

# Habeas Petitions for Detained Immigrants

San Francisco, Live Webcast and [www.pli.edu](http://www.pli.edu),\* March 3, 2017

## Why You Should Attend

The U.S. Department of Homeland Security detains more than 400,000 noncitizens in civil immigration detention every year. A congressional quota mandates that Immigration and Customs Enforcement (ICE) maintain 34,000 beds daily for immigrants in detention, many in privately run detention facilities. Tens of thousands more are subject to onerous conditions of release, including high bonds and GPS tracking devices. Immigrants who are detained include asylum seekers, victims of trafficking or crimes in the United States, longtime lawful permanent residents, and others with avenues to immigration relief. Research shows that in Northern California, represented noncitizens who are released from detention are nearly three times more likely to win their immigration case as represented noncitizens who remain detained.

The writ of habeas corpus is a constitutionally-protected device by which individuals can petition a federal district court judge to remedy unlawful deprivation of liberty by government officials. Yet many immigration advocates---whose day-to-day practice is largely before administrative agencies---feel ill-equipped to enter federal court to challenge ICE and immigration court custody decisions. This training is designed to provide immigration attorneys the knowledge and tools necessary to litigate habeas petitions on behalf of detained immigrant clients.

## What You Will Learn

- When Can I File a Habeas Petition? – Overview of Immigration Custody Regimes and Corresponding Habeas Opportunities
- What Are My Arguments? – Common Challenges to Detention Through Habeas and Possible Hurdles
- How Do I Get into Federal Court? –Nuts and Bolts of Filing a Habeas Petition

## Who Should Attend

All attorneys interested in or currently assisting immigrant clients who are detained or subject to conditions of custody, including private and pro bono attorneys, law clinic students and faculty, and public interest and non-profit organization attorneys, would benefit from attending this program. Participants are expected to have a basic knowledge of immigration law but need not have prior experience with habeas petitions.

## **Program Schedule**

9:00

### **Program Overview and Introductions**

***Etan Newman, Marie Vincent***

9:15

### **When Can I File a Habeas? – Overview of Immigration Custody Regimes and Corresponding Habeas Opportunities**

Immigrants may be subject to a variety of custodial decisions and situations. For example, a noncitizen may be in criminal custody but subject to a “detainer” from immigration officials. Or, a noncitizen may be in ICE custody as an “arriving alien,” or pursuant to an immigration judge’s bond decision either during immigration proceedings or subsequent to an order of removal. Unaccompanied minors may be placed in the custody of the Office of Refugee Resettlement. Each situation carries an accompanying array of governing statutes, regulations, and constitutional protections. This panel will review the different regimes of immigration custody, identify situations where a habeas petition may be appropriate, and discuss which custody decisions are subject to a habeas challenge.

***Holly Cooper, Zach Nightingale***

10:15

### **What Are My Arguments? – Common Challenges to Detention Through Habeas and Possible Hurdles**

The federal habeas statute makes the writ available when an individual’s liberty is restrained “in violation of the Constitution or laws or treaties of the United States.” Habeas petitions can challenge procedural deficiencies in a noncitizen’s detention, such as classification under the wrong statutory detention scheme, as well as the merits of a bond decision, including improprieties in an ICE official or immigration judge’s weighing of the factors justifying detention. This panel will discuss common legal challenges brought through habeas and hot topics in current litigation. The panel will also touch on common hurdles, such as exhaustion and jurisdictional issues.

***Ahilan Arulanantham, Holly Cooper***

11:15

*Networking Break*

11:30

### **How Do I Get Into Federal Court? –Nuts and Bolts of a Habeas Petition**

Never practiced in federal court before? This panel will cover the logistical details of how to file and litigate a habeas petition in federal district court. Topics will include: who to name as defendant(s); attaching evidence and exhibits; service on the U.S. Attorney’s Office; using CM/ECF; what to expect after filing; timelines for briefing and decision; and use of temporary restraining orders/injunctions. Panelists will reference

their experience practicing in the Northern District of California but much of the discussion will be relevant to other jurisdictions.

***Raha Jorjani, Zach Nightingale***

12:30

*Adjourn*

## Faculty

### Co-Chairs

#### **Etan Newman**

Immigration Attorney  
Pangea Legal Services  
San Francisco, California

#### **Marie Vincent**

Immigration Attorney and Co-Director  
Pangea Legal Services  
San Francisco, California

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#### **Ahilan Arulanantham**

Director of Advocacy and Legal Director  
ACLU of Southern California  
Los Angeles, California

#### **Holly Cooper**

Co-Director, Immigration Law Clinic  
UC Davis School of Law  
Davis, California

#### **Raha Jorjani**

Director, Immigration Representation Project  
Alameda County Office of the Public Defender  
Oakland, California

#### **Zach Nightingale**

Partner  
Van Der Hout, Brigagliano, & Nightingale  
San Francisco, California

**Program Attorney:** Christina Thompson