



Three-Part Telephone & E-mail Seminar:

PERM for Experts

*Speakers: Sophia Zneimer, Judy Bordeau, Catherine L. Haight,
Douglas Hauer, Loan Huynh, Kimberly Best Robidoux
and Roger Tsai*

Available Online

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Seminar Outline

FIRST Phone Session on February 2: Pre-Recruitment Issues

- Employer Registration with PERM (Legal name of company vs. d/b/a)
- Prevailing Wages and the economy (As process driver and important considerations - soc code, job zone, level; Drafting the job description with the wage, job zone, and employment category in mind; Timing of PW [wrt to start of recruitment or filing for PERM]; Ability to pay; Private wage survey Towers Watson [f/k/a WW], Radford, collective bargaining agreement, etc.; Validity of PW [Matter of Apollo Consulting]; Appeal of PW - is it worth it;
- Layoffs in company, industry, geographic region
- Business Necessity (Readiness to defend necessity; Documentation required; Tips to avoid audit; Business necessity for "cook" position - excessive experience, Matter of Robertos Mexican Food; Business necessity for BA + 3 for a "Senior Software Engineer" position, Matter of Wissen, Inc.
- Drafting the 9089 Form to avoid denials (Employee skill section and job requirements - must they mirror each other?; Everything must be included in the form, Matter of Moreta and Associates, Int.; Drafting form so that all required skills can be shown on job experience section; Ensuring that all employment verification letters, licenses, etc. are in the file prior to filing; No appeal for failure to follow direct instructions - the form requires all prior jobs that support the application; Alternative requirements - what is substantially equivalent [Global Net, Amendment of H-1B if "Dissimilar"])

SECOND Phone Session on February 10: Recruitment Issues

- Professional or not (what to do in borderline cases; is Schedule A determinative?)
- Advertising media - Internal consistency - NOF, PERM, PW, Recruitment (Letter to publisher asking for ad to be placed and proof suggesting payment for ad, insufficient, Matter of Natural Nature, Inc.; BALCA Affirms Denial Finding Requirement in Ad Less Favorable Than ETA 9089; Ads listing requirement of background check not in notice or PERM form, less favorable, Matter of Noll Pallet & Lumber Co.; All additional advertisements must comply with 20 CFR 656.17(f) content requirements, Matter of Credit Suisse Securities
- Documenting recruitment (Job Order; Matter of Mandy Donuts; Screenshot of the SWA job posting, Matter of American Airlines; Internal Recruitment Program, Matter of Sanmina-Sci; Website posting (dated copies); Matter of Hawthorne Suites; Matter of EZChip; Signed recruitment report insufficient as proof that employer placed ads on its website or job search websites. Screenshots are required, Matter of Transatlantic Systems, Inc.; Professional journals; The ten options)
- Notice of Filing ("Offered wage" Matter of O'Brien & Van Stiphout; Matter of Alum-A-Lift; Timing - Ten business days, document that company is open during holidays/weekends. "Business days" for purposes of the notice requirement under 20 CFR 656.10(d)(1)(ii), Matter of Il Cortile Restaurant; Name of business - fatal to application in Matter of Robert Venuti Landscaping
- Job applicants (Documentation; Contacting; Interviews; Results of Recruitment)
- Recruitment Report (Content and backup documents)

THIRD Phone Session on March 10: Post-Recruitment Issues

- Audits (Increase in audits; what to do if the beneficiary was laid off; Response to audit when the beneficiary was laid off; Deadlines; DOL indication about debarment)
- Supervised Recruitment (Will be stepping up; Matter of Ola Miami - opportunity to provide evidence of previous work experience)
- Request for Review/Reconsideration or Appeal (Matter of CVS RX Services; New evidence on reconsideration evidence that existed at the



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time the application was filed, but was not submitted in response to the CO's audit is barred from a reconsideration request by 20 CFR 656.24(g)(2)(i), Matter of Techdemocracy)

- Further Strategies (Possible BALCA appeal; Re-filing)

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Sofia Zneimer (Discussion Leader) practices in the area of business immigration and litigation and has represented multi-national corporations, individual investors, hospitals, non-profit organizations and business entities before the Department of Homeland Security, the Department of Labor, the Department of Justice, and the State Department. She also litigates before the Illinois courts and the Northern District of Illinois. Before joining Zneimer & Zneimer, P.C., she worked as an immigration attorney for a national law firm. Before this she was the Immigration Specialist of a Fortune 500 Company for several years where she managed the processing of all immigrant and non-immigrant employment-based visas, intra-company transfers, I-9 compliance, as well as the company's relationship with outside immigration counsel.

Judy Bordeau is an attorney with experience in both private practice and corporate law. Prior to forming the partnership of Eisberg & Bordeau, she was an in-house attorney for a Fortune 500 company where she was responsible for immigration matters. Judy is an active member of the American Immigration Lawyers Association (AILA) and is a moderator of the AILA PERM forum. She speaks Spanish fluently and has travelled extensively in Europe and Mexico. In her spare time, she enjoys travelling with her family and attending soccer games with her two sons.

Catherine L. Haight is the founding member of Haight Law Group, PLC in Los Angeles, California. She is admitted to practice law in the state of California and has been practicing immigration law since 1989, specializing in business and sports related matters. She currently serves as Member of the AILA Business Immigration Committee and AILA USCIS Ombudsman Committee. Ms. Haight obtained her Bachelor's degree in Psychology from the University of California, Berkeley in 1979 and J.D. from Southwestern University School of Law in 1989. She has authored numerous articles published by the American Immigration Lawyers Association and PLI on such subjects as PERM, H-1B visas, L-1 visas, and the immigration consequences of business mergers and acquisitions.

Douglas Hauer has substantial experience in business immigration law, related government investigations, family-based green card sponsorship processes, immigration litigation and corporate immigration policy development. He is a Member of the Board of Trustees of the American Immigration Council (formerly the American Immigration Law Foundation) and has served for two years on the Council's J-1 Exchange Visitor Committee. Doug is an expert on J-1 training and intern visas and speaks on broader immigration law issues, ethics, marketing and business development and employment immigration law for national and international legal organizations, universities and industry forums. He also assists accomplished individuals in securing visas and green cards.

Loan Huynh is a shareholder in the Immigration Group at Fredrikson & Byron. Loan practices exclusively in immigration and nationality law. She has extensive experience in employment and family based immigration, worksite enforcement and corporate compliance and H2A agricultural and H2B nonagricultural workers.

Kimberley Best Robidoux has been with Larrabee | Mehlman | Albi | Coker LLP since 2004. Prior to moving to California, Kimberley practiced immigration law for Mintz Levin Cohn Ferris Glovsky and Popeo PC in Boston, Massachusetts and immigration and employment law for Krupin O'Brien LLC in Washington, D.C. She also was a paralegal in Washington, D.C. in the area of immigration, labor, and employment law. Kimberley has over 18 years of experience in the field of immigration law as a practicing attorney, law clerk, and paralegal.



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[Roger Tsai](#) is a member of the Employment Law department of Parsons, Behle & Latimer. He concentrates his practice on employment and family-based immigration and worksite enforcement. Mr. Tsai regularly advises companies and universities on how to secure temporary and permanent visas for foreign national employees including H-1B visas and permanent resident status. He has also assisted companies in performing internal audits of their employment eligibility documents (I-9's) and successfully negotiated settlements with Immigration and Customs Enforcement. Mr. Tsai has spoken before the Utah State Legislature and numerous industry groups on immigration worksite enforcement. His articles on immigration worksite enforcement have been published by the American Bar Association, the Utah Bar and the American Immigration Lawyers Association (AILA).
