2013 AILA Paralegals Conference & Webcast

October 24-25, 2013 AILA National Office Washington, DC



The Role of a Paralegal in **Immigration Practice**

Reid F. Trautz (dl), AILA Director, Practice and Professionalism, Washington, DC James W. Austin, Conference Program Committee, Kansas City, MO Maheen Taqui, AILA Practice and Professionalism Center Coordinator, Washington, DC



YOUR LEGAL ROLE IN THE IMMIGRATION SYSTEM

- Paralegal: "A legal assistant or paralegal is a person, qualified by education, training or work experience who is employed or retained by a lawyer, has office corporation, governmental agency or other entity who performs specifically delegated substantive legal work for which a lawyer is responsible"

 American Bar Association Definition
- paralegal, n. A person who assists a lawyer in duties related to the practice of law but who is not a licensed attorney.
 Black's Law Dictionary



PROFESSIONAL RESPONSIBILITY AND ETHICAL CONDUCT

- Understand the ethical and legal responsibilities arising from an attorney client relationship
- Paralegals are indirectly regulated by attorney ethical codes and by state laws that prohibit non-lawyers from practicing law



PROFESSIONAL RESPONSIBILITY AND ETHICAL CONDUCT



PROFESSIONAL RESPONSIBILITY AND ETHICAL CONDUCT

Client Confidentiality

- What information is confidential?
- Secure office practices
 Telephone inquiries
 Overheard conversations
 Document Security



COMMUNICATION

- Identifying your role to the client
 Informing the client of your job title and your responsibilities to their case.
 Understanding the difference between giving advice and informing the client.

- Establishing friendships
 "Friending" or "following" clients on social media
 Communicating with clients outside the office
 Accepting gifts and/or requests for lunch



COMMUNICATION

Communicating with the attorney/supervisor

- Encourage open communication

Communicating with other staff members



WORK PRODUCT/ CLIENT MANAGEMENT

Files and Recordkeeping

- Maintain Clean and Accurate Files

 Document all client communications, including e-mails, texts, or other forms of messages

 Do not store incomplete documents or drafts.

 Remember all files are the client's property

- Documenting Client Communications
 Track every client interaction. This includes date, time, and nature of the interaction with the client or client matter. This is important for:
 Billing purposes
 Providing a timeline for case development
 Safety net for when a client complains



Work Product/ **CLIENT MANAGEMENT**

Client Interview Techniques

- When to Ask Tough Questions
- Reporting Evasive Answers



WORK PRODUCT/ **CLIENT MANAGEMENT**

- Practice management programs
 Saving documents in Microsoft Office
 Sharing files via Dropbox, Google Docs, and other cloud programs
 Scanning all documents

Calendaring important dates and deadlines

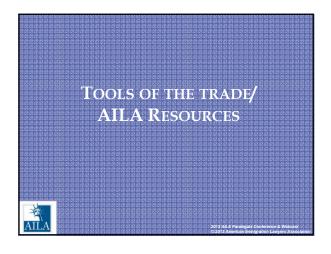
- Include reminders and assign tasks
 Don't always count on technology to store dates and deadlines
 Include a list of all dates and timelines in client's folder

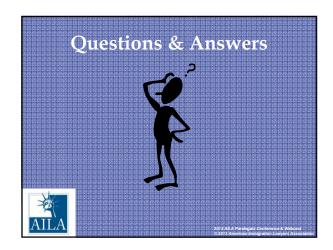


PROFESSIONAL DEVELOPMENT

- Enhance Skills
 Research and writing
 Client interaction
- Develop a Niche Expertise
 H1-B Specialty Occupations
 Religious Workers
- Advance Your Career
 Continuing education
 Join the board of your local
 paralegal association
- - Playing piano
 Train for a marathon









Legal Concepts Involved In Preparing an H-1B Petition

Danielle M. Rizzo (dl), Conference Program Committee, Buffalo, NY Noelle McLaughlin, Paralegal, Buffalo, NY Becki L. Young, Washington, DC Diane R. McCrummen, Paralegal, North Kansas City, MO



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Specialty Occupation

- Definition
 - •8 CFR §214.2(h)(4)(ii)
- Qualifications
 - •8 CFR §214.2(h)(4)(iii)(A)



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Beneficiary Qualifications 8 CFR §214.2(h)(4)(iii)(B)(3)

- Degree only
- •Degree + Experience
- •Experience only

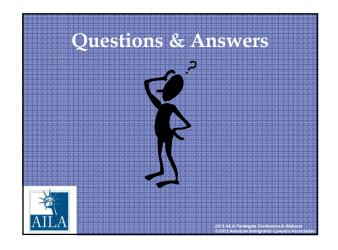


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Validity Period •How much time to request? •How much time is left of their 6 years? • Recapture • Post-6th Year Extensions LCA Issues •Public Access File •Posting Notices H-1B CAP • Timing Issues

Employer/Employee Relationship •Traditional employee •Third party placements

Professions Requiring License •Specific professions •How to document •Length of license vs. petition validity period



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Key Legal Concepts & Hot Topics in the PERM Process

Michelle Funk (dl), Conference Program Chair, McLean, VA Theresa Meehan, Paralegal, McLean, VA Roger K. McCrummen, North Kansas City, MO



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Building Your Case

- Most important part of EB Green Card Process
- Everything else flows from work done at this stage
- •Don't be surprised at later stages by something not anticipated here



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Position Titles; Job Description

- •Start with Employer Title and Description
- •Consider likely OES category and prevailing wage
- •Employer should approve Job Description (JD)
- •Avoid "preferred" language; focus on minimum requirements for that job



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Job Descriptions (cont.)

- Avoid too generic
- Avoid "tailoring"
- •Different than HR; consider this job and what is needed to perform it
- •Consider the Foreign National's (FN's) qualifications when hired or promoted



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Job Description (cont.)

- Duties/Requirements
- •Specific Skills not tailored, but not too generic either
- •Employer must approve and FN must be able to document



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Business Necessity

- •If requirements exceed OES SVP, be prepared to document the need
- •SVP Calculations/Job Zones
- •Document through a letter from the employer



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Document Education

- •Do early in case don't be surprised at the end.
- •"Professional"→ need 4-year single source Bach. Degree—no experience equivalent
- "Advance Degree Prof." → Master's or Bachelor's plus five years progressive experience
- •Foreign degrees need EDGE evaluation



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Document Work

- •Experience letters on letterhead from previous employers
- •Name, dates, duties
- "Delitizer" → Chart for work with same employer
- •Other Evidence pay stubs, letters from managers, evidence of company closing



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Pre-filing Recruitment

- Test the market for qualified, willing and able U.S. worker(s)
- Bona fide effort
- •~30 day active, 30 day quiet
- •Start within PWD validity



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Posting Notices and In-House Media

- Similar to LCA posting notice
- •10 business days
- Alien labor certification language
- •Salary range



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Mandatory Recruitment Steps

- •State Workforce Agency 30 calendar days
- •Sunday print ads—two consecutive Sundays
- Three additional forms-timing?



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Additional Recruitment

- •Employer's Website
- Other Job Search Website
- •Employee Referral Program
- Local or Ethnic Newspaper



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Additional Recruitment

- Job fair
- •On-campus Recruitment/Campus Placement Office
- Trade or Professional Organization
- Private Employment Firm
- Radio or TV Ads



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Documenting Recruitment Results

- Critical Ongoing Step!
- •First and Last Day Active
- Entire Ad and Date
- •Review as Placed



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Travel

- Multiple Worksites
- Roving Employees
- Working from Home



Substantial Equivalence

- •20 CFR §656(h)(4)
- •Requirements must represent employer's actual minimum requirements
- Kellogg Language
- •See SVP guide to calculate equivalence



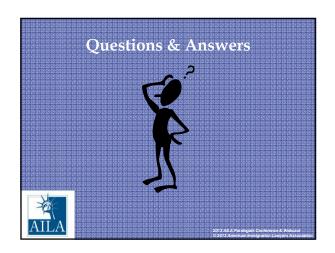
SVP, Work Experience & **Academic Degrees**

- 1 Year of Work Experience = 1 SVP Year
 General Associate's Degree = 0 SVP Year
 Specific Associate's Degree = 2 SVP Years
 Baccalaureate Degree = 2 SVP Years
 Master's Degree = 4 SVP Years
 Doctorate Degree = 7 SVP Years

Bachelor's ± 5 years ± 7 SVP years Master's + 3 year = 7 SVP years



Rejection of U.S. Applicants Reasons for Disqualification? Contacting Applicants. What About Skills? Layoffs





The Nuts and Bolts of Adjustment of Status vs. **Consular Processing**

Anastasia Tonello (dl), AlLA Secretary, New York, NY Martin Spasov, Paralegal, New York, NY Jonathan Greene, Columbia, MD Dinara Sosa, Paralegal, Columbia, MD



Adjustment of Status vs. Consular Processing -Timelines and Considerations

- •Initial Review
- EligibilityVisa AvailabilityAdmissibility
- •Timing



Documentation Requirements

- Police Certificates
- Medical Examination
- •Divorce/Marriage Certificates



Differences in Family-Based vs. Employment-Based

- •Timing (Premium Processing)
- Eligibility for Adjustment
- Affidavit of Support
- Priority Dates



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Adjustment of Status – Pros

- Everything submitted in the United States
- •Employment authorization document
- No interview for some categories
- Concurrent filing
- No police certificates (unless criminal issue)



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Adjustment of Status – Cons

- •Period of travel restrictions for most applicants
- •Only available to those eligible



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Immigrant Visa — Pros

- More flexibility for international travel
- Changes to NVC processing
- •Quicker for direct file cases



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Immigrant Visa - Cons

- National Visa Center
- Police certificates
- Medical examination separate from interview
- No work authorization while pending



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Recent Developments at the National Visa Center

- Blue or black ink?
- Uploading documents
- DS=230
- Dealing with multiple requests for unavailable/irrelevant documents



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Inadmissibility, Ineligibility, and Waiver Issues

Inadmissibility

- INA §212(a), 8 USC §1182(a)
- Cannot enter the United States or adjust status
- Health related grounds—mental/physical
- Public Charge
- Misrepresentation, Fraud, False Claim to Citizenship
- Polygamists, child abductors, unlawful voters



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Inadmissibility, Ineligibility, and Waiver Issues

Presence grounds of inadmissibility

- Present without Admission or Parole (VAWA exception)
- Unlawful Presence
- Removal
- Unlawful Presence/Removal with EWI
- Removal In Absentia (Reasonable Cause Exception)



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Inadmissibility, Ineligibility, and Waiver Issues

Criminal grounds of inadmissibility

- Crime Involving Moral Turpitude: conviction or admission (3 exceptions)
- Drug Offenses: conviction or admission
- Multiple Convictions: five-year aggregate sentences of confinement
- Prostitution within 10 years of application
- Terrorism, Espionage, Communists



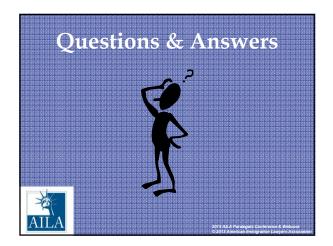
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Inadmissibility, Ineligibility, and **Waiver Issues**

- INA §212(h) waives CIMT, simple possession, multiple convictions, prostitution
 Must show extreme hardship to qualifying relative/15 years rehab/VAWA
 INA §212(i) waives fraud misrepresentation extreme hardship
 Waiver for health grounds (INA §212(g))
 EWI after Removal/Unlawful Presence (permission needed after 10 years)

- 10 years)
 Unlawful Presence (permission needed a 10 years)
 Unlawful Presence—extreme hardship & provisional waivers
 Removal—Form I-212







Adjustment of Status vs. **Consular Processing Practicum**

Anastasia Tonello (dl), AILA Secretary, New York, NY Martin Spasov, Paralegal, New York, NY Jonathan Greene, Columbia, MD Dinara Sosa, Paralegal, Columbia, MD



Adjustment of Status Forms

- I-485 Application to Register Permanent Residence or Adjust Status
- G-325 Biographic Information
- •I-131 Application for Travel Document
- I-765 Application for Employment
- •I-864 Affidavit of Support •G-28 Notice of Entry of Appearance as Attorney or Accredited Representative



Adjustment of Status Forms

- G-1145 E Notification of Application/Petition Acceptance
- I-508 Waiver of Rights, Privileges, **Exemptions and Immunities**
- I-693 Report of Medical Examination and Vaccination Records



Adjustment of Status Documents

- Birth Certificate
- Photos
- Approval NoticePolice Records

- •Visa and Entry Documentation



Immigrant Visa Forms

- •DS-260 Online Immigrant Visa Application
- I-864
- Post Specific Forms



Immigrant Visa Documents

- PassportBirth Certificate (Long Form)
- Police Certificates
- Photos
- Medical Examination
- Adoption/Name
- Change/Marriage/ Divorce/Court and
- Prison Records
- Original Certificates
- Translations
- •See Reciprocity Table

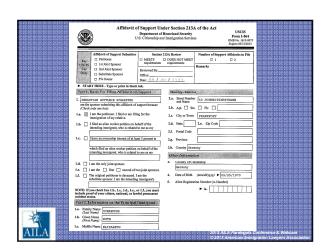


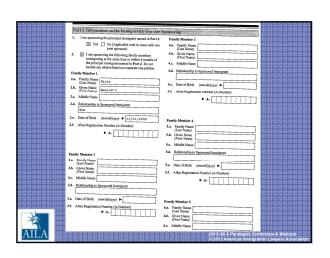
National Visa Center • Staying one step ahead

- Online payments and application processing
- Submitting documents and requesting interview date
- Who has the case—USCIS, NVC or post?



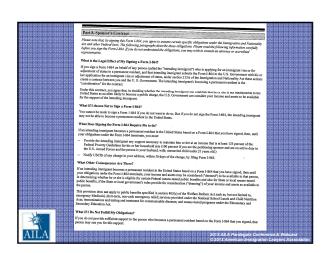
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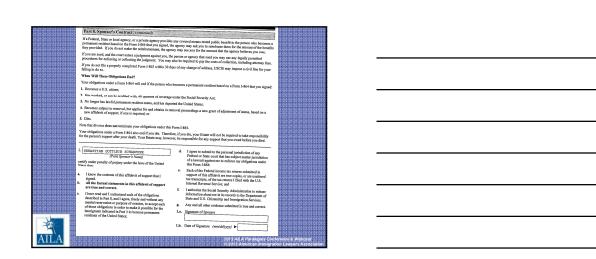




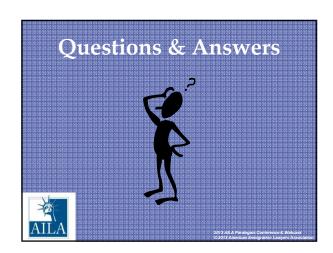
Part 3. Information on the Immigrant(s) You Are Sponsoring (continued) Family Member 5 (Continued)	
6.d. Relationship to Sponsored Immigrant 7. Enter the total number of immigrants you are sponsoring on this form from Hensi 1 6.f. Alien Registration Number (A-Number)	-
Part 4. Information on the Sponsor Sponsor's Full Name Sponsor's Place of Residence	-
1.a. Panily Name COURAFFER	
Sprosse's Mullime, Mullers 3.d. State 3.e. Zip Code 2.a. State humber 50.0 W 450.5 3.f. Postal Code 2.b. Agr. Str. Fir. 3.g. Province 2.c. City or Town St. Joseph 3.b. Country	
2.4. State IN 2.e. Zip Code [1723 5] 2.1. Postal Code 2.p. Province 4. Telephone Number (0,2) 2 23 - 2 32 3	
2.h. County States	-
College of the State of the Sta	
Fart 4. Information on the Sponsor (continued)	
So Stort Province of Birth 11.h. 1 am a U.S. autional (for joint spenners only). 11.c. 1 am a live of permanent resident. 9. Country of Birth Our researy Our researy 10. U.S. Social Section 20.3.	-
Millimp Service (To be completed by patienter spoures only)	·
Persons you are quousering in this affidient: 1. Enter the number you entered on line 7 of Part 3. 2 Persons NOT grounseed as this affidient: 2. Yourself 7. OPTIONAL If you have planted any other persons on an 1-846 or 1-846 E2 who we now hard persons to the contract of the number here. OPTIONAL If you have skilling, parents, or options to the parents of th	
your ground. If you have dependent children, enter the manifest tree. A flyou have dependent children, enter the manifest tree. A designation and 2-7 and enter the number: 4 Part C. Country 1. The second of Size: Part C. Country 1. The secon	
I am currently	-
AILA In Sime of Employer #2 (figsploads) 3.b. Date of Referencet (non-685yyy) 2013 AUL A Paralogous Conference & Webcaster (2023 Authorized Employer & Authorized & Autho	
Part 6. Spotsor's Income and Employment (continued) 4. Unemployed since (mm dd/3939) ► Person 4 (mm dd/3939) ► 9.a. Name 5. My current individual annual toorne is	
(See Instruction) \$ 5.5,454.00 9.b. Relationship Income you are using from any other person who was counted in your breuded size, including, in certain conditions, the intending immigrant (See Instructions) Please indication.	
10. My current Annual Households Income (Total all lines Front 3, 6, 2, 7, 6, 2, and 3, 6, 110 Copyager to Front 3, 6, 2, 7, 6, 2, and 3, 6, 110 Copyager to Front 5, 6, 2, 6, 2, and 3, 6, 110 Copyager to Front 5, 110 Copyager to	
Corrent Income S Person 2 Person 2 Name	
7.6. Current Income 5 Foloral Income tax return information 1.3. Sinve field a Foloration term for each of the fare most recent tax years. Days entangled the required	
Ferson 3 mont recent tax years. How stathed the required shotcorpy of temority of the property	
Se. Current Income S 2019 A&A Paralogatic Conference & Boundary Association (Conference & Boundary Association (Conferenc	

	Part 6. Sponsor's Income and Employment (continued) My total income (adjusted gross faceme on IRS Form	Part 7. Use of Assets to Supplement Income (optional) (continued)
	1040EZ) as reported on my Federal tax returns for the most recent 3 years was:	Assets from Form I-864A, line 12d for:
		S.a. Name of Relative
	13.a. 2012 (most recent) 13.a.1. \$ 51,5000	5.b. Your household member's assets from Form I-864A.
	13.b. 2011 (2nd most recent) 13.b.1. \$ 48.500	(Optional)
	2011 IMM MAN PERSON 13.0.1. \$ 48,500	Assets of the principal sponsored immigrant (Optional).
	13.e. 2010 (3rd most recent) 13.e.I. \$ 45,250	The principal sponsored immigrant (Optional). La, - Lc, in Part 2.
	 (Optional) I have attached photocopies or transcripts of my Federal tax returns for my second and third 	
	most recent tax years.	Enter the balance of the sponsored immigrant's savings and checking accounts.
	Part 7. Use of Assets to Supplement Income	7. Enter the not carb value of all the
	(optional)	real estate holdings. (Net means investment value minus
	If your income, or the total income for you and your household, from Part 6, line 10 exceeds the Federal Poverty Guidelines for	mortgage debt.)
	your household size, YOU ARE NOT REQUIRED to complete this Part. Skip to Part 8.	8. Enter the current cash value of the sponsored immigrant's
	Your assets (Optional)	stocks, bonds, certificates of deposit, and other assets not included on line 6 or 7.
	Enter the balance of all savings and checking accounts.	\$
	\$ 5,000.00	9. Add together lines 6-8 of Part 7 and enter the number
	 Enter the net cash value of real-estate holdings. (Net 	here.
	means current assessed value minus mortgage debt.) \$ 35,000,00	Total value of assets.
	3. Enter the net cash value of all stocks, bonds, certificates	10. Add together lines 4, 5.b., and 9 of Part 7 and enter the number here.
	of deposit, and any other assets not already included in lines 1 or 2	TOTAL: \$ 54,000.00
	\$ 14,000.00	
1	 Add together lines 1-3 and enter the number here. 	
-0	TOTAL: \$ 54,000.00	
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Preparer's Fall Name	Prepare's Contact Information 4. Prepare's Dayline Pione Number (0 12) 2 9 7 0 0 5. Prepare's Email Address [chtistie.poppelle.in.net 6. Business State ID # (# argy) Declaration 1 contry under penalty of perjury under the laws of the United States that I prepared this affidavit of support at the sponsor's request and that this affidavit of support is based on all information of which have knowledge. 7.a. Signature 7.b. Date of Signature (nmw(dd)>>>>> ▶ The Control of Signature (nmw(dd)>>>>>>>>>>>>>>>>>>>>>>>>>>>>>>>>>>>
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Marketing & Social Media

Randall Caudle (dl), Conference Program Committee, San Francisco, CA Lauren Paulus, San Diego, CA Jessica Eise, AILA New Media Associate, Washington, DC



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Is Traditional Marketing Dead or Still Useful?

- •Evaluate your *current* clients and your *desired* clients
 - Are the clients internet savvy?
 - What is the age group of the clients?
 - How do you communicate with the clients?
 - Where do new clients find information about your firm?



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Is Traditional Marketing Dead or Still Useful?

- If your current/desired clients are older and not very computer literate, traditional marketing is probably still the best way to reach them.
- •If your clients are younger (such as DACA recipients) or computer literate (common for H-1Bs and PERMs), social media and online marketing is often a better way to reach them.



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Hot New Social Media Trends and Statistics •YouTube • 1.700 YouTube video links are shared on Twatter every minute •Facebook • 70% of business-to-consumer marketers have acquired a customer through Facebook • LinkedIn • 43% of U.S. marketers have found a customer through LinkedIn • Twitter • 1669% of online business-to-consumer marketers use Twitter, compared to 80% for business-to-business •Google+ • 17. 70% of brands have presences on Google+, up 4% from Q4 2012



Facebook –
Various Ways to Use Facebook
in a Law Office
Current immigration newsAsking questions to other immigration
professionals you are connected to or in FB groups
Information on clients & potential clientsProviding information to clients
AUA

Twitter – Bleeding Edge Immigration News

Randall Caudle @randallcaudle
San Francisco Immigration Attorney at Caudle
Immigration. Interests include social media, coffee, travel,
baseball, ESPN sports center, & spy books & TV shows.
San Francisco, CA caudleimmigration.com

1.268 FO. DOVING 244 FOLLOWERS

Tweets.. lottery card lottery. Its time for the green card



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Twitter Tips

- Can Retweet Immigration Articles Easily
- •Can Live Tweet Immigration Events or Announcements (*i.e.*, DACA & I-601As)
- Can Search Twitter for Info on an Immigration Topic
- App for Phone Tweet on the Go!



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The Conversation on Twitter

- •DREAMers and Immigration Reformers have been hailed for their organization
- Have used Twitter as a key tool for organization
- Journalists now follow activists
- •Used to apply political pressure (ex: Thunderclap)



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Other Social Media Sites

- •LinkedIn Essential for Law Firms
- •Quora—Questions & Answers
- •Klout—Personal Social Media Statistics
- •Pinterest Personalize Your Law Firm & Attorneys
- •Tumblr Niche Immigration Topics



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New Sources of News | Comparison | Comparis

Newsle



- Newsle finds articles about you, your friends and colleagues, and anyone else you care about and notifies you minutes or hours after they're published.
- Newsle's core technology is its disambiguation algorithm, which determines whether an article mentioning "John Smith" is about the right person.
- Why would you use this?



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Google+



- A top-quality video chat platform that costs nothing, Hangout allows you to hold video chat sessions with an unlimited number of people right from your Google+ account
- Circles are in fact an incredibly easy and convenient means of content sharing
- •Google+—on paper anyway—is the world's second largest social network after Facebook
- •Why would you use this?



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Latino Rebels



- •The Latino Rebels are a collective of social media influentials, bloggers, journalists, poets, writers, producers, photographers, and marketers
- •They use humor, commentary, opinions, independent stories, cross-links to others blogs, and social media platforms to share their universe
- Why would you use this?



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Social Media Ethics

- AILA Articles
- Privacy Issues & Confidentiality
- Friending Your Clients?
- •Legal Advice Online?



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Interesting Internet Immigration Items

- •What the Immigration Attorney http://immigrationatty.tumblr.com/page/1
- Consular Corner on FB —
 https://www.facebook.com/ConsularCorner
- Caudle Immigration on FB
- •International Immigration Professionals LinkedIn



