



AMERICAN
IMMIGRATION
LAWYERS
ASSOCIATION



2017 AILA FALL CONFERENCE: FEARLESS LAWYERING

BUSINESS IMMIGRATION LITIGATION CONFERENCE

ORGANIZED BY THE AMERICAN IMMIGRATION COUNCIL AND CO-SPONSORED BY AILA

The Council aims to demystify the process of challenging denials of business-related petitions in federal court. Panel sessions are designed to educate attorneys at all levels on how to develop a solid administrative record, address a client's concerns about filing suit, and draft, file, and serve a complaint. Based on a case study, participants will apply what they learn during interactive sessions focused on developing a complaint, preparing to oppose a motion to dismiss, and honing arguments to prevail on summary judgment. Faculty members will provide feedback, offer practice pointers, and participate in a mock oral argument. Don't miss this opportunity for hands-on learning in a small group led by experienced litigators!

Attendees will be required to review a case-study prior to this one-day training, and are expected to participate actively in practical exercises. To facilitate peer-to-peer and faculty/participant interaction, space for this intensive workshop is limited. Registrations, therefore, will be accepted on a first-come, first-served basis. The registration period will remain open until September 8, or until all of the spaces are full, whichever occurs first.

September 15, 2017
Portland, OR

Friday, September 15, 2017

8:00 am – 8:10 am

WELCOME AND OPENING REMARKS

Leslie K. Dellon, Conference Program Chair, Staff Attorney (Business Immigration), American Immigration Council, Washington, DC
Melissa Crow, Litigation Director, American Immigration Council, Washington, DC

8:10 am – 9:00 am

OVERVIEW: WHAT TYPES OF ACTIONS CAN BE FILED?

Panelists will present various litigation strategies that can be used to resolve difficult cases.

- Administrative Procedure Act (APA)
- Mandamus
- Constitutional Claims
- Requests for Relief

Faculty:

Melissa Crow (DL), Litigation Director, American Immigration Council, Washington, DC

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

Olivia Serene Lee, Conference Program Committee, San Francisco, CA

* = invited, not confirmed

Megan Kludt, Northampton, MA

9:00 am – 9:50 am

DEVELOPING THE ADMINISTRATIVE RECORD AND CONVINCING AN EMPLOYER TO SUE

ADMINISTRATIVE RECORD

- Why Is the Record Important?
- Developing a Strong Record (H-1B Classification)
 - What Does the Immigration and Nationality Act (INA) Require?
 - What Evidence Is Available to Support Your Claims?
 - Organizing the Evidence

Faculty:

Leslie K. Dellon, Conference Program Chair, Staff Attorney (Business Immigration), American Immigration Council, Washington, DC

Robert H. Cohen, Conference Program Committee, Columbus, OH

MOCK CLIENT MEETING

Employer:

Olivia Serene Lee, Conference Program Committee, San Francisco, CA

Employer's Attorney:

Thomas K. Ragland, Conference Program Committee, Washington, DC

- Timetable: Other Options? Is Litigation “Fast” Enough?
- Cost
- Assuaging Fear of Government Retaliation
- Managing the Employer's Expectations

9:50 am – 10:00 am

NETWORKING BREAK

10:00 am – 11:30 am

PREPARING THE COMPLAINT, AND WHAT HAPPENS NEXT?

DRAFTING THE COMPLAINT

- Exhaustion
- Finality
- Statute of Limitations
- Deciding on Cause(s) of Action
- Jurisdiction
- Venue
- Parties, Including Whom to Sue
- Relief and Attorneys' Fees
- Standard of Review

Faculty:

Amy Prokop Lenhart (DL), Los Angeles, CA

Matthew L. Hoppock, Overland Park, KS

Maris J. Liss, Farmington Hills, MI

FILING AND SERVING THE COMPLAINT, AND THE GOVERNMENT’S “FIRST MOVE”

- What Is Electronic Case Filing?
- What Other Documents Should Be Filed with the Complaint?
- Interplay of the Federal Rules of Civil Procedure (FRCP) and Local Court Rules
- Service of Process (FRCP 4)
 - Preparing the Summons
 - Methods of Service
 - Proof of Service
- You’ve Served the Government: Now What?
 - How Much Time Does the Government Have to Respond?
 - What Do You Do When the Government Asks for an Extension of Time?
 - Are Settlement Negotiations Possible?
 - What Happens After the Government Files an Answer?
 - What If the Government Moves to Dismiss?
 - What If USCIS Sends a Request for Evidence?
 - What Happens at a Status Conference?

Faculty:

Olivia Serene Lee, Conference Program Committee, San Francisco, CA

Gregory Romanovsky, Boston, MA

PARTICIPANTS WILL BE DIVIDED INTO MANDAMUS AND APA GROUPS

11:30 am – 12:30 pm **INTERACTIVE: FILING MANDAMUS ACTION (PART 1)**
Groups will identify what information they need from the materials to prepare the complaint, flag issues to be resolved, and develop recommendations.

Faculty:

Thomas K. Ragland, Conference Program Committee, Washington, DC

Megan Kludt, Northampton, MA

Maris J. Liss, Farmington Hills, MI

11:30 am – 12:30 pm **INTERACTIVE: FILING APA ACTION (PART 1)**
Groups will identify what information they need from the materials to prepare the complaint, flag issues to be resolved, and develop recommendations.

Faculty:

Olivia Serene Lee, Conference Program Committee, San Francisco, CA

Gregory Romanovsky, Boston, MA

*Melissa Crow, Litigation Director, American Immigration Council,
Washington, DC*

12:30 pm – 1:30 pm **WORKING LUNCH (INCLUDED WITH REGISTRATION)**

1:30 pm – 2:30 pm

INTERACTIVE: FILING MANDAMUS AND APA ACTIONS (PART 2)

Groups present their recommendations.

FOLLOWING GROUP PRESENTATIONS

MANDAMUS FEEDBACK

Faculty will lead discussion of favorable and unfavorable factors for mandamus from the perspectives of the employer's attorney and the government attorney.

Faculty:

Thomas K. Ragland, Conference Program Committee, Washington, DC

Megan Kludt, Northampton, MA

Maris J. Liss, Farmington Hills, MI

APA FEEDBACK

Faculty will lead discussion of potential weaknesses in the record and how the employer's attorney can overcome them, and point out how the government could benefit from the weaknesses in the record to potentially defeat the suit.

Faculty:

Olivia Serene Lee, Conference Program Committee, San Francisco, CA

Gregory Romanovsky, Boston, MA

*Melissa Crow, Litigation Director, American Immigration Council,
Washington, DC*

2:30 pm – 2:40 pm

NETWORKING BREAK

2:40 pm – 4:10 pm

OPPOSING A MOTION TO DISMISS AND CROSS-MOTIONS FOR SUMMARY JUDGMENT

MOTION TO DISMISS

- Usual Legal Theories Raised by the Government
 - FRCP 12(b)(1): Lack of Subject Matter Jurisdiction
 - FRCP 12(b)(6): Failure to State a Claim Upon Which Relief Can Be Granted
- Strategies to Defeat the Government's Arguments

Faculty:

Diane M. Butler (DL), Seattle, WA

Jeffrey A. Devore, Palm Beach Gardens, FL

Matthew L. Hoppock, Overland Park, KS

INTERACTIVE: CROSS-MOTIONS FOR SUMMARY JUDGMENT

Groups will be divided into employer and government sides. Each will identify questions of law and what evidence in the record supports judgment in their favor.

Following small group discussions, all participants will come together to discuss legal questions, as well as strengths and weaknesses of their respective positions and supporting evidence.

Faculty Leading Employer Discussion:

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

Robert H. Cohen, Conference Program Committee, Columbus, OH

Megan Kludt, Northampton, MA

Faculty Leading Government Discussion:

Amy Prokop Lenhart (DL), Los Angeles, CA

*Leslie K. Dellon, Conference Program Chair, Staff Attorney (Business
Immigration), American Immigration Council, Washington, DC*

Thomas K. Ragland, Conference Program Committee, Washington, DC

4:10 pm – 5:00 pm

**CROSS-MOTIONS FOR SUMMARY JUDGMENT MOCK ORAL ARGUMENT,
QUESTIONS, AND WRAP-UP**

MOCK ORAL ARGUMENT

Judge:

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

Government Attorney:

Diane M. Butler, Seattle, WA

Employer's Attorney:

Jeffrey A. Devore, Palm Beach Gardens, FL

QUESTIONS AND WRAP-UP

*Leslie K. Dellon, Conference Program Chair, Staff Attorney (Business
Immigration), American Immigration Council, Washington, DC*

*Melissa Crow, Litigation Director, American Immigration Council,
Washington, DC*

All Faculty Invited to Participate

CONFERENCE PROGRAM COMMITTEE

Leslie K. Dellon, Conference Program Chair, Staff Attorney (Business Immigration), American Immigration Council, Washington, DC

Palma R. Yanni, AILA Past President, Washington, DC

Robert H. Cohen, Columbus, OH

Olivia Serene Lee, San Francisco, CA

Thomas K. Ragland, Washington, DC

Melissa Crow, Litigation Director, American Immigration Council, Washington, DC

John M. Area IV, AILA Education Programs Manager, Washington, DC