



Seize the Day! Taking USCIS Denials to Federal Court

A Project of the AILA Administrative Litigation Task Force

AILA members are experiencing unprecedented denials of employment-based petitions and other applications for immigration benefits by USCIS. The AILA Administrative Litigation Task Force (ALTF) is tasked with identifying legal issues in benefits adjudications that are ripe and appropriate for federal court challenge, and to help AILA members develop the confidence and skills to challenge unlawful denials of immigration benefits requests in federal court.

Members of the ALTF are available to visit AILA chapters and conduct a 1.5 to 2-hour basic district court litigation training. The focus of the training is on Administrative Procedure Act (APA) claims, with a brief overview of mandamus actions. This training is not intended to replace more in-depth litigation training courses offered by AILA but will provide a foundation for AILA members with no litigation experience to (a) prepare cases with an eye toward litigation; (2) develop talking points and strategies to encourage clients to litigate cases that are unlawfully denied; (3) start building district court litigation as a regular component of their law practice. Experienced litigators are also encouraged to attend and offer their insights and expertise in this interactive session!

Note for Chapter Leadership: Task Force members are available and willing to present this workshop as either a solo speaker or in coordination with an experienced litigator in the chapter. A partial or full travel subsidy for ALTF speakers (hotel, plus coach class air or train fare, or mileage reimbursement if within driving distance) is greatly appreciated.

The following is an outline of the general topics that will be covered in your chapter workshop. If you wish to customize the presentation, please consult with your ALTF speaker. The standard presentation will take anywhere from 60 to 90 minutes. At least 30 minutes of open Q&A will be reserved at the end of the presentation.

- **Building a Record: Preparing Your Case with an Eye Toward Litigation**
 - Recognizing the weaknesses in your case
 - Preparing your case to enhance your chance of success in federal court
 - Responding to an RFE or NOID in anticipation of litigation

- **Your Case is Denied: Deciding Whether to Sue**
 - Is your case a good candidate for litigation? Examining the issues and the facts

- Litigation Alternatives: Refiling, motion to reopen/reconsider, AAO appeal
- Changing the System: The philosophical importance of litigation
- Timing: Statute of Limitations

- **The Basics of APA Litigation**
 - Jurisdiction
 - Venue
 - Who is your plaintiff? Standing of employer vs. beneficiary (ethical issues)
 - Who are you suing?
 - Relief under the APA

- **Preparing the Case/Litigation Timeline**
 - Complaint
 - Temporary restraining order or preliminary injunction
 - Motion for summary judgment

- **The Basics of Mandamus**
 - Jurisdiction
 - Venue
 - Relief

- **Client Management Issues**
 - Discussing litigation with your client and allaying common litigation fears: Retaliation, cost, publicity, time
 - Fee structures/keeping costs down, EAJA fees
 - Managing client expectations

- **AILA and American Immigration Council Litigation Resources**

- **Open Q&A (30+ Minutes)**