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Well, first of all, good afternoon, everyone. Thank you all for coming on this beautiful Wednesday. I want to start by thanking the Sandy Hook law library for hosting this event. And in particular for Cheryl weeks Rive for her work in organizing this and putting this panel together. Thank you so much for doing that. My name is William of service. I'm a law professor at California Western School of Law about six blocks away from here in downtown San Diego. And, again, I'm delighted to be here. I'm going to introduce the panelists. I'll then say a few words about the 14th amendment, and then I'll hand it off to my colleagues on the panel. And we'll leave a little bit of time at the end for questions relating to the topics that we're going to discuss during our respective presentations. And so, our first panelist after I offer some introductory remarks is Carla Damara, who is a social justice lawyer with a private practice who's worked in state and federal courts has helped many low income people. here in San Diego. She's handled a variety of cases involving civil rights violations, employment disputes, title line, personal injury, military and state secrets, privilege, defamation whistleblower claims, and a number of other areas of law that are related to the issues we're gonna be talking about today, or articles have been published in The Huffington Post, the LA daily journal and several other publications. Our second panelist is silvina thumb Dini, a bilingual international advocate, negotiator, and corporate counsel, with years of diversified experience in providing counseling and directing individuals and business clients on a broad range of legal issues, before earning her JD, in the United States, Mr. landini practice law for several years in Argentina, as a corporate litigator, and she's been admitted to practice in California, the District of Columbia, and the federal and district courts in Argentina, as well. And so is allocated, what I'm going to do is offer some historical remarks about the 14th amendment and set the stage for our two speakers, who we're going to talk about, it's more practical in recent applications. And so my remarks are going to focus on text, context and legacy. And I should note that this month's ABA journal has an excellent article about the 14th amendment that goes into the historical background and highlights some of the more relevant cases that have been

addressed through that constitutional provision.

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As we know, the 14th amendment formally entered into force on July the ninth 1868. As an historical moment, it represents both an end and a beginning. The adoption of the 14th amendment represents the combination of one movement for human equality in America that was manifest in the Civil War. While the Civil War began as a conflict about states rights and about national unity, it eventually became a conflict over slavery. This became most evident when President Lincoln issued the Emancipation Proclamation on January 1 1863, to grant freedom to slaves in the southern states during the height of the Civil War. The civil war itself ended on May the ninth 1865 and the 13th amendment was adopted at the end of 1865 to implement the military prohibition the military victory that prohibited slavery and involuntary servitude in the United States. But even with the end of the Civil War, and the adoption of the 13th amendment, these acts were still insufficient to ensure true equality. For the newly freed slaves. There was continuing discrimination and persecution of African Americans, particularly in the southern states. Jim Crow, Crow laws were established to promote de jure segregation and discrimination, thereby supporting the continuing de facto segregation and discrimination that existed throughout the country, including in the north, but particularly in the southern states. And the development of the Jim Crow laws coincided with the development of the white nationalist movements such as the KKK. In the southern states. These organizations used intimidation, lynchings and the use of hooded costumes, cross burning rapes to terrorize African Americans and those who supported them. According to the 14th amendment was adopted by Congress to address the unwillingness of the southern states to accept the military and legal victories of the Civil War. The struggle surrounding the adoption of the 14th amendment provides a fascinating historical background to the developments in the Reconstruction Era post Civil War. The amendment was adopted by Congress on June the 13th 1866, but most southern states refused to ratify the amendment. In March of 1867, Congress adopted a law that required the Confederate States to adopt the amendment as a condition for being readmitted with full privileges into Congress. And during summer of 1868, the last remaining southern states that had refused to ratify and North Carolina, South Carolina and Louisiana reluctantly ratified the 14th amendment, and on July 28 1868, the 14th amendment formally entered into force. The adoption of the 14th amendment also represents the beginning of the next movement in human equality in America. The adoption of the 14th amendment certainly did not end discrimination or persecution of African Americans in the United States. Both the jury and de facto segregation and discrimination continued to exist in this country. And for every legal victory, there was a parallel defeats. The battle for equality continued for decades in boardrooms, in classrooms, and courtrooms. It was filed in state legislatures it was fought in Congress, and it culminated in the victories of the civil rights era of the 1960s. And some might argue we're at the beginning of a new round of a new civil rights movement, whose outcome remains uncertain today. With respect to the text of the

14th amendment, the amendment actually has five sections, and we're really going to only focus on the first section, section one, the text of section one is divided into four distinct clauses. There is the citizenship clause, all persons born or naturalized in the United States, and subject to the jurisdiction thereof are citizens of the United States and the states where they reside. The citizenship clause was adopted to confirm that the newly freed slaves were entitled to full citizenship, and were also entitled to active participation in the country. In recent years, there have actually been calls. In fact, in the past year alone, there have been calls to amend the citizenship clause to restrict its interpretation in order to limit the birthright citizenship that is recognized by that provision of the 14th amendment. The second clause is the privileges or immunities clause, no state shall make or enforce any law which shall abridge the privileges or immunities of the United States. What's interesting about the privileges or immunities clause is that it was essentially eviscerated by the Supreme Court soon after it was adopted by the United States Congress in 1873. In the slaughterhouse cases, the Supreme Court held that state governments rather than the federal government, was responsible for protecting basic rights. And so since that decision in the slaughterhouse cases, the Supreme Court has referenced the privileges or immunities clause of the 14th amendment. at most a handful of times, and really the only meaningful instance where it's been referred to and relied upon in a meaningful matter was in science v ro, which involve the right to travel. Otherwise, the privileges or immunities clause is essentially a dead letter. It's not recognized by the court as providing any meaningful constitutional protections.

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The third clause is the due process clause, nor shall any state deprive any person of life, liberty, or property without due process of law. The due process clause of the 14th amendment was adopted to ensure that state and local governments provide a due process of law when individual liberties were restricted by government action in this case by state action, and the due process clause of the 14th amendment has been used to apply most of the provisions of the bill of rights to state and local actors to state and local governments. There are only a handful of provisions in the bill of rights that have not been specifically incorporated through the due process clause of the 14th amendment. And then finally, there's the equal protection clause, nor shall any state denied at any person within its jurisdiction, the equal protection of the laws. In the civil rights cases of 1883, the Supreme Court precluded the application of the equal protection clause and the due process clause to private actors. In that case, the Supreme Court held that the 14th amendment did not provide Congress with the authority to impose restrictions under the Civil Rights Act of 1875 on private actors, and the decision of the civil rights cases reflects the continuing divide within the government and within the courts on the relationship between state rights and federal rights. But it also highlights the challenges faced in promoting the vision of equality represented in the 13th. amendment in the 14th. amendment in the 15th. amendment, as well as the outcomes of the Civil War and the amounts of patient proclamation when Congress adopted the landmark Civil Rights

Act of 1964. rather than relying on the 14th amendment, it relied on a different constitutional provision, the Commerce Clause support the basis the enforcement of the Civil Rights Act. In terms of the legacy of the 14th amendment, I want to make a few observations recognizing it's not possible to truly give a inappropriate critique of the legacy of the 14th amendment in five minutes, but I can offer three simple reflections First, the jurisprudence The 14th amendment reflects the theoretical battles that have existed in our courts since its adoption. The struggle between the various doctrines of constitutional interpretation textualism originalism, modernism, the debate over fundamental rights and how one defines those fundamental rights and whether the state protects those fundamental rights and the struggle between state rights and federal rights. Second, the jurisprudence of the 14th amendment highlights some of the most important cases considered by the Supreme Court. Through the 14th amendment. Racial Equality has been addressed by the court culminating in Brown v Board of Education. And that's affirmation that the concept of separate but equal is in cons is a constitutional violation contrary to the equal protection clause. Through the 14th amendment, reproductive rights have been protected by the court in a number of cases. Griswold v. Connecticut, Roe v. Wade, and Planned Parenthood v. Casey, and most recently, Texas whole women's health behavior status. Through the 14th amendment, LGBT rights have been recognized in several cases, including Lawrence V, Texas, and obergefell v. Hodges. And third, while we can rightly celebrate the seminal decisions on fairness, freedom and equality, we cannot forget, forget that there is a parallel anti canon of constitutional cases that question these fundamental principles. Dred Scott v. Sanford, Plessy v. Ferguson, Buck v. Bell, Korematsu v. United States, Bowers v. Hardwick. And the anti canon of constitutional law reminds us that the constitution affords us extraordinary protections, but it cannot protect itself. And that, ultimately, is the role of lawyers. And I think that's a nice way of transitioning to our panelists for today. And so first, we have Carlat tomorrow.

11:50

Thank you all for coming. It's an honor to be here with you today. And thank you professor of service that was a fabulous summation of the 14th Amendment, which is really an amazing law. That's really helped shape our society for over 100 years. My name is Karla damari. I am a social justice lawyer and a sole practitioner. And I want to share with you three things today I want to talk about a couple of my civil rights cases here in the US District Court, in the Southern District of California and San Diego. And also talk about some considerations, things you might want to think about if you want to represent some of the most needy, financially needy, civil rights victims. And also I'd like to just talk about maybe something to think about if we can shift our consciousness as a legal community to maybe help the this group of civil rights victims. The first case I'd like to talk to you about is Michelle Tyler and Catherine ragga xeno versus the city of San Diego, and Robert Filner. My clients, Michelle and Catherine, let me let me back up. Michelle is a VA nurse. And Catherine is a wounded warrior who served two tours of duty in Iraq. And Michelle is Katherine's official, VA nurse, and Catherine spent years trying to get the services that she

needed. She didn't really have any family per se she ended up living in a in a car. She suffers from mild traumatic brain injury, spinal cord injury, nerve damage and a lot of other things. Michelle, an angel rescued Catherine and kept trying to get Catherine services that she needed and it was very difficult to navigate the VA system. Michelle took Catherine to see then Mayor Filner to get some city veteran services. And after the during the meeting, he excused the wounded warrior. And he essentially said to the nurse that she would have to be sick what he didn't essentially so he did say to her that, you know he wanted to have relationship with her and be seen in public with her and he was fondling her basically that he was trying to trade city Veterans Services for sex. Catherine Michelle, and I didn't think that that was right. So I sent a letter to the city attorney. The demand was under 100,000. They did have damages. We knew that Filner had done this. And we knew the city was liable. And the city attorney's response was to put his a second in command on the case or hadn't filed it yet. I just sent the demand letter. And his response to me was that if I filed the lawsuit, he would come after my clients and me for attorneys fees. And he also told me that every woman on the planet has had her butt grabbed. He told me that twice. So that was the that was the response. And so I filed the lawsuit in state court, we had a great judge that will feel the city of course moved to dismiss the case Judge wellfield denied it. The city then removed the case to federal court. That's going to happen frequently. If you bring civil rights cases frequently, they'll be trained, removed to federal court. case were removed to federal court. The city again moved to dismiss the case, Judge Korea, also fabulous did fabulous job, he issued a really well reasoned decision denied the city's motion to dismiss when they removed it to federal court. I also added a claim under 42. us Code Section 1983. Because and the argument was that males didn't have to go on dates with the mayor in order to get city veteran services and males didn't have to have a sexual relationship with the mayor not to have city veteran services. So Judge carryall deny the city's motion and the case proceeded. One would have thought from looking at it from a business perspective that the city would have settled, but that wasn't the response. The city had five lawyers on the case, there were four on the header, there was another one on the ECF filings, there were five attorneys, they were investigators assigned to the case.

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I believe they had at least one full time paralegal as well. And it was just me, we had over 200 filings in the ECF system. So if you're familiar with the ECF system, the electronic case filing system, that doesn't mean that there's just one filing per ECF number, there could be two, three or four. The city, I would say I would estimate now I'm just estimating, I really have no no idea. But I'm guesstimating from the amount of work that was done, that the city spent well over three quarters of a million dollars of your tax money, fighting that case that they could have and should have settled early on. And why do I bring all this up, because I want you to all know that. Don't think that the defendant is going to to settle even if you have a very clear case of liability. Don't think that's going to happen. Sometimes rationality gets just tossed out the window, maybe for politics. For example, in that case, we had the city attorney who was praising these women is

courageous for coming forward. You may have you may recall that. And then once any of them sued, then he went full guns ahead and bought them. It spent more money fighting them than they could have spent settling the case, and should have spent that settling the case because my clients were damaged, they had the documents filled who did it, and they knew the city was liable. So in that case, the city asked for three months of discovery. And the magistrate granted that now three months of discovery is not enough time for you to work up a civil rights case. Often these cases are very fact intensive. And three months is just not enough time. Ultimately, the case settled, the city paid $99,000 and films portion is confidential. The next case I wanted to talk to you about is Nicole ramseur versus the University of San Diego. And in that case, on February 9 2014, in the early morning hours. My client claimed that she was drugged, strangled, and raped by another student. In her dormitory room, she immediately fled her dormitory room. And at that point, the University of San Diego waited almost three hours to call the police and during that three hour period, they contaminated the crime scene. The claim in that case is under Title Nine. Ms. ramseur has a claim that USD because of her gender did not accommodate her so that she could complete her education at USD. And you know, there there's there are a lot of facts that I won't go into for time because we're restricted on time. But in that case, the defendant asked for eight months of discovery. And the magistrate great guy who you know was really did a great job he got he gave them the eight months but he did say that we could go back for requests more More time. Unfortunately, the judge said we could not have any more time. So we only had a month for discovery. And again, that is not enough time, when you are fighting a case like that these cases are very fact intensive. In that title nine case, we have had over 25, depositions, I believe, 26, or 27, we've had five experts, it's just not possible for you to do all of your discovery to establish all of the elements, generally speaking in a civil rights case, in eight months, particularly if you're working on your own, and going to get into some of the things that we can do to change that. In that case, we've had over 100, ECF filings. So there's more than 100, because again, each filing is can be 234 or more, for example, this, the University filed a motion for summary judgment, which was about 1400 pages, and probably 20 filings. So that but only counts as one of the one of the filings in the 200. So the point is that this, you know, it's going to be a lot of work. And what I one thing I would like you all to take away is that you need to consider these cases like a marathon, you need to be ready to run, and you need to be able to ready, be ready to run efficiently. Because the

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discovery periods may be a lot less than what you need or want to build your case and establish your elements you need to be ready to go. And without cases right now is where dude have a mediation and it doesn't mediate doesn't settle at mediation, then we'll we will go to trial. Some of the things I'd like to talk about for you to consider when you have these cases. First of all, you know, you're obviously you're going to be meeting with the client. And if it's appropriate, you know, do any interviews of key witnesses, you want to assess the statute of limitations, whether

there were any immunities oftentimes in the civil rights cases, their immunities, and it's an extra step. It's not like a personal injury case, you got to figure out who has immunity and who has maybe a limited immunity, you've got to figure all that out so that you name the right defendant, because otherwise, we're going to move to dismiss and that's going to create work for you. And that's going to take away from your time to be doing conducting discovery to establish the elements of your case. And also you need to take a look at the remedies the in the damages, of course, you need to determine if your client has the strength to go all the way. Oftentimes in these civil rights cases, the plaintiffs will be dragged through the mud, they will be vilified. And you need to make sure that your client has the strength that you need to tell your client that they will be followed by private investigators, they will be followed on their social media. So you need to really prepare your client for that. Assuming everything's in order, get a good fee agreement you can get we can take questions at the end, get good fee agreement there. They're a great sample fee agreements at ww Cal bar state org I believe it is. Take a look at my notes here.

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At

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Yes, ww kalba.ca.gov. You can get some great fee agreements, from this start keep contemporaneous time records, because most of these civil rights statutes allow you to get attorneys fees. I'll have a little bit more about that later. But keep really good time records. And also from the start getting get your jury instructions and find out what am i elements? And how am I going to prove the evidence and that should be your guiding path the entire case. Get out a demand letter might not always work. He might not get a response to your demand letter or you might get a response that you don't like, but get your demand letter out. file a claim with the Office of Civil Rights in your geographical area. If it's appropriate, you need to check that when you draft the complaint, you need to be thinking about jurisdiction venue. Do I want to be in state court or in federal court and you know, oftentimes, there's a parallel state law to the federal law. See, you know, you can think about the pros and cons in the case against the city. I first proceeded with battery and then Civil Code Section 51.2, which is sexual harassment in a business for professional context. Then, as I mentioned later, when they removed it to federal court, I added the 42 us code 1983 claim. But you want to be thinking about all those things, you know, when you draft a complaint, when when you file your complaint, have your discovery ready to go. Because again, this is like a race, you know, you have to be ready to move in if it's just you. You really have to be ready to go. Let's see in discovery, before the case management conference, which is what is the trigger to start discovery, before that CMC have that discovery, ready to go utilize all of the discovery that's available. So interrogatory is request for documents request for admissions, I highly recommend using third party subpoenas. In the title nine case, I used the third

party subpoena to subpoena the San Diego police department. I sent a what is called a 30 b six notice in federal court, it's also a person most knowledgeable in state court. And there I subpoenaed the San Diego police department for the person most knowledgeable about a memorandum of understanding between the university and the San Diego police department. Because the university kept saying that the document didn't say what it did say. So I subpoenaed the police department, they sent a lieutenant Mike Holden, and he explained that the memorandum of understanding that you need to call the police right away when you have a fresh complaint, sexual sexual assault or rape, which is common sense. But sometimes you need to nail down that that common sense. So I suggest that you know, use third party subpoenas and of course depositions. But keep in mind with depositions, they are very expensive. So you really need to figure out, you know, what is your budget with settlement or trial, plaintiffs should be prepared for courts and mediators to devalue their attorneys fees. And I'll have a little bit more about that. And as much as I mentioned, you, you want to be prepared for trial the whole time. As soon as you get that case, you want to be preparing for trial, everything you're doing, you should be thinking about trial, and best practice, just to not wait until the last minute to have another attorney on board to assist you. I can take questions to about more specifics. But I just wanted to get through those general points about litigating a case based upon this in any of the Civil Rights statutes, whether it's Title Nine title for title, 642 years code, 1983, or any any of any of the statutes that are based upon enforcing the 14th amendment. So I'd like to now talk about thinking about having a shift in consciousness, I think that legal aid is more important than ever, for people of limited financial means, and particularly in the rural parts of our country. And one legal problem can isolate a person from a home a job, security, safety. So I really, I really think that it's important that we as a community, don't become

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a community where only the rich people can litigate. And I think that there are a few ways that we can just think about how can we represent these civil rights victims, or people whose 14th Amendment rights have been violated, and they're just a couple of points. I think that first of all, it's unlikely that one of these victims is going to be able to afford a team of lawyers. That's just not reality. They will be fortunate to even have one lawyer fighting for them with 25 depositions, and, you know, there'll be fortunate to even have one lawyer. So I think that if we individually change our consciousness, we can change the consciousness of the legal community. And I think the message to the legal community could be that we as a legal community, we should be recognizing that these unreasonably short discovery periods, they hurt the civil rights victims, they need more than three months to litigate a case. So it just it's something to think about, can we what can we do to help a civil rights victim who may be represented by just one lawyer? Maybe one of you. The second point I want to make is I think that it would be helpful if courts in mediators I encouraged the enforcement of the attorneys fees provisions for these plaintiffs lawyers. Because if courts and mediators continue to devalue the attorneys fees provisions, then

attorneys aren't going to take these cases and what's going to happen, we're going to become a society where only the rich can litigate. And that's, that's not where we want to head. So I just, you know, I think that that's something that that if we aim towards that we'll eventually get there. I think that if they enforce the attorney fee provisions, the world word will spread in the legal community. And before discovery begins, the defendant will be in a position to correctly price their risks. So lawyers who take these cases, they're doing community service by providing legal aid to victims of civil rights violations. And I encourage you all to do it. And I wish you all the best of luck. If you have any questions for me that you want to ask me later on, you can just email me and I usually get back to people within three days. Thank you. I'd like to turn it over to silvina Tom Dini.

31:14

Good afternoon, and thank you for being here today. And it's a pleasure to be part of this wonderful panel. Part of my bio that was left off is my practice, a focus basically on immigration. For the last few years, I've been a practicing almost exclusively on immigration. And the areas of my practice is business, employment, immigration and family immigration. So my presentation today, by the way, there are some hands out if you want to have one, it's over there on the table. We all have. My presentation today is going to focus basically on the citizenship at birth, another realization during the show what is us jurisdiction, and naturalization and the requirements and the constitutional rights for non citizens. In the context of immigration law, the citizenship clause of the 14th amendment has is a two part test. The first the first part is it says all persons born or naturalized in the United States and subject to the jurisdiction thereof are USC descent. So no, only the person might have been born or naturalized in the United States, but also has to be a subject to the jurisdiction of the United States. But before I would like to clarify a few concepts, this is the first section of the 14th amendment. The 14th amendment is the first official written explanation of American citizenship, and basically adopted the Jew solely as the law for all US citizen is the law of the land. Therefore, a child born in the United States is a US citizen by birth, regardless of the tattoo of his or her parents. Citizens are persons born in the United States. They are part of the community, the political community, at any level, state, federal, or local. nationals on the other side are persons born in outlying positions, like starting in 2005. And the two outlying positions are American Samoa and swymed Islands. The limitations are neither in nationals cannot vote in an election or hold elected office, but they can apply for citizenship and also have US passport work or reside anywhere in the United States. The rule basically it's all US citizens or nationals, but not all nationals, are US citizens.

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poops a dirty. So as I said, the 14th amendment adopted they do solely at the law of the soil. And the 14th amendment was ratified. I'm sorry, yeah, the amendment was ratified to rectify one of

the most famous cases of the Supreme Court is Dred Scott versus Stanford deciding a 1857. In that case, the Supreme Court, the US Supreme Court held that no individuals of African descendant including slaves, and free persons could ever become US citizens. In response to dress God, the Congress passed and the state ratified the 14th amendment. years later. We have another case in a deciding 1898 by the US Supreme Court. This case is us versus wanking Ark. This is a person Paul was born to Chinese here in California to Chinese parents. He, at the age of 21, left the United States on a short trip and then came back and he was denied entry as a US citizen. So the case went all the way to the the US Supreme Court. And the issue at the moment was the Chinese Exclusion Act that was effective. And that was the first federal law to prevent a citizenship to a specific ethnic group. This law was repealed in 1943. However, the court is back to 1898 held that a child born in the United States to Chinese citizen parents is a US citizen, and is not subject to the Chinese Exclusion Act. Fast forward in 1978, we have another case, very interesting case, mother of can to these case, a was regarding boundary issues, because back then, they were in fact, the rio grande de which is a natural border line between Mexico and the United States in the Texas area, divided the country, there was a track a piece of land north of Rio Grande is called the horkan. track, and was under your jurisdiction, but then a, an irrigation company made some detailed work and change the natural course of the river. So that track in particular wells ended up being South with a real up south of the Rio Grande. It child this person can tell was born in that track. And a basically, it was under the jurisdiction of the United States, he was USC territory. And the Attorney General held that the birth of this this person was in the United States territory, and he was a US citizen. In November 19 7070. The country signed a treaty and that part of the territory was transferred to Mexico, I guess. Yes. So the citizenship at birth, the 14th amendment, set the parameters of citizenship, but then the Immigration and Nationality law, which is codified under Title eight of the US code, expand and explained the concept of citizenship. And basically, the Immigration and Nationality law also take the secular wording of the 14th amendment and start saying but the person born in the United States and subject to the jurisdiction thereof is a US citizen. But there are some other in situations where a child a who has born outside of the United States or in an outline position also becomes a US citizen. What the law requires is that the US citizen parent in different situations, must have been physically present or reside in the United States for a specific period of time. I brought some a chart chart these are very well explained when a child can be considered US citizen if he or she was born, outside of the state if you are interested, here for you to look at. So for instance, a child born outside the United States

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when the two parents are US citizen, at least one must have been residing in the United States prior to the birth of a child. But a child born outside of the United States, or outlying territories, when one of the parents is a US citizen, and the other parent is a US National, the US citizen parent must have been physically present in the United States for one year, at least for one year

prior to the the child was born. If a person was born in an aligned position, to one US citizen parent, that US citizen parent must have been present physically present in the United States. And as a child, this is a very common situation a child was born outside the United States when one of the parents is a US citizen, and the other parent is an alien parent. The US citizen parent must have lived in at least in the United States for five years to them after the age of 14. I had a case a client a he was born in Germany to a US citizen, my mother, he acquired derivative citizenship. Years later, he was born and raised in Germany. He came here occasionally in for a brief period of time. When he was 20, or 21, and he had a child out of wedlock child in Germany. So he tried to register the child's a US citizen in the US Embassy there, but he couldn't because he never spend the necessary time, a physical prison time here in the United States. So we had to do the I 130 and consular process. The gyra now is a lawful permanent resident of the United States. Either child sometimes are born in certain territories, like Puerto Rico, they can also own republic of Panama, Alaska, Hawaii, Virgin Islands, and Guam. by statute. They aren't US citizens. There is a case decided in 2008. By the second city we call her bill, us versus Connelly. This is a very interesting case because a US citizen father had an out of wedlock son in Panama, when he was working for the US government as a military reserved one of the conditions. by statute, the father or mother must have been a US citizen father or mother must have been employed by the US government, or the Panama Railroad Company. At the time the child was born in Ireland to transmit citizenship. Well, his contract ended 18 days before the child was born. And because he didn't meet the requirement, the child couldn't get citizenship in and the court didn't even address the out of wedlock issue. And the reason why I emphasized the out of work out of wedlock when the child was born out of wedlock, because there are heightened standards are requirements in order for that child to be a US citizen. First the child has to they have to be clear and convincing evidence of a paternity the US a decent father had to prove the by clear condition area his paternity. Also the father must be a US citizen at the time of birth. And the Father has agreed in writing a to to financially support the child until he or she turns 18. And the child had to be legitimated in by the law, the country where he or she was born, or their father has should have acknowledged paternity in writing in writing under oath, or the paternity has been established a by competent court. When a person is born in a military base is not a cannot acquire citizenship, derivative citizenship. And the reason is because military bases are considered territory. This was the silent Thomas v. Lynch, a by the Supreme Court, the Fifth Circuit Court of Appeals in 2005.

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The second part of the test is the all persons born or naturalized in the United States and subject to the jurisdiction of the United States. Are you a citizen? What does it mean jurisdiction? Well, this was defined in title eight Code of Federal Regulations section 215 point 19. II. But this is a regulation it's a statute, and the regulations includes the United States, the several states, the District of Columbia, Puerto Rico, Virgin Islands, Guam, American Samoa, swines Island, and the Commonwealth of Northern Mariana Islands. The problem is Americans, there is no statute that

said so that Americans, people born in American Samoa or swines Island are US citizen. This was challenged, of course, but in a group of someone federal. I'm sorry, a foreigner group of American citizens. But the court in Tijuana v. Us versus us, decided in 2015. They said the court the 14th amendment does not compel us citizenship, it must be under statute that itself and basically they are considered non citizen nationals. I re address Yes, they people born children born outside the United States acquisition advert by children's born out of wedlock. But I would like to make some remarks regarding assisted reproductive reproductive technologies because there are this is an ongoing increasing a concern and And technique there are many, many children's born in with assisted reproductive technology. So when they can become a US citizen provider they are not born here right? A the US citizen father must be the genetic father of the child or the US citizen mother must be the genetic mother of the child or the US citizen mother must be the gestational mother and the legal mother of the child as a time and place the child was born. You can find more detail in requirements in cable the state 00010952 I have it here if you want to read more about it on these also in more details explain in the adjudicator field manual, section 21.4 C.

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In citizenship in the US versus Flores Vilar is against her and decided by the a 90 record of appeal in 2008. These was challenged to the Equal Protection Clause of the 14th amendment because these various biller who was in the petition proceedings, and was challenging the requirement of the law, when a mother or a father can transfer transmit US citizenship, because the time they have to be present the state is different for the father is five years to attend after the age of 14 for the mother to transmit the US citizenship is just one year. And of course, he was claiming that that is under the equal protection of the law that is a different treatment. However, the court held his constitutional permissible and also the citizenship by the relation through naturalization. This is a very important Act, passed in 2000. The child citizenship act, a child born outside the United States automatically become a US citizen if the child has at least one US citizen parent is under the age of 18. The child is currently residing permanently in the United States in the legal and physical custody of the US citizen parent and the child is a lawful permanent resident. This also applies to adopt the children if the adoption has comply with the immigration nationality law. The issue with children's is the immigration nationality law defines children in different ways and for different purpose. Sometimes children consider under 21 years of age, sometimes considered under 18 years of age, sometimes is considered a child when he's under 16 years of age. So then the language of the tattoo and for the particular case, you're when you're representing the client is very critical. Another aim, a person can be also citizenship by naturalization, I am a citizen naturalized citizen. If a person meets the requirement of the law, it must have been a lawful permanent resident admitted as a lawful permanent resident 18 years or older, must have been continuing to resign in the United States and physically present the United States for the statutory period show good moral character register for Selective Service. If it is it is a male. Man, the person who is applying and must pass the English and civics test in the naturalization portion of

the immigration Nationality Act is quite broad. So I'm just going to refer to the specific requirements to become naturalized. The difference between a US citizen at birth and the person naturalized is the naturalized citizens cannot become president or vice president of the United States. And

49:25
yes,

49:28
I like to just discuss a couple of cases that were decided in one in fact this February this past February 2017. By the Ninth Circuit Court of Appeal, whether the question is do immigrants whether they are lawfully present or unlawfully present have due process rights, equal protection right. Well, in regarding them, due process rights, in particular. The US Supreme Court Aim held in San vidas versus David's in Tucson one, that due process apply to all persons within the United States, including aliens were there. They are present here, locally, unlawfully temporarily or permanently by but in theory of expedited removal of a person seeking admission at the border or any port of entry, the ninth Civil Court of Appeal ame decided two cases that are very important. The first case is us versus Argueta rosol is decided in 2016. Again, this is these two are for the Ninth Circuit Court of Appeal. The court said that a person who attend to enter to the port of entry and are detained by the immigration official and not they haven't entered the United States. This is an entry fiction, because they're not free from official resale. Later on, it was this February this past February us versus Peralta centers, and for decided cases cited by the same court in the issue here he was a person under expedited removal process has to process right under the fifth and the 14th. amendment. The court conclusion was that these proceedings, expedited removal proceedings are governed by the Immigration and Nationality Act. And in this particular case, in title eight USC section 225. But all the defendant, the respondent has noticed adultery right to obtain counsel in an expedited process. And he has no due process rights under the fifth or the 14th amendment. The equal protection of the law in the immigration context as well. As has also been a challenge and as I say, like in us versus Reuters biller decided by the Ninth Circuit Court of Appeal, where the gender by a gender base in a derivative citizenship is is permissible. Also, in a one more case, plyler versus doe decided by the US Supreme Court in 1982. The court struck down it takes us law that denied public education to children of illegal immigrants and recently, some states like Indiana, Mississippi, Oklahoma, South Dakota, Montana and Arizona they have introduced bills, trying to denied standard birth certificate to many us children born to in the United States to immigrant parents, but of course they haven't been so successful. Without further to say, I will turn again to professormesser.

53:02

Thank you. So as you can see, there are so many issues that flow from the 14th amendment, including the normative foundations that focus on equality and due process. So we have a few minutes if there any questions relating to any of the comments that were raised by the panelists. Yes.

53:21

There were claims against him for rape, hate violence, a whole bunch of stuff, and I got a judgment against him. He began to fight the case. And he began to fight the case. And in those in those filings, he denied it. But then he stopped fighting the case. I pursued it and I got a judge a judgment against him. So I have a judgment against him for rape, hate violence and whole bunch of other things. Oh, yeah, we proposed we depose at least 2026 27 people, you know, he was very, he was a very congenial person. And I'm sure that that that really is shouldn't be surprising, because sometimes, that's how that type of personality can ensnare somebody else. Thank you. Yes. Just a follow up on that about depositions. Under your 1983 cases. Have you ever attempted to depose like the sheriff, or a police chief or someone who would be protected under an apex doctrine? And if so, have you been successful in replacing them? They're very difficult. I also work for the city of Boston Law department. So I used to be on the other side and I used to bite it when they wanted to depose one of the city council members or the mayor or the chief of police. It's very difficult to do. I have not been successful yet. In the case of where I represented the wounded warrior and the nurse. I was very Close, I believe to deposing the city attorney. Because in February of, I guess it was whatever year it was that this whole thing broke about the mayor. The city attorney said in one of the one of the times that he was appearing in the media, which was quite often, he said, Oh, you know, we knew he had a problem back in February. My clients didn't meet with the mayor until May. So my argument was, you knew about this in February, you should have put a you should have worn women. I mean, you could have put a sign on the door like warning, serial sexual harasser or something, you know, I'm being a little bit facetious, but they should have done something they could have had somebody in the room supervising him at all times, etc. They're things that they could have done, and they didn't do. So to answer your question. I'm saying, Hey, I have him telling, in my opinion, the Wall Street Journal, or the union Tribune was one of them, too. But he said, Oh, we knew about this back in February, I'm like, Well, my clients didn't meet with him until May. So I wanted to pose him about what he knew in February. The motion was denied, without prejudice to bring it again, because the the judge told me, you know, just keep trying to get the paper discovery. And in fact, I got a terrific ruling. In in that case, and in the title nine case, giving me additional discovery. And I've got to mention, count on it, just count on it, that the defendant will obstruct, you have to, it's just a part of litigation. But you have to spend the time and an effort to go after, you know, the discovery that they refuse to give you when they're stonewalling. And in both of those cases, in the case against the city, I got a fabulous order from the magistrate the city had to turn over a lot of emails, then the case settled.

And then in the title nine case, I got a fabulous ruling by a magistrate judge Porter, that the university San Diego had to turn over a lot of information as well. So to answer your question, try it. It's very difficult. The standard is high. They you know, the standard is that these, you know, they're for liberal people. They don't have time for litigation. It's worth it to try. And of course, you know that there's a bunch of law. Right. And it's it's actually it's interesting to research it because it's just a discrete area of the law. Yeah. So and I'm happy to send you my briefs, if you just email me,

57:47

send it to you. But you could could talk briefly about about what resources are available either to immigration lawyers who who want some type of a support system of attorneys who've done the work before, or civil rights lawyers and that same context here in San Diego County.

58:02

Naturally, there is a meditation called American Immigration Lawyers Association, there is a San Diego chapter. And that is the best resource ever. There is an annual conference every year in June. And the San Diego chapter is they offer all kinds of continuing education trainings. It's fantastic organization to join. That's my recommendation.

58:30

I would recommend just Lexus or Westlaw I, it also joins the San Diego law library because you can get a fabulous plan with them. And you know, you can use the Lexis and Westlaw that's what I use. I've been doing this for a long time. So I don't really you know, I don't I don't have a resource to tap into other than, you know, my my own files,

58:56

talking to San Diego law librarians a good way to finish the conversation today. So thank you all for coming. I think the panelists will be available if there any additional questions.