



Three-Part Telephone & E-mail Seminar:  
Running With The Bulls In Immigration Pamplona

Speakers: Angelo Paparelli, Atessa Chehrizi, Steven A. Clark, Martine Cuomo, Josie Gonzalez, Peter Larrabee, Edward R. Litwin, Nancy-Jo Merritt, Gregory Siskind and Allan Wernick.

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*Disclaimer: participation in this seminar does not create an attorney-client relationship with the speakers.*

**Seminar Outline**

Hey there, Immigration Lawyers, are you feeling breathless in the race to keep pace with ever-changing immigration rules? Do you fear becoming road kill as Congress's new herd of recently-enacted immigration laws come close to trampling you? Are you racing toward the new laws' effective dates with no clue as to the path to take when they arrive? Has the Intelligence Restructuring Act restructured your intelligence? Is your immigration knowledge retrogressing? Well don't be stampeded. Don't be gored by the fine points of the new laws, regulations, policy memoranda, and court rulings.

**FIRST Phone Session on Jan 31st:**

The H-1B Visa Reform Act and other H-1B Practice Pointers

- What types of Master's degree holders qualify for the additional 20,000 H-1B numbers?
- When will filings for the additional 20,000 H-1B numbers be allowed?
- How will USCIS count the new numbers?
- How can employers get a second chance to correct public access folders before DOL can issue fines?
- How do employers apply the new four-level wage system?
- What does PERM say about automatic H-1B wage increases when employees are promoted?

The L-1 Visa Reform Act

- Are some Blanket L-1 petitioners grandfathered and still allowed to import blanket L-1B applicants with only six months experience abroad?
- How can employers dispatch L-1 workers at customer site while avoiding the ban on off-site placements?
- What evidence should employers assemble now to avoid off-site placement liability for consulting companies, corporate customers and L-1B workers?
- How should you advise your clients if they are contacted about their L-1 employment practices by the DHS Office of Inspector General?

Immigration Provisions in the Intelligence Reform and Terrorism Prevention Act of 2004

- What are the new statutory requirements for visa interviews and waivers of interview?
- What new authority exists to revoke approved immigrant visa petitions and approved visas retroactively without notice to the alien?
- What does the new law say about standards for driver's licenses and birth certificates?
- How many additional U.S. consular officers, Border Patrol officials, ICE officers and detention spaces does the new law authorize over the next four years?
- What protections does the new law create concerning privacy and civil rights?

Electronic I-9 Legislation

- Should employers opt for paper or electronic storage of Forms I-9 (Employment Eligibility Verifications)?
- What forms of electronic signatures will likely satisfy the new law?
- How does a digital signature differ from an electronic signature?
- Under what circumstances should employers consider scanning their existing inventory of paper I-9s and discarding the originals?
- How does the I-9 Retention Rule and the 5-year I-9 statute of limitations affect the decision to scan existing paper I-9s?
- What Standards Will the Government Adopt for Electronic Signatures and the Electronic Retention of I-9s?
- How Will Existing I-9 Procedures Be Integrated with Forthcoming Electronic-Signature/Retention Regulations?
- Will the Government Also Publish a New I-9 Form and a Streamlined List of Acceptable Documents When Issuing the New Digital I-9 Regulation?
- What Software Applications Are Recommended When Driving down the Digital I-9 Superhighway?

The J-1 Waiver Relief Act

- How will the 3000 J-1 waivers for doctors be issued over the next two years?
- What must an employer do to show eligibility for exemption from the H-1B quota?
- Which types of medical practice are covered?
- Under what circumstances can a J-1 doctor serve outside of a medically underserved area?

**SECOND Phone Session on Feb 9th:**

Tsunami-Related Immigration Relief

- What are the best strategies and tactics for securing parole or petitioning for minor children, extending nonimmigrant stay, changing status, and gaining other immigration benefits for citizens or residents of Tsunami-affected countries (Burma, India, Indonesia, Malaysia, Maldives, Somalia, Sri Lanka and Thailand)?
- What special stay or removal procedures are available to citizens of Sri Lanka and Maldives because of the tsunami-inflicted damage?

Immigration Judicial Decisions and Strategies You Can Use Today

- How do you preserve the record on appeal (even if you have no plans to litigate on behalf of your clients)?
- What are most vulnerable interpretations of the U.S. Citizenship and Immigration Services Administrative Appeals Office and how can you



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best attack them?

- How can you create a litigation template to attack unlawful USCIS, DOL or DOS regulations using the Administrative Procedures Act and rules of statutory construction without exhausting administrative remedies?
- Which successful cases can you use as models for challenging unlawful agency practices and policies?
- How can you establish that the INA jurisdiction-stripping provisions of IIRIRA do not apply to your client's case?

US Visit Implementation and NSEERS Detritus

- How does US Visit work and when will it be fully operational?
- When will "Kiosk-Compliance" suffice for US Visit exit confirmation?
- Will your client be forgiven for failure to register departure or surrender the I-94 card?
- How does the ghost of NSEERS still haunt aliens seeking nonimmigrant visas, nonimmigrant extensions, changes and adjustment of status?
- What techniques can be used to overcome past failures of NSEERS compliance?

Priority Date Retrogression and Extensions of Extraordinary Extensions of Nonimmigrant Status

- What is the impact of the Yates' retrogression memo and the new restrictions on concurrent filing?
- How can your client gain maximum benefit from the "other" 7th-year-plus H-1B extension for per-country quota unavailability?
- What are the best ways of recapturing H-1B or L-1 time in order to bridge the gap between the maximum period of nonimmigrant stay and a slow-moving priority date?
- How can you avoid your client's departure from the United States despite the backlog in priority dates?
- How can you gain the benefit of earlier priority dates in prior-filed employment-based and family-based immigrant visa petitions by using priority-date transfer procedures?
- What are the most advantageous ways of shifting between or among nonimmigrant visa categories while you await forward movement in priority dates?
- What ethical issues arise and what legitimate techniques work in traversing between the employment-based second and third preference categories?

**THIRD Phone Session on Mar 3rd:**

What's up with the Backlog Reduction Centers?

- What is happening at the BRCs?
- Is FIFO happening?
- Where are my clients' cases?
- How long will it take to adjudicate my clients' case and will that be faster than a new PERM case?
- Can I amend my clients' applications at BRC and then do PERM?

Does PERM Ring the Death Knell on Delitizer?

- What does PERM require under the "Substantially Comparable" test for on-the-job experience?
- Will it be a simple test of whether jobs overlap 50%?
- What are different duties?
- When is supervising different than hand-on activity?
- Why are org charts and payroll information relevant?

What's up with Prevailing Wage Practice?

- Do the new rules require a written rationale for decision on prevailing wage source?
- Is an employer entitled to a decision on resubmission of a request for prevailing wage determination?
- How will the new four-level wage system play out?

Does PERM Create New Rules or Just Codify Old Cases and Practices?

- How does the PERM requirement that an employer consider if a U.S. job applicant is able to learn new skills based on combination of training and experience in a reasonable time differ from former labor certification practice?
- How does the requirement concerning the ability to learn new skills based on a combination of training and experience differ, if at all, from prior practice?

How Does PERM Recruitment Differ from RIR Recruitment?

- What's now required?
  - Two ads or one?
  - Three different steps or repeating the same steps several times?
  - Accounting for all applicants or just those interviewed?
  - How much room is there (given the wording of the PERM regulations) to document recruitment effort in another manner than the specific examples provided, e.g., campus recruitment for experienced workers?
- NOF's vs. audits: Will CO's allow employers to cure defects or amend applications?

How Do Employers Maneuver through the SOC Job Zones?

- How are experience and educational levels determined under the SOC job zones?
- Why do the job zones in the on-line wage database at [www.flcdatabase.com](http://www.flcdatabase.com) sometimes differ from the data found at <http://online.onetcenter.org> and which database controls?



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- How do attorneys cope with employer job requirements that exceed the job zones?
- How do employers document business necessity if the job zones are exceeded?
- How do the SOC job zones impact on obtaining a prevailing wage under the new four-tiered wage system?
- What is the interrelationship between the preamble remark about conformity with the SOC versus ETA 9089 Question H12? Will a yes still trigger an audit, or, will an analyst apply judgment before issuing the audit letter?
- Tips
  - On gearing up for the new 4-level wage system?
  - On whether prevailing wage determinations issued by the SWA before 3/8/05 be updated quickly if received?

How Do We Deal with the Clash of PERM Progression and Visa Number Retrogression?

- What strategies still work?
  - Getting from Third Preference to Second Preference?
  - Using cross-chargeability?
  - AC-21-available strategies when visas backlog?
  - Change of status from L-1 to H-1B to get seventh year extension?
  - Change of status to other viable nonimmigrant categories?
- Are labor certifications doomed for caregivers, live-in workers, and most non-professional jobs?

What Other Immigration Bulls May Turn Us into Road Kill?

- How do the rules change when filing for H-1Bs on March 8th?
- Do you need an advanced degree by March 8th to get an H-1B?
- Will it be easier to obtain a labor certification approval under PERM than under RIR?
- What's wrong with taking the chance that a labor certification can be approved without an audit?
- What do you do to prevent unleashing the Sword of Damocles (the perpetually revocable labor certification approval)?

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**About the Speakers**

**Angelo Paparelli** is a State Bar of California "Certified Specialist" in Immigration and Nationality Law, and Managing Partner of Paparelli & Partners LLP, an Irvine, California firm of nine lawyers practicing exclusively in the field of U.S. immigration and nationality law. He is a nationally recognized speaker, published author and leading expert on cutting-edge business-related immigration issues. During his 25-year immigration career, Mr. Paparelli has received numerous honors and awards, including selection as the "World's Leading Lawyer for Corporate Immigration Legal Expertise" in the 2005 edition of The International Who's Who of Business Lawyers. He attained this honor by receiving more nominations from corporate counsel and peers in the course of research by the editors of The International Who's Who than any other corporate immigration attorney. He has also been recognized by Best Lawyers in America (1995-2005) and SuperLawyers.com (2004 and 2005) for his expertise in immigration law. In 2004, Paparelli co-founded and was elected President of the Academy of Business Immigration Lawyers (ABIL). ABIL, a think-tank of 17 Managing Partners of immigration specialty law firms and Practice Group Leaders of larger firms throughout the United States, is dedicated to promoting best practices in immigration client service and law firm management. Mr. Paparelli also publishes an immigration public policy blog, [www.nationofimmigrants.com](http://www.nationofimmigrants.com), dedicated to educating the media, academia and the public on solutions to America's dysfunctional immigration system.

**Atessa Chehrazi** prior to joining Jackson & Hertogs in July 2000, Atessa practiced immigration law for four years with Maggio & Kattar PC, an immigration firm in Washington DC. Atessa received her LLM (Masters in Law) in International & Comparative Law from Georgetown University Law Center, DC in 1996; her JD from the Washington College of Law at American University, DC in 1995; and her Bachelor of Science from University of California, Berkeley in 1991. Atessa specializes in H-1B and O-1 professional nonimmigrant employment-based visas, J-1 waivers, labor certification for professionals, and immigrant visa petitions not requiring labor certification. Atessa is currently Group Coordinator for AILA's "Middle East Interest Group", Liaison for AILA Northern California chapter with the Customs and Border Protection (CBP), member of the AILA Business Immigration and Issues Committees, and former Member of the AILA Due Process & Civil Liberties Committee. She is a member of the California Minority Counsel Program, Bar Association of San Francisco, and the National Lawyers Guild. She is co-author of "J-1 Waivers for Physicians--The Current State of the Art, Immigration and Nationality Law, Advanced Practice" (AILA 1999), "Myths and Realities of H-1Bs" (AILA 2004), "Choppy Waters: Non Labor-Certification Based Immigrant Visa Petitions" (AILA 2004), and "Travel Issues for Students and Researchers" (AILA 2005). Atessa has presented at national and regional AILA Conferences, as well as conferences of the National Association of Foreign Student Advisors (NAFSA). Atessa is conversant in Farsi.

**Martine Cuomo** specializes in business immigration matters in the New York offices of Fragomen, Del Rey, Bernsen & Loewy, LLP. She completed her undergraduate studies at Arizona State University (B.A., Asian Studies, 1991), and earned her J.D. from Quinnipiac College School of Law in 1993. Ms. Cuomo is admitted to the bars in Connecticut (1994), New York (1996) and California (2000). She has extensive immigration experience including employment and family-based immigration matters, defending deportation cases, and servicing major corporate client accounts. Ms. Cuomo is a member of the American Immigration Lawyers Association and has both lectured and written articles on business immigration topics. She is also proficient in Chinese (Mandarin), French, and Italian.

**Steven A. 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 IMMILAW®, the national consortium of preeminent immigration firms with over two centuries of combined immigration law experience.

**Josie Gonzalez** is the managing partner of Gonzalez & Harris, and has represented employers in all aspects of immigration law for more than 25 years. She is a former public defender and criminal defense attorney. She has testified twice in Washington, D.C. regarding the impact of U.S. immigration laws on the business community, and is a frequent commentator on agency regulatory activities. Ms. Gonzalez publishes numerous articles for legal and trade journals, and is Editor (1998) and Co-Editor (2005) of AILA's David Stanton Manual on Labor Certification. In 1999, she was recognized by AILA for "Excellence in Advancing the Practice of Immigration Law" and served on the Board of Governors for nearly ten years. She has contributed as Chair and Co-Chair for many years on the AILA National Department of Labor (DOL) Liaison Committee, and currently serves as a member of the National PERM Implementation Working Group and the DOL Liaison Committee for Region VI. Ms. Gonzalez works with several employer-based organizations, and previously served on the Board of Directors for the Employers Group, the nation's largest and oldest nonprofit employer association.

**Peter Larrabee** is a 1979 graduate of Thomas Jefferson Law School in San Diego where he earned his Juris Doctor degree while working for the United States Immigration and Naturalization Service. After more than twelve years of service, Mr. Larrabee resigned from the INS and began practicing immigration law. Presently, Mr. Larrabee represents high technology companies in their efforts to obtain the proper visas to hire and employ qualified foreign workers in the U.S. He is a member of the American Immigration Lawyers Association where he served as the Chair of the San Diego Chapter for many years as well as on the National Board of Governors of that organization. Mr. Larrabee is also a Certified Specialist in the field of Immigration and Nationality law by the California Bar Association, Board of Legal Specialization. Mr. Larrabee has published articles on immigration law, is a frequent speaker at regional and national conferences, and has testified before Congress on the impact of immigration laws on American business. He is a frequent commentator in the national news media.

**Edward R. 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 & 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



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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, and 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).

**Nancy-Jo Merritt** focuses her practice in immigration law and has over two decades of experience representing domestic and international companies with issues concerning foreign national employees and business immigration matters. She provides strategic counseling to clients and assists employers in developing compliance programs. Ms. Merritt has successfully challenged the federal government's interpretation of immigration law in a number of matters. She won the first award of fees in the United States from an Immigration Judge under the Equal Access to Justice Act. Ms. Merritt's extensive immigration experience includes current knowledge of procedural developments at the Bureau of Citizenship and Immigration Services and the Bureau of Immigration and Customs Enforcement (both formerly within the INS) to help business clients comply with stringent federal verification responsibilities.

**Gregory Siskind** is the founding partner of Siskind Susser and has been practicing immigration law since 1990. Since he started Siskind Susser in 1994, he has become one of the best-known immigration lawyers in the country. After graduating magna cum laude from Vanderbilt University, Gregory Siskind went on to receive his law degree from the University of Chicago. For the past several years, he has been an active member of the American Immigration Lawyers Association. He recently served as chairman of the AILA Physicians Committee and now chairs the Foreign Medical Graduate Taskforce. Greg is a member of the American Bar Association where he serves on the Council of the Law Practice Management Section. He is also a member of the Tennessee Bar Association, the Nashville Bar Association and the Memphis Bar Association. He serves on the Board of Directors of the Hebrew Immigrant Aid Society and on the executive board of the Jewish Family Service agency in Memphis, Tennessee. He recently was named one of the Top 40 executives under age 40 in Memphis, Tennessee by the Memphis Business Journal and as one of the 101 best lawyers in Tennessee by Business Tennessee Magazine. Greg regularly writes on the subject of immigration law. He has written several hundred articles on the subject and is also the author of the book *The J Visa Guidebook*, published by Lexis-Nexis, one of the nation's leading legal publishers. He is also a technology columnist for *Immigration Law Today* published by the American Immigration Lawyers Association.

**Allan Wernick** is a professor at Baruch College, City University New York, CUNY, and Chair of CUNY's Citizenship and Immigration Project. Prof. Wernick's weekly column, *Immigration and Citizenship* is syndicated by King Features Syndicate, and his column *Immigration Advice* appears every Thursday in the *New York Daily News*. Prof. Wernick has taught as a visiting professor in Chicana/o Studies at the University of California, Los Angeles, UCLA, and formerly was a professor at Hostos Community College, CUNY where he taught immigration law to students pursuing degrees in Paralegal Studies and Public Administration. His book, *U.S. Immigration and Citizenship - Your Complete Guide*, is now in its fourth edition. A Spanish language edition is due out in March.