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THE CURRENT MINEFIELD FOR IMMIGRATION PRACTITIONERS: PROTECTING THE RIGHTS OF CLIENTS IN THE TRUMP ERA

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CONTENTS

INTRODUCTION	165
THE IMPACT OF “BUY AMERICAN AND HIRE AMERICAN”	166
RADICALIZED ENFORCEMENT AND ATTACKS ON JUDICIAL INDEPENDENCE	172
CONCLUSION	175

INTRODUCTION

Immigration reform has been a consistent campaign promise of presidential candidates for decades, in part, because the U.S. immigration system has always been a regulatory minefield for anyone attempting to navigate its bureaucracy.¹ President Trump’s “America

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1. See Ron Elving, *For Every President Since Reagan, Immigration Has Been One More Minefield*, *Weekend Edition Sunday*, NPR (Oct. 15, 2017, 8:02 AM), <https://www.npr.org/2017/10/15/557863705/for-every-president-since-reagan-immigration-has-been-one-more-minefield> [<https://perma.cc/TJP5-LTQQ>] (outlining a timeline of presidential remarks regarding immigration.) To provide a few examples: During the 2016 presidential election, President Trump’s campaign included promises of an administration that “will stop illegal immigration, deport all criminal aliens, and save American lives,” and “will reform legal immigration to serve the best interests of America and its workers, the forgotten people...” Donald Trump, Campaign Speech at Bayfront Park Amphitheater in Miami (Nov. 2, 2016); Donald Trump, Immigration Speech in Phoenix Arizona (Aug. 31, 2016). At the same time,

First,” “Buy American and Hire American,” and other anti-immigration policies enacted since his inauguration have rendered the U.S. immigration system nearly impossible to navigate without an experienced, highly-skilled attorney. In addition to the disturbing rollback on basic human rights as seen through family separations, the cancellation of the Deferred Action for Childhood Arrivals (DACA) program, the Muslim ban and the fabricated war on “chain migration,” there have also been substantial limitations and newfound scrutinies placed on existing employment-based immigration programs.² Our practice, as with virtually the entire U.S. immigration bar worldwide, has seen significant pushback on once-routine visa applications in the form of unannounced, unofficial changes in regulations and standards, as well as open intimidation tactics towards visa - and naturalization - hopefuls.

THE IMPACT OF “BUY AMERICAN AND HIRE AMERICAN”

As is with the majority of Trump’s dubious claims about the U.S. immigration system, the narrative of foreign workers taking jobs from U.S. workers³ is baseless. Irrespective of the current administration’s

Democratic candidate Hillary Clinton proposed to “fix our broken immigration system and stay true to our fundamental American values,” and to “introduce comprehensive immigration reform with a pathway to full and equal citizenship.” *Immigration reform*, The Office of Hillary Rodham Clinton (last visited Jan. 18, 2019), <https://www.hillaryclinton.com/issues/immigration-reform/> [https://perma.cc/7XUR-9LRT]. During his 2008 campaign, President Obama promised to “fix the dysfunctional immigration bureaucracy and increase the number of legal immigrants to keep families together and meet the demand for jobs that employers cannot fill.” Jon Feere, *Obama’s Immigration Agenda*, CTR. FOR IMMIGR. STUD. (Jan. 22, 2009), <https://cis.org/Feere/Obamas-Immigration-Agenda> [https://perma.cc/2B5Y-FZRQ]. Republican candidate John McCain also shared his plans regarding immigration policy reform, supporting a “sensible” guest-worker program for workers in the United States without legal status while also promising to strengthen penalties for employers hiring undocumented immigrants. Jennifer Ludden, *Immigration Issue Doesn’t Divide McCain, Obama*, NPR (June 10, 2008), <https://www.npr.org/templates/story/story.php?storyId=91323073> [https://perma.cc/V3UZ-3GA6].

2. Jessica Kwong, *Trump Immigration Policy: From Separating Families to H-1B Visas*, NEWSWEEK (July 7, 2018, 9:02 AM), <https://www.newsweek.com/donald-trump-immigration-policy-h-1b-visa-978219> [https://perma.cc/X2HM-6TJH].
3. See generally Brennan Hoban, *Do Immigrants “Steal” Jobs from American Workers?*, BROOKINGS INSTITUTION (Aug. 24, 2017), <https://www.brookings.edu/blog/brookings-now/2017/08/24/do-immigrants-steal-jobs-from-american-workers/> [https://perma.cc/ZHQ3-

position, preserving the job market for U.S. workers has always been an integral part of the U.S. immigration structure. Prior to applying for visa status with the U.S. Department of Homeland Security (DHS), employment-based visa petitions require extensive review⁴ and certification from the U.S. Department of Labor to ensure that U.S. jobs remain unthreatened.⁵ Accordingly, rather than fulfill its intended purpose of protecting the U.S. economy, the consequences of “Buy American and Hire American” have only complicated tax-paying U.S. companies’ ability to both conduct business and employ qualified talent.⁶

As part of the Trump Administration’s crackdown on immigration enforcement, U.S. Immigration and Customs Enforcement (ICE) has significantly increased the number of worksite enforcement investigations. Between January 2018 and the end of July 2018, I-9 audit notices⁷ were served to over 5,200 businesses nationwide, with an alarming 2,738 audit notices served just between July 16 and 20, 2018.⁸ This compares to a total of approximately 1,400 I-9 audit notices issued in 2017.

Additionally, visa petitions, once assumed to be approved, are now being challenged— something all immigration law practitioners have felt through the overall increase of Requests for Evidence (RFEs)⁹ and denials that are being issued for H-1Bs (Specialty

3UFF] (analyzing immigration on U.S. economic growth and stability and its effect on job availability).

4. See generally *About Foreign Labor Certification*, DEP’T OF LABOR, <https://www.foreignlaborcert.doleta.gov/about.cfm> [<https://perma.cc/VCC3-4XAR>] (explaining Department of Labor Visa processes for foreign labor certifications).
5. 8 U.S. Code § 1182 (a)(5)(A)(i).
6. Nelson D. Schwartz & Steve Lohr, *Companies Say Trump is Hurting Business by Limiting Legal Immigration*, N.Y. TIMES (Sept. 2, 2018), <https://www.nytimes.com/2018/09/02/business/trump-legal-immigration-h1b-visas.html> [<https://perma.cc/H6W2-EAHH>].
7. Employers file I-9 forms for each employee to verify the employee’s identity and employment eligibility; an ICE officer will serve an employer with a Notice of Inspection to let the employer know that their I-9 forms will be inspected. *I-9 Audits and Investigations of Employers Have Nearly Quadrupled in 2018*, JDSUPRA (Aug. 18, 2018), <https://www.jdsupra.com/legalnews/i-9-audits-and-investigations-of-78691/> [<https://perma.cc/5AZ4-PLK3>].
8. *ICE Delivers More Than 5,200 I-9 Audit Notices to Business Across the U.S. in 2-Phase Nationwide Operation*, U.S. IMMIGR. AND CUSTOMS ENFORCEMENT (July 24, 2018), <https://www.ice.gov/news/releases/ice-delivers-more-5200-i-9-audit-notices-businesses-across-us-2-phase-nationwide> [<https://perma.cc/BH42-PTUJ>].
9. Scott D. Pollock, *Difficult Requests for Evidence for Employment*, AM. IMMIGR. LAWYER’S ASS’N (2011),

Occupations)¹⁰, L-1s (Managerial, Executive, or Specialized Knowledge)¹¹, O-1s (Extraordinary Ability)¹², and other employment immigration filings.¹³ According to data published by the National Foundation for American Policy (NFAP), the RFE rate for H-1B visa petitions for skilled foreign-born professionals increased from about 22.5% to an alarming 68.9% between the 3rd and 4th quarters of fiscal year (FY) 2017, just a few months following President Trump's "Buy American and Hire American" executive order; in fact, NFAP data shows that in quarter 4 of FY 2017 alone, U.S. Citizenship and Immigration Services (USCIS) issued a total of 63,184 RFEs for H-1B petitions, compared to 63,599 issued in quarters 1, 2, and 3 of FY 2017 combined.¹⁴ Moreover, a significant increase in denial rates for

<http://www.ailawebcile.org/resources/Resources%20for%207-19-11%20Seminar.pdf> [<https://perma.cc/DYM9-TQH7>] ("Request for Evidence (RFE) requires legal analysis, logic, and argument. The issuance of an RFE signals that USCIS regards the initial evidence submitted with the petition as insufficient to approve the case, so you should treat the RFE response as a Notice of Intent to Deny (NOID).").

10. See Yeganeh Torbati, *Trump Administration Red Tape Tangles Up Visas for Skilled Foreigners*, REUTERS (Sept. 20, 2017, 1:12 AM), <https://www.reuters.com/article/us-usa-immigration-employment-insight/trump-administration-red-tape-tangles-up-visas-for-skilled-foreigners-data-shows-idUSKCN1BV0G8> [<https://perma.cc/8Q6F-79J2>] (discussing the Trump administration policy of limiting the number of H-1B visas approved, visas that cover skilled foreigners temporarily working in the U.S.).
11. "The L-1A nonimmigrant classification enables a U.S. employer to transfer an executive or manager from one of its affiliated foreign offices to one of its offices in the United States." *L-1A Intracompany Transferee Executive or Manager*, U.S. IMMIGR. AND CUSTOMS ENFORCEMENT, <https://www.uscis.gov/working-united-states/temporary-workers/l-1a-intracompany-transferee-executive-or-manager> [<https://perma.cc/AM3Y-37LF>].
12. "The O-1 nonimmigrant visa is for the individual who possesses extraordinary ability in the sciences, arts, education, business, or athletics, or who has a demonstrated record of extraordinary achievement in the motion picture or television industry and has been recognized nationally or internationally for those achievements." *O-1 Visa: Individuals with Extraordinary Ability or Achievement*, U.S. IMMIGR. AND CUSTOMS ENFORCEMENT, <https://www.uscis.gov/working-united-states/temporary-workers/o-1-visa-individuals-extraordinary-ability-or-achievement> [<https://perma.cc/RH3P-C2XG>].
13. Nahal Toosi et al., *Foreign Visas Plunge Under Trump*, POLITICO (Apr. 2, 2018, 5:00 AM), <https://www.politico.com/interactives/2018/trump-travel-ban-visas-decline/> [<https://perma.cc/Z3Q9-WNZN>].
14. It should be noted that the majority of H-1B petitions are filed at the beginning of the second quarter of the government's fiscal year, so it could be expected that the third and fourth quarters would necessarily see a higher number of adjudications than the first and second quarters. However, pre-Trump Administration H-1B RFE and denial statistics by

both L-1A and L-1B visa petitions has also been observed.¹⁵ The denial rate for L-1A visa petitions increased from 12.8% in the 1st quarter to 21.4% in the 4th quarter of FY 2017.¹⁶ Similarly, L-1B visa petitions also faced increased scrutiny; data shows the L-1B denial rate increasing from 21.7% to 28.7% between the 1st and 4th quarters of FY 2017.¹⁷ This increase has continued into FY 2018, with a 30.5% denial rate in the 1st quarter and a 29.4% denial rate in the 2nd quarter.¹⁸ For comparison, denial rates were at 24.8% and 24.2% in FY 2015 and 2016 respectively.¹⁹

Moreover, a recent analysis of USCIS data shows that processing delays have reached “crisis” levels as the agency subjects all cases to a process of extreme vetting, “harming families, vulnerable populations, and U.S. businesses that depend on timely adjudications.”²⁰ The American Immigration Lawyers Association (AILA) analyzed USCIS data for FY 2014 through FY 2017, revealing that average case processing times have increased by 46% over FY 2017 and 2018.²¹ These drastic increases in processing times for all immigration-related filings are in part due to the new, aggressive USCIS policies enacted during the Trump Administration. AILA has cited at least three of these policies, which constitute what AILA calls an “invisible wall” of anti-immigration policies. These include, but are not limited to:

- Rescinding “longstanding guidance that directed USCIS personnel to give deference to prior determinations when

fiscal quarter do not appear to have been tracked and published, so a direct comparison could not be determined. *H-1B Denials and Requests for Evidence Increase Under the Trump Administration*, NAT’L FOUND. FOR AM. POL’Y (July 2018), <https://nfap.com/wp-content/uploads/2018/07/H-1B-Denial-and-RFE-Increase.NFAP-Policy-Brief.July-2018.pdf> [<https://perma.cc/S9CU-W8WS>].

15. NAT’L FOUND. FOR AM. POL’Y, *supra* note 14. “The L-1A is for managers and executives while the L-1B is for specialized employees. “*L-1 Extension Denial*, SGM L. GRP., <http://www.immi-usa.com/l1-extension-denial/> [<https://perma.cc/JA3L-7BTL>].
16. NAT’L FOUND. FOR AM. POL’Y, *supra* note 14.
17. *Id.*
18. *Id.*
19. *Id.*
20. AILA Policy Brief: USCIS Processing Delays Have Reached Crisis Levels Under the Trump Administration, AILA Doc. No. 19012834, AM. IMMIGR. LAWYER’S ASS’N (Jan. 30, 2019), *available at* https://www.aila.org/infonet/aila-policy-brief-uscis-processing-delays?utm_source=AILA+Mailing&utm_campaign=b8dc2db179-AILA8_01_30_2019&utm_medium=email&utm_term=0_3c0e619096-b8dc2db179-287743565.
21. *Id.*

adjudicating nonimmigrant employment-based extension petitions involving the same position and the same employer.”

- Overhauling refugee case adjudications, thereby bringing the processing of many of these applications “to a virtual standstill.”
- Implementing a new in-person interview requirement for employment-based green card applications and Forms I-730, Refugee/Asylee Relative Petition, without providing meaningful justification.²²

Whereas there used to be somewhat predictable outcomes within immigration law, these policy and practice shifts now constitute a minefield for practitioners advising clients in an ever-changing landscape with now unknown consequences. Practitioners are often left having to answer to already anxious clients with no confident assurances to offer. From a practitioner’s standpoint, the uncertainty and delay bred by these greater amounts of RFEs and denials and surges in processing times have definite real-world costs. Legal fees increase because of the significantly more work and time involved in responding to RFEs, and appealing and/or reapplying after baseless denials, not to mention that such a trend will almost certainly discourage employers from hiring international talent altogether.

This is no more apparent than in the case of *ITSERVE Alliance v. Nielsen* No. 18-cv-1823 (N.D. Tex. July 14, 2018). The lawsuit stems from sudden changes to the USCIS website in April 2018. Among the changes was a declaration that a STEM OPT employer “may not assign, or otherwise delegate, its training responsibilities to a non-employer third party (e.g., a client/customer of the employer, employees of the client/customer, or contractors of the client/customer).”²³ According to immigration attorney Jonathan Wasden, who filed the lawsuit against Nielsen, “[USCIS] inserted new ‘terms and conditions’ that eliminated IT (information technology) consulting companies from STEM OPT. U.S. Citizenship and Immigration Services didn’t roll out these changes publicly. Instead, USCIS went in like Winston Smith, changed the webpage, and acted like it has always been that way[...] Now the agency is seeking to penalize students whose STEM OPT was approved prior to the website change for failing to comply with rules they couldn’t know

22. *Id.*

23. Anna L. Susarina, *New Foreign-Student Work Restriction Has Outsourcing and Staffing Firm Suing*, LEXOLOGY (Aug. 23, 2018), available at <https://www.lexology.com/library/detail.aspx?g=25b5e4b6-c651-4c86-93a9-13d51cdc6c6c>.

about.”²⁴ The damage of this unexpected policy is threefold: it sets a frightening precedent for USCIS’s ability to change their policies without public review or input, as well as creates a confusing, tense climate for immigrants who may be retroactively punished based on the new wording. In addition, U.S. employers may be cautious with expanding or continuing with their STEM OPT programs given the volatility of USCIS. These under-the-radar power grabs by USCIS constitute a growing dark force in immigration law. Clients become more frightened as they watch the never-ending news cycle and participate in a hostile political climate, thinking they will be the next ones affected.

To make already-disturbing matters even worse, a new USCIS Policy Memorandum (PM) dated July 13, 2018 affords USCIS adjudicators the discretion to immediately deny a visa petition or visa application without first issuing an RFE and giving the applicant or the petitioner the opportunity to respond and submit any additional documentation.²⁵ This memorandum rescinds the previous PM dated June 3, 2013, which specified that adjudicators should typically issue either an RFE or a NOID (Notice of Intent to Deny) prior to denying a visa petition or application²⁶ only in situations in which there was no possibility that additional evidence could change the outcome of a case were adjudicators permitted to issue an immediate denial.²⁷ USCIS officers now hold full discretion in issuing denials “when appropriate,” though the memorandum somewhat conveniently fails to explain or specify what “when appropriate” may mean.²⁸

In addition, under new guidelines that are awaiting implementation, visa applicants who are lawfully in the United States could potentially find themselves in removal (deportation) proceedings when filing for an extension of their lawful stay. John Medeiros and Allison Wells of Myers Thompson P.A. write:

“These policies are part of a larger system that will create a new class of undocumented immigrants: individuals who have maintained lawful status since their entry but now, solely based

24. Stuart Anderson, *Lawsuit Filed To Protect Foreign Students From ICE And USCIS*, FORBES (Aug. 8, 2018), available at <https://www.forbes.com/sites/stuartanderson/2018/08/08/lawsuit-filed-to-protect-foreign-students-from-ice-and-uscis/#206c11d222aa>.

25. U.S. CITIZEN AND IMMIGRATION SERVICES, POLICY MEMORANDUM: ISSUANCE OF CERTAIN RFEs AND NOIDs (July 13, 2018), available at https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/AFM_10_Standards_for_RFEs_and_NOIDs_FINAL2.pdf.

26. *Id.*

27. *Id.*

28. *Id.*

on shifts in policy or procedure, run the risk of losing that status forever.”²⁹

Equally concerning are the implications of these new policies in the situation of “T” visa applicants:³⁰ instead of protecting these victims of human trafficking, who already face rigid requirements in establishing eligibility for T status, and facilitating the T visa application process, these guidelines place an already vulnerable group of people at even greater risk. The threat of deportation may further deter potential applicants from ever coming forward and applying for relief. The situation looks equally dire from the standpoint of practitioners, who seek to aid victims in remaining in the United States and are fatigued by the effects of the current administration’s unprecedented scrutiny.

Possibly the most chilling takeaway from all this: what happens to visa applicants when the PM-602-0163 reality sets in and, instead of “routine RFEs” (even those absurd and arbitrary), petitions are met with outright denials? In particular, what happens when a denial may place the applicant at risk of deportation?

RADICALIZED ENFORCEMENT AND ATTACKS ON JUDICIAL INDEPENDENCE

Under the Trump Administration, there has also been a disturbing shift of enforcement priorities from recent border arrivals to long-term residents. As reported by *The Intercept*, “Human Rights Watch found that the number of people detained inside the U.S. rather than at the border — meaning that they were not new arrivals — increased by 42% over last year, while immigration arrests of people with no criminal convictions nearly tripled.” In an interview with the *Intercept*, Human Rights Watch researcher Grace Meng attested to this:

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29. *Trump Administration’s ‘Culture of No’ is Causing Risk and Unpredictability to Employment-Based Immigration*, *Immigration News*, MYERS THOMPSON (July 20, 2018), <https://www.myersthompson.com/2018/07/client-advisory-trump-administrations-culture-of-no-is-causing-risk-and-unpredictability-to-employment-based-immigration/> [https://perma.cc/S5BU-M76N].
30. See Alison Kamhi & Rachel Prandini, *T VISAS: What They are and How They Can Help Your Clients*, IMMIGRANT LEGAL RES. CTR. (2017), https://www.ilrc.org/sites/default/files/resources/t_visas_advisory-20170509.pdf [https://perma.cc/7C6B-HMUQ] (“The T Visa is a type of humanitarian immigration relief allowing survivors of human trafficking and their immediate family members to remain and work temporarily in the United States”).

“The recently released numbers by DHS confirm what we know from interviewing dozens of people who were recently deported: that these are mothers, fathers, spouses of U.S. citizens, long-term immigrants who have been ripped from the interior of the country under a system that takes very little count of their ties to the U.S. [...] We see this as a serious human rights issue and one that’s been exacerbated by this administration.”³¹

While in the past enforcement tended to be more targeted towards undocumented immigrants with any kind of conviction, today we are seeing more and more “at-large arrests” and the apprehension of “collaterals”—when ICE arrives to make an arrest, other non-criminal undocumented immigrants in the area are picked up as well.³²

Moreover, the Trump Administration’s enforcement re-prioritization has become a threat to judicial independence. Although Immigration Courts operate under the Executive Branch rather than the Judiciary,³³ they occupy a critical role as neutral arbiters in deportation proceedings. Accordingly, the current administration’s systematic undermining of the Immigration Court’s authority and independence³⁴ is cause for extreme concern. In April 2018, the U.S. Department of Justice announced quotas tied to the job performance of Immigration Judges, raising alarms that this would turn Immigration Courts into assembly lines and severely curtail due process rights.³⁵ In May 2018, the Attorney General issued an official opinion in *Matter of Castro-Tum*, which stripped Immigration Courts across the country of their power to administratively close certain low-priority cases.³⁶ Historically, this practice of administrative

31. Alice Speri, *New DHS Numbers Show Trump is Deporting Longtime U.S. Residents, Ripping Families Apart*, THE INTERCEPT (Dec. 6, 2017), <https://theintercept.com/2017/12/06/trump-immigration-deportation-dhs/>.

32. *Id.*

33. *About the Office*, EXEC. OFF. FOR IMMIGR. R. (Aug. 14, 2018), <https://www.justice.gov/eoir/about-office> [<https://perma.cc/ZC57-8323>].

34. Jason Boyd, *8,000 New Ways the Trump Administration is Undermining Immigration Court Independence*, THE HILL: OP (Aug. 19, 2018, 1:00 PM), <https://thehill.com/opinion/immigration/402542-8000-new-ways-the-trump-administration-is-undermining-immigration-court> [<https://perma.cc/92ZP-QJZX>].

35. Joel Rose, *Justice Department Rolls Out Quotas for Immigration Judges*, NPR (Apr. 3, 2018, 1:09 PM), <https://www.npr.org/2018/04/03/599158232/justice-department-rolls-out-quotas-for-immigration-judges> [<https://perma.cc/9XYD-MERM>].

36. *Matter of Castro-Tum*, 27 I&N Dec. 271 (A.G. 2018).

closure enabled immigration judges to focus on high-priority cases while clearing their calendar of the types of cases which usually involved immigrants without criminal backgrounds and/or those who had been in the U.S. for years.³⁷ The Attorney General's decision leaves over 350,000 administratively closed cases to be re-calendared.³⁸ Finally, in the latest usurpation of judicial authority, the U.S. Department of Justice's Executive Office for Immigration Review removed the judge who administratively closed the underlying case in *Matter of Castro-Tum* from 87 of his cases.³⁹

Not even U.S. citizens are safe from President Trump's inhumane and draconian policies. Since day one, the Trump Administration has reiterated time and time again that its immigration agenda puts "America First," promising a crackdown on undocumented immigrants.⁴⁰ The President's relentless attacks on immigrants - including referring to undocumented immigrants as "animals" who "infest our Country"⁴¹ - though highly disquieting, have, sadly, become an integral component of his stump speech. But the end game of this administration is not to merely block the border, but to also strip the citizenship of current U.S. residents. A copy of an ICE handbook published last year outlines the techniques officers can use to successfully denaturalize U.S. citizens. The manual notes that "case agents should encourage the U.S. Attorney's Office prosecuting a case involving naturalization fraud or illegality to include a charge of

37. *Id.* at 274-6.

38. *Id.*; see also Letter from Catherine Cortez Masto et al., U.S. Sen., to Kirstjen Nielsen, Sec'y, DEP'T OF HOMELAND SEC., and Jeff Session, Att'y Gen., DEP'T OF JUST. (Sept. 13, 2018) ("The addition of all administratively closed cases - currently estimated at over 355,000 - would increase the backlog by nearly fifty percent, to over one million cases, which would presumably create a corresponding increase in the waiting times for immigration court hearings.").

39. Antonio Olivo, *Immigration Judges, Worried Trump is Seeking to Cut Them Out, Fight Back*, WASH. POST (Aug. 9, 2018), https://www.washingtonpost.com/local/social-issues/immigration-judges-worried-trump-is-seeking-to-cut-them-out-fight-back/2018/08/09/3d7e915a-9bd7-11e8-8d5e-c6c594024954_story.html?utm_term=.3db38cb384df [https://perma.cc/2WZK-9Y4F].

40. Sen. Trent Lott, *An Immigration Policy That Is 'America First' Still Needs to Allow Immigrants Into American*, NBC NEWS (Aug. 17 2018, 4:30 AM), <https://www.nbcnews.com/think/opinion/immigration-policy-america-first-still-needs-allow-immigrants-america-ncna901296> [https://perma.cc/U8DQ-P2HH].

41. Abigail Simon, *People Are Angry President Trump Used this Word to Describe Undocumented Immigrants*, TIME (June 19, 2018), <http://time.com/5316087/donald-trump-immigration-infest/> [https://perma.cc/SX5E-SLXX].

‘Procurement of Citizenship or Naturalization Unlawfully’ under 18 U.S.C. § 1425 because, upon conviction, the court is required to revoke the defendant’s citizenship.” From this quote alone, it is clear that the goal of persecuting citizens under this law is to eventually strip them of citizenship. Indeed, the manual includes the caution that “Civil denaturalization under 8 U.S.C. § 1451(a) may not result in a deportable charge against the defendant.”⁴² This needless campaign to denaturalize U.S. citizens is fundamentally inhumane, driving fear into the hearts of U.S. citizens who must now question both their nationality and identity.

CONCLUSION

The number of RFEs, denials, and deportations will undoubtedly continue to rise, and we tell our clients this is the most challenging time in immigration law we have seen in over 30 years. Based on the laws and policies continually passed by this administration, it will only get more difficult. Our clients, from those who are undocumented to those most extraordinarily talented and seeking legal passage into the U.S., are being aggressively targeted while our Immigration Court system is being rapidly undermined. As practitioners, being vigilant and zealous advocates is more important than ever. We have to prepare for all eventualities and adapt when the rules no longer seem to apply.

42. Eoin Higgins, *How ICE Works to Strip Citizenship from Naturalized Americans*, THE INTERCEPT (Feb. 14, 2018), <https://theintercept.com/2018/02/14/ice-denaturalization-naturalized-citizen-immigration/>.