

Resources for the Immigration Law Practice Novice

By Liz Balck Monsma

Immigration law has been front and center in the news over the past year. But even before the new administration took office, immigration law was highly political, complex, ever-changing, and, for many, painfully broken. It is no wonder more attorneys are showing an interest in immigration law.

Attorneys new to immigration law should start by joining the American Immigration Lawyers Association (AILA)¹ or the Immigration Section of the Federal Bar Association.² These professional organizations offer training, research materials, real-time legal updates, and not-to-miss annual conferences. Next, consider finding a mentor. Members of AILA and the Federal Bar Association have access to experienced immigration attorneys through listservs and networking events. It is difficult to capture how complicated and sometimes downright bizarre this practice can be. Guidance from a more experienced attorney is invaluable.

Secondary reference materials

Immigration is a federal practice and is divided into three general categories: employment, family, and humanitarian. This article focuses on family-based and humanitarian immigration law, but many of the sources listed may also be relevant to employment cases.

Kurzban's Immigration Law Sourcebook is an essential resource for immigration attorneys.³ It is updated annually and can be purchased in print or electronically. Immigration lawyers flip through *Kurzban's* before looking elsewhere for answers to their legal questions. It is organized by topic and offers quick references to caselaw and statutory and regulatory citations.

Other worthy resources include *Essentials of Immigration Law* by Richard A. Boswell⁴ and *Immigration Law and Defense* by Phil Hornick.⁵

When seeking guidance on a specific topic such as family petitions or the "U" visa, look to the Immigrant Legal Resource Center's practice manuals, which provide a step-by-step approach to handling a case, including appendices full of sample cover letters and forms.⁶ Dozens of fantastic organizations offer seminars and webinars throughout the year, including the Catholic Legal Immigration Network, National Immigration Project of the National Lawyers Guild, and National Immigration Law Center.⁷

For multivolume treatises you might have to trek to the law library to find, look to the *Immigration Law Service* by Shane Dizon⁸ or *Immigration Law and Procedure* by Charles Gordon,⁹ among others.

Statutory authority

The naturalization or citizenship clause of the U.S. Constitution gave Congress the power to decide the naturalization, admission, and deportation of noncitizens.¹⁰ The Immigration and Nationality Act of 1952¹¹ created the structure of our modern immigration system. It is codified at Title 8 of the United States Code.¹² Sometimes cited

in parallel, it is more common to cite the act by itself.

The Immigration and Nationality Act is interpreted and implemented by the Code of Federal Regulations (CFR).¹³ Because you will find references to both the statute (the act) and the regulation (CFR), it is imperative that you have both in your library. They are often sold together for convenience or you can find them free online.¹⁴

Agency guidance

Part of what makes immigration law so complicated is navigating between multiple agencies—sometimes in a single case. In 2003, the Immigration and Naturalization Service was replaced with the Department of Homeland Security, which oversees the following agencies that are tasked with handling specific aspects of immigration law: Customs and Border Protection,¹⁵ Immigration and Customs Enforcement,¹⁶ and U.S. Citizenship and Immigration Service.¹⁷ The agencies issue their own policy memoranda and field guidance, usually found on their respective websites.

Executive orders

Given the number of new immigration-related executive orders, consider bookmarking the Federal Register's website¹⁸

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where all executive orders are found. The National Archives website¹⁹ hosts a summary of presidential executive orders dating back to Franklin D. Roosevelt (1933–1945).

Caselaw

The Department of Justice oversees the Executive Office for Immigration Review, which houses both the immigration courts and its appellate body, the Board of Immigration Review. Both have particular rules of evidence and motion practice that differ greatly from state court procedures. Attorneys who represent clients before the Executive Office for Immigration Review will find these procedural guidebooks helpful:

- *Immigration Court Practice Manual*²⁰
- *Immigration Judge Benchbook*²¹
- *Board of Immigration Appeals Practice Manual*²²
- *The Immigration Law Advisor*²³

Appellate decisions from the Administration Appeals Office, Board of Immigration Appeals, U.S. federal courts, U.S. Circuit Courts of Appeals, and the United States Supreme Court can be found on legal research platforms like Westlaw, LexisNexis, and AILALink as well as reporters like *Bender's Immigration Case Reporter*.²⁴ As with all areas of law, it is important to note which decisions are binding and nonbinding on your client.

The complexities of immigration law require a comprehensive reference library. The resources discussed here should provide a solid foundation for practitioners new to this highly rewarding area of practice. ■

ENDNOTES

1. American Immigration Lawyers Association <<http://www.aiala.org/>>. All websites cited in this article were accessed January 10, 2018.
2. Federal Bar Association, Immigration Section <<http://www.fedbar.org/sections/immigration-law-section.aspx>>.
3. Kurzban, *Kurzban's Immigration Law Sourcebook—Fifth Edition* (AILA, June 2016).
4. Boswell, *Essentials of Immigration Law—Fourth Edition* (AILA, June 2016).
5. Hornick, *Immigration Law and Defense* (Thomson Reuters, 2017).
6. Immigrant Legal Resource Center, *Publications* <<https://www.ilrc.org/publications>>.
7. Catholic Legal Immigration Network, Inc <<https://cliniclegal.org/training>>; National Immigration Project of the National Lawyers Guild <<https://www.nationalimmigrationproject.org/training.html>>; National Immigration Law Center <<https://www.nilc.org/get-involved/trainings/>>.
8. Dizon, Gallagher & Wettstein, *Immigration Law Service—Second Edition* (Thomson Reuters, 2017).
9. Gordon et al, *Immigration Law and Procedure—Revised Edition* (LexisNexis, 2017).
10. US Const, amend XIV, § 1, cl 1. See also *Arizona v US*, 567 US 387, 394–395; 132 S Ct 2492; 183 L Ed 2d 351 (2012).
11. Immigration and Nationality Act, Pub L No. 82-414, § 101; 66 Stat 163, 167 (1952) (codified as amended at 8 USC 1101).
12. 8 USC 1101 *et seq*.
13. 8 CFR 1001.1 *et seq*.
14. Dept of Homeland Security, US Citizenship and Immigration Services, *Immigration and Nationality Act* <<https://www.uscis.gov/ilink/docView/SLB/HTML/SLB/act.html>>; Government Publishing Office, *Electronic Code of Federal Regulations* <<https://www.ecfr.gov/cgi-bin/ECFR?page=browse>>.
15. See Dept of Homeland Security, US Customs and Border Protection, *Official Site for Travelers Visiting the United States*, to look up a client's travel history or recent arrival/departure records <<https://i94.cbp.dhs.gov/i94/#/home#section>>.
16. See Dept of Homeland Security, US Immigration and Customs Enforcement, *Tool Kit for Prosecutors* (April 2011) <<https://www.ice.gov/doclib/about/offices/oslic/pdf/tool-kit-for-prosecutors.pdf>> and *Federal Register and Regulations* <<https://www.ice.gov/federal-register-notice-and-regulations>>.
17. Find USCIS's online repository for its policies and procedures at Dept of Homeland Security, US Citizenship and Immigration Services, *USCIS Policy Manual* <<https://www.uscis.gov/policymanual/HTML/PolicyManual.html>>.
18. Natl Archives and Records Admin, Office of the Federal Register, *Executive Orders* <www.federalregister.gov/executive-orders>.
19. *Id.*, *Executive Orders Disposition Tables Index* <<https://www.archives.gov/federal-register/executive-orders/disposition>>.
20. US Dept of Justice, Executive Office for Immigration Review, *Immigration Court Practice Manual* <<https://www.justice.gov/eoir/office-chief-immigration-judge-0>>.
21. US Dept of Justice, Executive Office for Immigration Review, *Immigration Judge Benchbook* (archived version) <<https://www.justice.gov/eoir/immigration-judge-benchbook#intro>>.
22. US Dept of Justice, Executive Office for Immigration Review, *Board of Immigration Appeals Practice Manual* <<https://www.justice.gov/eoir/board-immigration-appeals2>>.
23. US Dept of Justice, Executive Office for Immigration Review, *Immigration Law Advisor* <<https://www.justice.gov/eoir/immigration-law-advisor>>.
24. Kaye et al, *Bender's Immigration Case Reporter* (Matthew Bender).



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