



Three-Part Telephone & E-mail Seminar:  
""Labor"-Intensive Immigration Practice: Advanced DOL Strategies on  
the Eve of PERM"

Speakers: with Angelo Paparelli, Rebecca Burdette, Steven Clark, Allen Kaye,  
Cheryl Lenz-Calvo, Edward Litwin, Joel Stewart and William Stock

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**Seminar Outline**

Each call features an hour of analysis, strategy and practice tips by the speakers followed by 30 minutes of questions and answers from participants.

**Topics for First Phone Session on April 29, Second Phone Session on May 16 and Third Phone Session on June 26:**

Seasoned practitioners of the art and science of labor certification know that we immigration lawyers face the toughest times in our collective memory:

- Industry and employer layoffs have made Reduction in Recruitment a burdensome and seemingly snail-paced process.
- Regional variations in policies and practices among the several Certifying Officers can trip up even the most accomplished immigration lawyers.
- The lack of agency funding and the still-to-be processed 245(i) cases have created backlogs in standard and RIR cases for as far as the eye can see.
- New legislation allowing H-1B extensions beyond six years cause us to puzzle over the choice of RIR or standard labor certification.
- Against this backdrop, we fret over the as-yet unpublished PERM final rule. The latest predictions from the Labor Department are that a final or interim final PERM rule will be published in July and effective by October, 2003.
- How can practitioners best prepare cases in the current economic environment?
- How should we gear up for PERM?

Topics will include:

1. Prevailing Wage issues:

- Level 1/Level 2 and jobs in the mid-level range
- Area of intended employment
- Crosswalk and Reverse Crosswalk Issues and the grouping of DOT positions as transferred to the OES
- Applying the TEGL: Perspectives of the Regions, SWAs and practicing attorneys

2. RIR Issues:

- Differences between the SWA and the Region
- Labor certifications for IT jobs: Myth or Reality?
- Aftermath in the Regions of the Ziegler I and II memoranda involving layoffs in the industry or by the sponsoring employer
- Employer burdens in responding to the flood of resumes from unqualified applicants, and the resultant extra work in preparing the recruitment report: How much detail is required?

3. Backlog reduction measures:

- What steps are the Regions and the SWAs taking in advance of the PERM rollout?

4. The PERM Rollout:

- What's going to happen and when?
- What will happen to related occupations?
- What will happen to university degree requirements for certain positions involving a combination of education and experience?
- How will Schedule A be affected?
- Will business necessity survive?

5. Potpourri of other issues:

- The status of "Or equivalent" today after Chintakuntla
- Inconsistencies among adjudicators in the same Region
- Increased NOFs at some Regions

**Detailed session by session curriculum on following page**

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(→ see next pages for speaker bios)



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### FIRST phone session on April 29

1. Regional Office and individual SWA variations in Labor Certification Practice & Procedure - NY, NJ, New England States, California, Arizona, Hawaii, and Washington
  - Crossover between levels 1 and 2 and effect on prevailing wages
  - Experience gained on the job with the sponsoring employer
  - Availability of RIR by occupation/industry, e.g., IT, financial services, manufacturing, etc.
  - Ad requirements for RIR
  - When to use journal and when to use newspaper?
  - Alternative job requirements
  - SVP Designation by reference to DOT versus SOC
  - Processing Times at SWAs and DOL regions
2. Prevailing wage determinations
  - Why are wages going up when the market is going down? (Is it because OES is based on last three years?)
  - Alternative wage sources (brief discussion)
  - Use of such companies as the Survey Group or ERI
3. RIR/Non-RIR
  - Strategic choices -- standard vs. RIR in light of 6-year plus extensions
  - Advertising Issues
  - Advertisement contents -- RIR/Non-RIR and under Ziegler memos
  - Where to advertise: national or local
  - Whether advertising done now will qualify for PERM later

### SECOND phone session on May 16

1. *"We're not in Kansas anymore, Toto!"*: Regional variations in policies and practices among the DOL Certifying Officers in Atlanta, Texas and Chicago and the large-state State Work Force Agencies in these regions:
  - Prevailing Wages: Crossover between levels 1 and 2 and the effect on prevailing wages for jobs in the mid range;
  - Feasibility and strategy on using experience gained on the job with the sponsoring employer
  - Ad frequency and content and pattern-of-recruitment requirements for RIR
  - When to use journal and when to use newspaper
  - SVP Designation by reference to DOT versus SOC
  - Processing Times at SWAs and DOL regions
2. *"Did You Ever Have to Make up Your Mind"*: Resolving differences between the DOT and the SOC in minimum requirements and prevailing wage determinations;
3. *"As of now, I am in control here"*: Issues of control and delegation of duty between federal and state processing of labor certifications;
4. *"Hit the Road Jack"*: Where do you go in the standard queue when your RIR's been denied (end of the line or by original priority date)
5. *"Home Sweet Home"*: Evolving issues where alien is currently employed by the sponsoring employer;
6. *"Here come da Judge"*:
  - Evidentiary issues and burden of proof;
  - Must information demanded by the Certifying Officer be relevant or merely reasonable
  - Are operating instructions masquerading as legal precepts;
  - Bizarre NOF's;
  - BALCA update

### THIRD phone session on June 26

#### The PERM Rollout: Are you and your clients ready?

Should we REALLY expect publication by "late Fall" with effective date by the end of 2003?

How will DOL Rollout PERM?

Will they offer beta testing of technology to corporate stakeholders and attorneys?

What will happen to:

Related occupations?

Schedule A (the pre-certified category)?

Business necessity?

Jobs requiring a combination of education and experience? •To what extent will PERM resemble RIR or an Attestation-Driven Process? •Will print ads still be mandatory?

•How will PERM "audits" differ from traditional supervised-recruitment procedures? •How will DOL ferret out labor certification fraud? •How will conversion to PERM operate? •How does DOL plan to operate a two-track system of PERM cases and backlog reduction of RIR and standard cases in an era of "auto-remands"? •Should you try to pre-qualify your cases for PERM right now?

#### BCIS Perspectives on Labor Certification Issues:

BCIS interpretation of the Schedule A requirements,

H-1B extensions beyond Six Years: Who qualifies? Who loses? •Delayed labor certification adjudications and the impact of new DOJ Appropriation Act amendments to AC-21 •Reconciling the new statutory provisions with the BCIS Headquarters April 24 memorandum



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### About the Speakers

**Angelo A. Paparelli** certified as a Specialist in Immigration and Nationality Law by the State Bar of California, has been practicing business-sponsored immigration law for over 20 years. He is a nationally recognized speaker, published author and leading expert on cutting-edge business-related immigration issues, including the immigration consequences of mergers, acquisitions, reorganizations and other business changes, consular visa practice, audits of employers' compliance with immigration regulations, and work visas for executives and professionals. From 1991 to 1996, Mr. Paparelli served as co-Chairman of the Immigration and Nationality Law Committee of the American Bar Association's Section on International Law and Practice. He also served from 1988 to 1994 as an elected member of the Board of Governors of the American Immigration Lawyers Association (AILA). He is named in the 1990-2004 editions of Best Lawyers in America under category of Immigration Law. Mr. Paparelli received the President's Award at the June, 2001 AILA Annual Conference for his contributions to the association in liaison with the Immigration and Naturalization Service on the immigration consequences of mergers, acquisitions and other forms of entity restructuring. He is a graduate of the University of Michigan (B.A., 1971) and Wayne State University Law School (J.D., 1976).

**Rebecca Burdette** has been practicing exclusively in the area of Immigration and Nationality Law since 1981. A graduate of the University Of Houston College of Law, Ms. Burdette is licensed to practice in the states of Texas and Colorado. She has been certified in the area of Immigration and Nationality Law by the Texas Board of Legal Specialization. She has served in numerous capacities with the Texas and Colorado Chapters of the American Immigration Lawyers Association (AILA) and has been a speaker at the AILA annual conferences as well as other immigration conferences for many years. She is past Chair of the Colorado and Texas Chapters of AILA. She was selected for inclusion in Best Lawyers in America.

**Steven Clark** is a past president of AILA (1999-2000). He has authored over 40 publications on H & L visas, Labor Certification, and Employment Based Immigration. He served as Senior Editor AILA's Annual Conference Handbook, Editor of the chapter on Labor Certification in the treatise Immigration Law and Practice (Times Mirror/Mathew Bender Co.). He has also been listed as one of "The Best Lawyers in America" under the immigration heading since its inception and is rated "AV," the highest rating conferred by Martindale-Hubbell, an authoritative, independent rating service. Mr. Clark is also a founding member of IMMLAW®, the national consortium of preeminent immigration firms with over two centuries of combined immigration law experience.

**Allen E. Kaye** is a past National President of the AILA. Mr. Kaye is a regular columnist on the U.S. immigration and naturalization law for the newspaper India Abroad and over 50 other newspapers across the U.S. He co-hosts a popular bi-monthly television program on Channel 47 in New York called "Immigration and You". He is a frequent lecturer on the U.S. immigration, naturalization, visa and consular law for various organizations and associations in the U.S. and India and has offices in New York City and Bombay, India. He is Co-Editor, with Dan P. Danilov, of the United States Immigration News. Mr. Kaye is listed in the Martindale-Hubbell Bar Register of Preeminent Lawyers and also in The Best Lawyers in America, both in the field of Immigration and Naturalization Law.

**Cheryl Lenz-Calvo** is a former Chair of the Executive Board of the Chicago Chapter of the American Immigration Lawyers Association (AILA) and a current appointed member of AILA's national liaison committee with the U.S. Department of Labor. She is a frequent speaker at AILA conferences and a contributor to the association's publications. A graduate of DePaul University Law School, Ms. Lenz-Calvo's specialization is employment-based immigration law. She represents organizations ranging from small businesses to multi-national corporations, hospitals, and universities on immigration trends and strategies. Among her clients are NBA athletes, engineers, researchers, professors and artists.

**Edward Litwin** is a nationally recognized immigration law expert and is certified by the California State Bar Board of Legal Specialization as a Specialist in Immigration and Nationality Law. He concentrates in the area of labor certifications and business visas, in addition to providing other immigration services. He is a graduate of Hastings College of Law and has been in practice since 1975. His past and present professional affiliations, activities, and accomplishments include: published articles in the Immigration Journal, Personnel News, and Immigration Law and Procedure; speaker at advanced immigration seminars throughout the United States, Canada, and Puerto Rico under the auspices of the American Immigration Lawyers Association, Practising Law Institute, California State Bar, and various other bar associations; Adjunct Professor, teaching Immigration and Nationality Law at the University of San Francisco Law School and the McGeorge School of Law; Member: American Immigration Lawyers Association and elected member of its board of Governors, San Francisco Bar Association, Christian Legal Society, Federal Bar Association, and American Bar Association. He is included in the Best Lawyers in America (Seventh Edition), An International Who's Who of Corporate Immigration Lawyers, Who's Who in American Law (Ninth Edition), Who's Who in Executives and Professionals (1999-2000 edition), and National Registry of Who's Who (life member), Strathmore's Who's Who (life member).

**Joel Stewart** practices exclusively in the area of immigration law with Fowler, White, Burnett, Hurley, Banick & Strickroot, P.A. He is Past President of the South Florida Chapter of the American Immigration Lawyers Association (AILA) and is a nationally recognized authority on employment-based immigration matters and a popular speaker at immigration seminars for national and local bar associations throughout the United States. Mr. Stewart writes the monthly BALCA Case Summaries for Immigration Law Today and authors official publications of AILA such as the Visa Processing Guide for Procedures at U.S. Consulates and Embassies in Brazil and Portugal. Mr. Stewart specialized in Romance and Slavic Linguistics before receiving a J.D. from the University of Connecticut School of Law, and is fluent in Portuguese, Spanish, French, and Russian.

**William Stock** is a partner with the Immigration Practice Group at Dechert LLP. He handles all aspects of immigration law, including assisting companies and individuals in obtaining employment and family-based visas; resolving citizenship issues and obtaining naturalization; and defending clients in INS and Department of Labor enforcement proceedings. He is a past member of the Board of Governors of the American Immigration Lawyers Association (AILA), and received the Joseph Minsky Award, given by AILA to a lawyer under age 35 who has made outstanding contributions to the field of immigration law, in 2000. He is a member of the Editorial Boards of Bender's Immigration Bulletin and Bender's Labor and Employment Bulletin; has authored many articles on immigration law topics; and serves as an Associate Editor of the Immigration and Nationality Law Handbook published annually by AILA. He is an Adjunct Faculty Member at Villanova University School of Law and was selected for inclusion in Best Lawyers In America in 2003.