



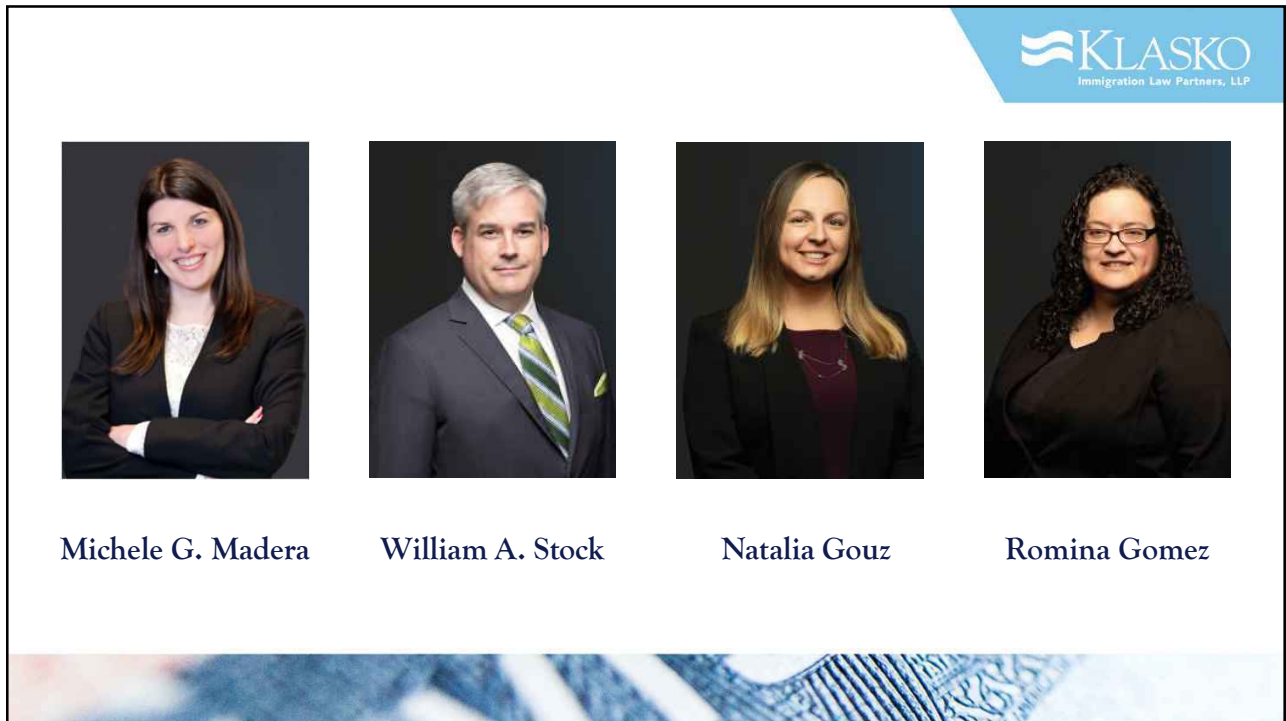
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Summer Sizzler: Perm Hot Topics


Michele Madera • William Stock
Natalia Gouz • Romina Gomez

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Natalia Gouz



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New Form

- New 9089 on DOL's FLAG System
- Employer impacts
 - Job information pulled from PWD
- Changing of questions – strategy impact
 - Job information pulled from PWD
 - Employee information and education
- Post-COVID and remote work

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UNITED STATES DEPARTMENT OF LABOR

Form ETA-9089 Changes

	Old 9089	New 9089
A	Refiling Information	Employer Information
B	Schedule A or Sheepherder Information	Employer POC Information
C	Employer Information	Attorney/Agent Information
D	Employer POC Information	Foreign Worker Information
E	Attorney/Agent Information	Job Opportunity and Wage Information
F	Prevailing Wage Information	Area of Intended Employment Information
G	Wage Offer Information	Additional Job Opportunity Information and Other Requirements
H	Job Opportunity Information	Recruitment Information
I	Recruitment Information	Employer Labor Condition Statements
J	Alien Information	Preparer Information
K	Alien Work Experience	APPENDIX A: Foreign Worker Information
L	Alien Declaration	APPENDIX B: Additional Worksite Information
M	Declaration of Preparer	APPENDIX C: Supplemental Information
N	Employer Declaration	APPENDIX D: Special Recruitment for College and University Teachers

Foreign Worker Declaration, Attorney/Agent Declaration, and Employer Declaration are contained on new *Final Determination: Permanent Employment Certification Approval*

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Audit Trends

- Audit risks with new form – business necessity upfront
 - Difference in language used on old form vs new form
 - Gathering of additional information pre-recruitment/filing
- Possibility of increase in audits as practitioners start submitting new cases
- Strategy to decrease audits – form allows for more information

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Increased Processing Times

- PWDs take very long
 - As of 6/12/2023, DOL working on
 - PWD filed on or before December 2022 (OES) and
 - PWD filed on or before August 2022 (other surveys)
- Start earlier
 - As of 6/12/2023, DOL is adjudicating
 - PERM filed on or before August 2022
 - Audit Reviews filed on or before May 2022
 - Appeals filed on or before May 2022
- AILA expects no improvement before end of 2023

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BALCA Case

- Charter Communications, 2020-PER-00171 (April 23, 2023)
- Denial of PERM part of national trend of employers indicated “See H.14” in 10-B instead of specifying the “occupation” for acceptable experience
- BALCA dismissed the denial & remanded for certification
- BALCA agreed that employer persuasively argued that failing to include a specific job title was immaterial to the CO’s review of the PERM form and that employer detailed the skills needed to meet the experience requirement in H.14

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Layoffs

- How it affects PERM
 - Where an employer has laid off U.S. workers within six months in the same or a related occupation in the area of intended employment immediately preceding the filing of Form ETA 9089, the employer must abide by additional regulatory requirements
 - Developing the list of affected positions
 - Remote/virtual workers

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Layoffs

(Continued)

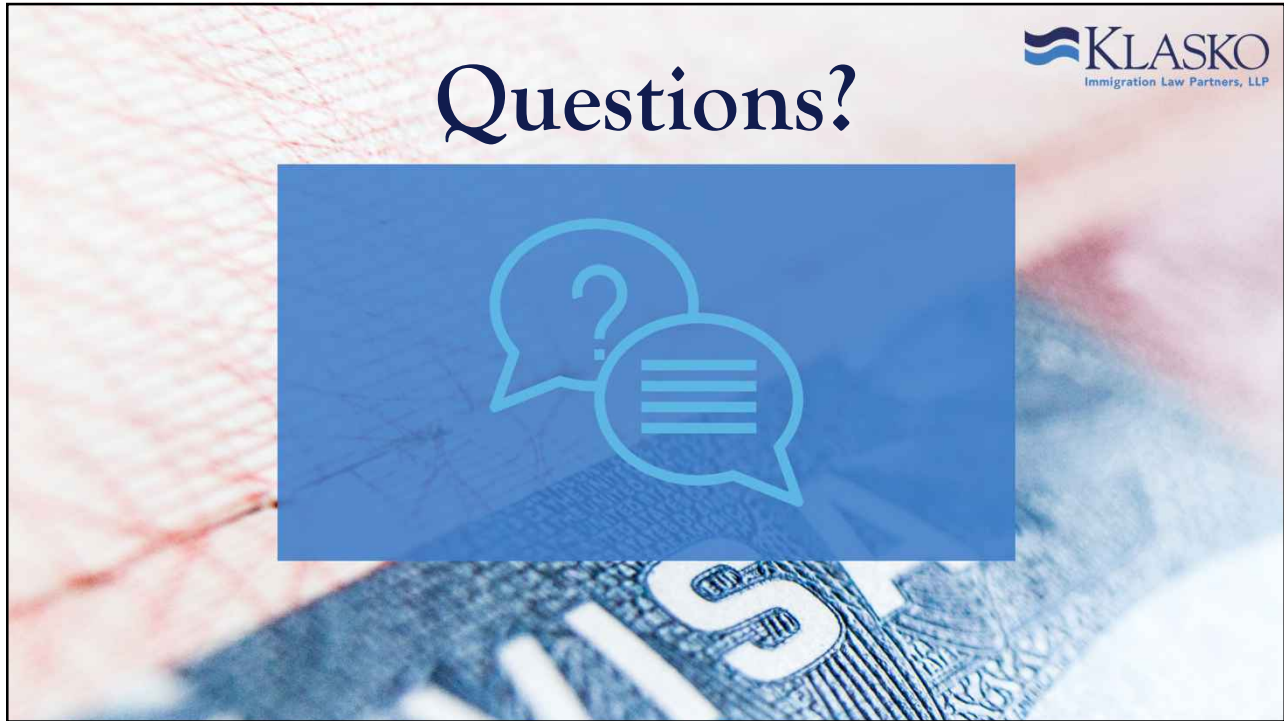
- Notify and consider
 - Full description of the specific job opportunity;
 - Invite worker and provide instructions for consideration/application;
 - Keep records
- Practical advice
 - Alumni recruiting efforts
 - Waiving no rehire clauses

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Internal PERM Process

- Improving efficiency
 - Have a PERM/Green Card sponsorship plan in place
 - Consider max out date and/or priority date when starting PERMs
 - Consider starting PERM processes earlier
- Mitigating costs
 - Bulk recruitment – where possible
 - Shorten ad text
 - Explore recruitment options and costs

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Questions?

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The slide features a background of a US dollar bill. A blue rectangular box in the center contains a white icon of two speech bubbles, one with a question mark and the other with three horizontal lines. The KLASKO logo is in the top right corner.

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For Further Information


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The slide features a blue header with the KLASKO logo. Below the header, the text "For Further Information" is centered. Underneath, there are four portrait photos of attorneys, each with their name and email address listed below.



			
Michele G. Madera mmadera@klaskolaw.com	William A. Stock wstock@klaskolaw.com	Natalia Gouz ngouz@klaskolaw.com	Romina Gomez rgomez@klaskolaw.com


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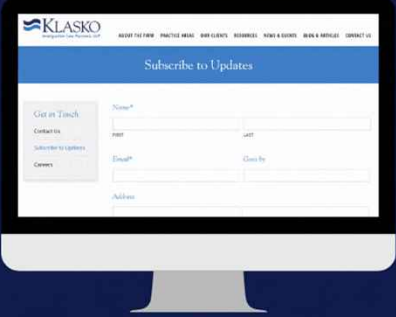


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SCHEDULE A CONSULTATION:

KLASKOLAW.COM/CONSULT

REQUEST: Michele, Bill, Natalia or Romina



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Michele's practice is focused on employment-based non-immigrant and immigrant matter for large corporations with a high volume of immigration matters.

Michele has extensive experience advising clients throughout the labor certification process, including recruitment, filing the Form ETA 9089, and responding to Audit Requests by the Department of Labor.

She also has worked with clients to prepare B-1 Business Visitor applications, the following petitions: H-1B, E-3, H-3, L-1A, I-140s for EB-1, EB-2 and EB-3 classifications, adjustment of status applications, Re-entry Permit applications, and Motions to Reopen.

Michele has advised her clients and assisted in responses to Requests for Evidence. She works with employers in assessing new job opportunities for employees to determine the effect of the change on nonimmigrant and immigrant matters. Michele has represented clients before USCIS, U.S. Department of Labor, and U.S. Customs and Border Protection.

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Michele G. Madera
Partner

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Bill Stock is a founding partner of Klasko Immigration Law Partners and has been providing immigration assistance and solutions to leading multinational corporations, universities, research institutions, hospitals, and individuals for over 30 years.

He is a past President of the American Immigration Lawyers Association (AILA). He is a member of the Board of Directors of the American Immigration Council, a national foundation working to strengthen America by honoring our immigrant history and shaping how America thinks about and acts towards immigrants and immigration.

A graduate of the University of Minnesota Law School, Bill is featured in The Best Lawyers in America, The Chambers Global Guide, Human Resources Executive magazine, Pennsylvania Super Lawyers, Who's Who in America, and other guides to prominent lawyers. In 2017, he was elected a Fellow of the American Bar Foundation.

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William A. Stock
Partner

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Natalia Gouz is a Senior Associate in the firm's Philadelphia office and is responsible for providing strategic and comprehensive business immigration solutions for the firm's corporate clients.

Her experience is far-reaching on an array of immigrant and nonimmigrant matters ranging from a high-volume of routine cases to complex issues requiring creative solutions.

Natalia has considerable experience in obtaining a diverse roster of nonimmigrant visas. She also has significant experience handling immigrant worker petitions (green cards) for professionals, advanced-degree individuals, multinational managers and executives, as well as skilled workers.

Natalia has also volunteered her time to the Safe Passage Project at New York Law School, which addresses the legal needs of indigent immigrant youth living in New York. Natalia is fluent in Ukrainian and conversational in Russian.

Natalia Gouz
Senior Associate



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Romina Gomez has worked in immigration law for over fifteen years. She works with both corporate and individual clients on a wide range of business and family-based immigration matters.

Romina is an advocate for those trying to navigate unfamiliar and often confusing systems and agencies. She uses advocacy skills to guide corporate clients in their efforts to hire and retain quality individuals from the initial consultation to throughout the green card process.

Prior to joining Klasko Immigration Law Partners, Romina had her own practice based in Philadelphia and provided legal services to corporate clients and individuals on a variety of nonimmigrant and immigrant options, including applications for E, H-1B, TN, L-1, labor certifications, and immigrant petitions. She also has experience with marriage and family-based immigration, naturalization, and humanitarian visas, including VAWA applications for abused spouses and U visas for victims of crimes.

Romina received her Bachelor of Arts degree in Mathematics from Bryn Mawr College and earned her J.D. from Temple University, Beasley School of Law. While at Temple University, she was co-chair of the university's chapter of the Immigration Project of the National Lawyers Guild, interned with the Central American Resource Center in Washington, D.C., and HIAS Pennsylvania in Philadelphia.

Romina Gomez
Senior Associate



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