

# **Emergency Legal Challenges to Imminent Removals: Emergency Petitions for Review of Administrative and Reinstatement Orders, Emergency Motions to Reopen, and Whether Habeas Might Be a Viable Option**

San Francisco, Live Webcast and [www.pli.edu](http://www.pli.edu),\* July 10, 2017

## **Why You Should Attend**

In 2015 alone, there were 333,341 documented removals, or deportations, from the United States. Not only is the large number of removals concerning, it is particularly alarming that so many removals could have been successfully challenged, but so many of the deportees were never advised regarding any such options. Many individuals facing removal do not obtain legal assistance, and unwittingly forfeit critical rights and legal protections. This training will provide you with the tools that you need to assess the options of individuals facing imminent deportations due to administrative or reinstatement orders, orders issued by the Immigration Courts, and the role of habeas and other legal actions in the context of imminent removal.

## **What You Will Learn**

- When can I file an Emergency Petition for Review in the context of Administrative and Reinstatement Orders?
- What type of Emergency Motions to Reopen might be possible?
- Is a Habeas Petition or another Federal Court action a viable option?

## **Who Should Attend**

This training is designed for immigration attorneys who want to learn how imminent removals might be halted with legal challenges. Participants should have a basic knowledge of immigration law, but need not have prior experience with challenging orders of removal.

## **Program Schedule**

9:00

### **Program Overview and Introductions**

***Monica Oca Howell, Valerie Anne Zukin***

9:10

### **Emergency Petitions for Review of Administrative and Reinstatement Orders**

Administrative removal is a summary procedure which takes place without a hearing before an immigration judge, which may apply to noncitizens, other than lawful permanent residents (but does include conditional residents), who are convicted of aggravated felonies. 8 U.S.C. § 1228(b), INA § 238(b); 8 C.F.R. § 238.1(b)(1)(iv). Reinstatement of removal is a summary removal procedure that, with some statutory and judicial exceptions, applies to noncitizens who return to the United States illegally after having been removed under a prior order of deportation, exclusion, or removal. 8 U.S.C. § 1231(a)(5); INA § 241(a)(5), 8 C.F.R. § 241.8.

The training will discuss the general parameters of administrative and reinstated orders of removal and how emergency petitions for review may be used to challenge these orders, including jurisdiction and important deadlines. Moreover, motions for stay of removal will be discussed, along with insight as to how reasonable fear proceedings might impact their analysis. Other potential legal challenges related to administrative and reinstatement orders will conclude this segment of the training.

***Zachary M. Nightingale, Ilyce Shugall***

10:10

### **Emergency Motions to Reopen**

Generally, the availability of motions to reopen is limited to one motion filed within 90 days of the issuance of a final order of removal, and must be premised on new material evidence. However, vital exceptions where motions to reopen may be possible in other circumstances include: Motions to reopen an *in absentia* order may be filed if a Respondent's failure to appear was based on "exceptional circumstances," lack of notice, or if the Respondent was in federal or state custody. INA § 240(b)(5)(C)(ii); 8 C.F.R. § 1003.23(b)(4)(ii). A motion to reopen may also be filed to allow a Respondent to seek relief under the Violence Against Women Act, or if changed country conditions have given rise to a claim for asylum or related relief. Additionally, certain equitable tolling arguments, such as ineffective assistance of counsel or changes in law may constitute a basis for a motion to reopen and the Court and Board of Immigration Appeals may also reopen cases *sua sponte*. Finally, the panelists will review when an automatic stay applies in the context of motions to reopen.

***Katherine M. Lewis, Valerie Anne Zukin***

11:10

***Networking Break***

11:30

**Whether Habeas or Other Federal Court Actions Might Be Viable Options**

This panel will cover habeas and other federal court filings that may be useful on an emergency basis. Topics will include: federal court jurisdiction and the significant bars to jurisdiction, likely next steps regarding the threatened expansion of expedited removal, and possible actions to challenge detention transfers and interference with access to counsel. [Please note that this panel will not cover habeas corpus petitions for release from immigration detention.]

***Julia Harumi Mass, Zachary M. Nightingale***

12:30

*Adjourn*

## Faculty

### Co-Chairs

#### **Monica Oca Howell**

Senior Immigration Attorney  
CARECEN  
San Francisco, California

#### **Valerie Anne Zukin**

Lead Attorney Coordinator  
Northern California Collaborative for Immigrant Justice  
San Francisco, California

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#### **Katherine M. Lewis**

Immigration Attorney  
Van Der Hout, Brigagliano, & Nightingale  
San Francisco, California

#### **Julia Harumi Mass**

Senior Staff Attorney  
ACLU Foundation of Northern California  
San Francisco, California

#### **Zachary M. Nightingale**

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

#### **Ilyce Shugall**

Directing Attorney, Immigration Program  
Community Legal Services in East Palo Alto  
East Palo Alto, California

**Program Attorney:** Christina Thompson