

Naturalization Actions

Margaret D. Stock (DL), AILA Author, Immigration Law & the Military, 2nd Ed., Anchorage, AK
Ofelia L. Calderon, Fairfax, VA
Kate Melloy Goettel, Chicago, IL

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New citizens being sworn in during the final naturalization ceremony of the Obama administration at the Anacostia Community Museum, in Washington, in early January. (David Miller/The New York Times)
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Getting Your Case Ready for Federal Court: Pre-Interview, Post-Interview, and Denial

- Filing a Litigation-Ready N400
 - FOIA/PA Requests
- Preparing the Client for the N400 Interview
- After the N400 interview
 - 120 day clock
- Denial Decisions & the N336
- Gathering Records to draft a Complaint

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The Office of Immigration Litigation oversees all civil immigration litigation, both affirmative and defensive, and it is responsible for coordinating national immigration matters before the federal district courts and circuit courts of appeals. It provides support and counsel to all federal agencies involved in alien admission, regulation, and removal under U.S. immigration and nationality statutes. Office of Immigration Litigation attorneys work closely with United States Attorneys' Offices on immigration cases. The Office of Immigration Litigation is divided into two functional sections, an Appellate Section and a District Court Section.

Updated October 20, 2014

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Litigating Denials

Exhaust administrative appeals, N-336

- 180 days for USCIS to process

8 USC §1421(c) –de novo review

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Litigating Delays

120 days after interview, no decision

- INA §336(b), 8 USC §1447(b)

No interview = regular mandamus action

- Mandamus and Venue Act, 28 U.S.C. § 1361

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Typical Issues in Naturalization Litigation

- Good moral character/criminal convictions
- Lying/material misrepresentations
- Requisite legal permanent residency
- Ongoing removal proceedings (bar at 8 USC 1429)
 - Military exception (INA 328, 329)
- Failure to lawfully acquire LPR status
- Delayed naturalization cases – concurrent versus exclusive jurisdiction

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Denaturalization Cases

- Civil
- INA 340(a), 8 USC 1451
- No criminal intent or low level offenses
- Result? LPR status
- Criminal
- 18 USC 1425 & INA 340(e)
- Usually when alien concealed major crime before naturalizing

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Maslenjak v. United States

(S. Ct. 2017)

- It is “rather surprising that the government of the United States thinks” that the naturalization laws should be “interpreted in a way that would throw into doubt the citizenship of vast percentages of all naturalized citizens.”
– Justice Stephen G. Breyer
- “If you take the position that not answering about the speeding ticket or the nickname is enough to subject that person to denaturalization, the government will have the opportunity to denaturalize anyone they want.”
– Chief Justice John G. Roberts

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**Questions?
Comments?**

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