Past President, Richmond, VA

Maile M. Hirota, Honolulu, HI

Mahsa Khanbabai, Easton, MA

2:15 pm–2:40 pm

MEDITATION & BREAK

Mindfulness Meditation—a practice that can allow us to be more present in our day-to-day lives while also living more intentionally and less reactively.

Guide:

Danielle Polen, AILA Editorial Director and Yoga and Mindfulness Instructor, Washington, DC

2:40 pm–3:40 pm

ALOHA! (GOODBYE!): INADMISSIBILITY ISSUES

Business immigration practitioners are often unfamiliar and uncomfortable dealing with grounds of inadmissibility for their business clients' past or current criminal issues. Learn about how to analyze crimes and related issues involving alcohol, moral turpitude, and the petty offense exception with real life examples. Also find out how to deal with them in visa appointments and USCIS applications.

- Identifying Crimmigration Issues for Clients' NIV, Adjustment, and N-400 Applications
- When and How to Use Experts
- INA §212(d)(3): Is It Needed, Who Qualifies, How to Apply, and Does It Fix All Woes?
- Grounds of Inadmissibility, Prudential Visa Revocation, and DS-160 Tips

Faculty:

Daniel J. Parisi (DL), Brussels, Belgium

Russell Abrutyn, Membership Committee Chair, Berkley, MI

Mandy Feuerbacher, Los Gatos, CA

3:40 pm–4:00 pm

NETWORKING BREAK

4:00 pm–5:00 pm

CAN WE ALL WORK OUT OF MAUI? REMOTE WORK

How can practitioners advise corporate clients on remote work issues in the realities of an increasingly digital, COVID world? Panelists will investigate issues related to working from home, returning to the office, using digital offices, and more.

- Remote Worksites for PERM Applications
- H-1B Remote Work Issues
- Foreign Nationals Working Remotely in the United States
- I-9 Issues: Document Review, Changes in Permitted Documents, Going Back in Person

Faculty:

Douglas R. Penn (DL), Fall Conference Committee, Stamford, CT

Vincent W. Lau, DOL Liaison Committee Chair, Boston, MA

Brittany Thomas Faith, Chattanooga, TN

5:00 pm

CONFERENCE CONCLUDES

TRACK II: REMOVAL/FAMILY

7:40 am–7:50 am

WELCOME AND GREETINGS

John Gihon, Removal/Family Track Chair, Annual Conference Due Process Enforcement Subcommittee Chair, Altamonte Springs, FL

7:50 am–8:50 am

BLAZING UPDATES FROM THE COURTS

- Important Immigration Cases Going Before the U.S. Supreme Court This Term
- What Are Circuit Courts Doing with Prolonged Detention Cases Under INA §236(c) and INA §241(a) Post–*Jennings*?
 - Effect of *Johnson v. Arteaga-Martinez* and *Garland v. Gonzalez*
- The Fallout of *Patel v. Garland*: How Does the Supreme Court's Opinion Affect Federal Court Review of USCIS Decisions?
- Post-Conviction and Full Faith and Credit Issues
 - Detention Issues such as *Siniauskas*
 - Post-Conviction Relief Post–*Thomas and Thompson*
 - *Matter of Dingus*
- Policy Changes at EOIR and DHS Headquarters, Litigation to Impede It

Faculty:

Michael S. Vastine (DL), Fall Conference Committee, Miami Gardens, FL

Jeremy L. McKinney, AILA President, Expanding Legal Representation Task Force Chair, Greensboro, NC

Ira J. Kurzban, AILA Past President, AILA Author, Kurzban's Immigration Law Sourcebook, 18th ed., Coral Gables, FL

Judah Ben Lakin, Oakland, CA

8:50 am–9:05 am

NETWORKING BREAK

9:05 am–10:05 am

CYCLONIC CRIMES PANEL: CATEGORICAL AND MODIFIED CATEGORICAL, REALISTIC PROBABILITY, AND MORE

The courts themselves have trouble keeping these different approaches straight. This panel will provide a refresher on the categorical approach, its dysfunctional family, and explain which applies and when.

- How Circuit Courts Employ the Realistic Probability Analysis: Are Case Examples Always Necessary? Can One Rely on the Language of the Statute?
- Burdens of Proof in Removal, Removability, and Relief
- Fraud and *Matter of F-R-A-*
- Advanced Drug Defenses, Issues Related to Firearms
- Ambiguous Convictions

Faculty:

W. Michael Sharma-Crawford (DL), Kansas City, MO

Susan Girardo Roy, Princeton Junction, NJ

Mary E. Kramer, AILA Author, Immigration Consequences of Criminal Activity: A Guide to Representing Foreign-Born Defendants, 9th ed., Miami, FL

10:05 am–10:25 am

MEDITATION & BREAK

Mindfulness Meditation—a practice that can allow us to be more present in our day-to-day lives while also living more intentionally and less reactively.

Guide:

Danielle Polen, AILA Editorial Director and Yoga and Mindfulness Instructor, Washington, DC

10:25 am–11:25 am

SURFING THE WAVES OF ASYLUM LITIGATION

Matter of A-B- and Matter of L-E-A- II have finally been vacated, but what does that mean for your cases? Our panel of experts will explore social group formulation and other advanced topics relating to asylum and related relief.

- Latest Notable Particular Social Group (PSG) Opinions in the Courts and the Proposed PSG Regulation
- Current Implementation of *Matter of L-E-A-* and *Matter of A-R-C-G-*, Including Common DHS Objections and Immigration Judge Resistance
- Strategies to Consider in Changing or Updating Your Theory of the Case as the Law Continues to Change
- Avoiding Dismissal Where Your Client Has a Strong Case for Relief

Faculty:

Amanda Bethea Keaveny (DL), AILA Board of Governors, AILA EOIR Committee Chair, Charleston, SC

Dree K. Collopy, AILA Author, AILA’s Asylum Primer, 8th ed., Asylum and Refugee Committee, Washington, DC

Sarah Weston Hayes Owings, Atlanta, GA

11:25 am–12:00 pm

LUNCH BREAK (INCLUDED WITH REGISTRATION)

12:00 pm–1:00 pm

STUNNINGLY-CREATIVE LITIGATION STRATEGIES IN IMMIGRATION COURT

Most removal practitioners know how to prepare and litigate an asylum application and other common forms of relief. The experts on this panel will explore other creative options for helping your client avoid an order of removal with non-traditional strategies.

- Using the Doyle Prosecutorial Discretion Memo to Do More Than Just Dismiss Removal Proceedings
- Administrative Closure for Collateral Adjudications and More
- Joint Motions to Reopen for Prosecutorial Discretion, Temporary Protected Status Adjustment, and New Relief
- Keeping Your Employment Authorization Document with a Dismissed Case
- Using *Pereira* and *Niz-Chavez* to Reopen

Faculty:

Sui Chung (DL), AILA Board of Governors, Miami, FL
Kelli Jo Stump, AILA First Vice President, Oklahoma City, OK
John Gihon, Removal/Family Track Chair, Annual Conference Due Process Enforcement Subcommittee Chair, Altamonte Springs, FL
Cory Forman, New York, NY

1:00 pm–1:15 pm

NETWORKING BREAK

1:15 pm–2:15 pm

STORMING AHEAD: YOUR I-130 AND I-485 WERE DENIED BY USCIS, NOW WHAT?

Your happily married couple were headed to Hawaii, but USCIS flooded your mailbox with denial letters. Our expert panelists will help you identify the best options and strategies for your clients to succeed in the face of adverse USCIS decisions on I-130s and I-485s.

- Your Clients' I-130 Was Denied: Reviewing the Reasons for Denial; Determining Whether to Refile, Appeal, or Go Directly to Federal Court
- Must One Appeal Both the I-130 and I-485 Denials to Preserve Eligibility?
- What Do You Do with Your I-485 Denial? What and When Can You Litigate? What Should You Expect?

Faculty:

Ally Bolour (DL), Los Angeles, CA
Rekha Sharma-Crawford, Kansas City, MO
John Patrick Pratt, Coral Gables, FL

2:15 pm–2:40 pm

NETWORKING BREAK

2:40 pm–3:40 pm

CRACKING THAT COCONUT: COMPLICATED CITIZENSHIP CASES

Your client is on the stand in federal court. Is it too late now to say sorry? YES. Instead, you need to lay the groundwork from the very beginning. The panelists will provide detailed analysis of how to best prepare N-400s and build the record to win in anticipation of things going wrong.

- Your Client Has a Complicated Criminal History and May Be Removable or Permanently Barred for Good Moral Character: How to Frame Legal Arguments, and Types of Evidence That Demonstrate Rehabilitation
- Your Client Has the Travel Bug: How Much Time Out Is Too Much Time? Can You Overcome the Presumption, and If So, How?
- Your Potential Client Has Already Been Denied: File an N-336 or Refile? What's on the Record? What Can You Add at the N-336 Hearing to Win in Federal Court?
- Your Client Faces Denaturalization: What Are the Grounds? What Is the Burden and Who Bears It? What Defenses Can You Raise?

Faculty:

Ofelia L. Calderon (DL), Fall Conference Committee, Fairfax, VA
Heather Drabek Prendergast, AILA Board of Governors, Cleveland, OH
Petula Natasha McShiras, Lakewood, CO

3:40 pm–4:00 pm

NETWORKING BREAK

4:00 pm–5:00 pm

FIERY ETHICAL ISSUES IN REMOVAL PRACTICE

Removal defense can be rife with ethical dilemmas. The panelists will discuss some of the more common ethical challenges that removal practitioners face when representing clients before the immigration courts.

- How Much Should You Charge a Prospective Client? Can You Change the Fees During Representation Due to Changes in the Facts, Law or Scope of Removal Defense?

- What Are Your Ethical Obligations When Your Client Admits to Engaging in Inadmissible Activity (Fraud, Crime, Prostitution)?
- When Must You Withdraw from Representation? How Do You Do It?
- Should Your Client Take Prosecutorial Discretion? How Do You Advise Them on Their Options and the Long-Term Consequences?

Faculty:

Michele N. Carney (DL), Ethics Committee Chair, Seattle, WA

Olsa Alikaj-Cano, Fall Conference Committee, Houston, TX

Reid Trautz, Senior Director, AILA Practice & Professionalism Center, Washington, DC

5:00 pm

CONFERENCE CONCLUDES

Conference Program Committee

Business Track

Bushra A. Malik, Business Track Chair, Troy, MI

David W. Cook, Columbus, OH

Douglas R. Penn, Stamford, CT

Claire S. Pratt, San Francisco, CA

Jennifer L. West, Richmond, VA

David J. Wilks, Fall Conference Committee, Buffalo, NY

Removal/Family Track

John Gihon, Removal/Family Track Chair, Altamonte Springs, FL

Olsa Alikaj-Cano, Houston, TX

Ofelia L. Calderon, Fairfax, VA

Erin C. Cobb, Chicago, IL

Michael S. Vastine, Miami Gardens, FL

Jonathan Willmoth, Fall Conference Committee, Kansas City, MO

Sarah Kra, AILA eLearning Programs Associate, Washington, DC

Michael Orlando, AILA Associate Director of Professional Development, Washington, DC