

IMMIGRATION REVIEW

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HIGHLIGHTS...

...Many law firms are reducing the number of paralegals and attorneys focusing on immigration.

...USCIS has recently begun unannounced site visits to H-1B employers and their clients.

...Waiting periods for available visas or essential DOL approvals may be five-to-ten times above historic averages!

...If job duties change or the work location or hours change, then an employee may be "Out of Status."

Is Your Attorney Unresponsive?

Just how responsive to your calls, emails, and ever-changing needs is your immigration service provider? Today's slow economy and high unemployment has placed significant negative pressure on all types of immigration procedures and options.

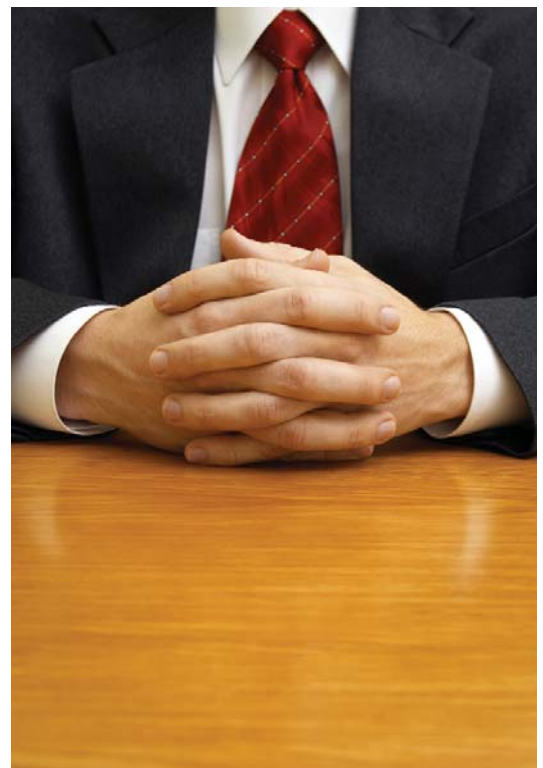
Responding to these conditions, many law firms are reducing the number of paralegals and attorneys focusing on immigration. The result is increased unresponsiveness and dropped or forgotten cases. This leaves many companies and their employees in a precarious position.

Your human resources staff and your valuable foreign-born employees deserve better—especially now when everyone is striving to do more with less.

Fast and efficient processing of immigration paperwork has always been essential to success in this complex and rapidly changing field. Obtaining accurate and timely answers to complex questions is equally vital to a business' success—especially when it involves its most valuable employees.

For more than 11 years, Immigration Support Services and its dedicated legal team has successfully met the immigration needs of over 1,000 of America's most productive and demanding companies. Focusing on **accurate and efficient processing, rapid and accurate communication** (phone, email, and web), and **cost-effective solutions** to the most complex immigration issues, ISS leads the way in serving the ever-changing needs of its clients.

Why tolerate unreturned calls, slow email replies, and days of delay to obtain answers to straightforward questions? Call us today and see how we can substantially improve your immigration processing. Whether initiating new cases or assuming responsibility of existing cases, we lead the way in fast, efficient, and cost-effective immigration processing. ☺



Innovative Solutions for Difficult Times

Congress' inaction on Comprehensive Immigration Reform coupled with unusually high demand means that many of the historic business visa classifications are simply more difficult to obtain today. Even worse, waiting periods for available visas or the essential Department of Labor approvals may be five-to-ten times above historic averages! Qualified visa applicants often wait more than seven years to obtain Permanent Residence (Green Card).

These long waiting times create significant problems. To name just a few:

- Non-immigrant visas expire before a Green Card can be approved,
- Applicants are promoted or job duties change and old filings are no longer valid or accurate by the time they are adjudicated,
- Non-immigrant visas become “out of sync” with backlogged Green Card petitions,
- Applicants change employers for the sole purpose of gaining some advantage in their immigration proceedings,
- Applicants travel out of the United States in a manner that creates complications,
- Family circumstances change: children turn 21 and marriages take place or dissolve.

Facing these sorts of problems need not derail your employees' desire to live and work in the United States. Quick and thoughtful preparation will avoid many of the adverse consequences associated with excessive waiting periods. Here are just a few potential solutions:

- Qualified E-3 or L-1B employees change status to H-1B while waiting for Green Card approval,
- L-1A and other qualified applicants seek EB1 classification to avoid DOL delays and costs,
- Non-immigrant visa holders amend their petitions to reflect proper job duties and locations to avoid violating status,
- Obtain Advance Parole and Employment Authorization Documents in addition to maintaining valid non-immigrant status,
- Green Card applicants file AC21 “Porting Packages” to assure changes in job duties or employers don't derail the Green Card application.

Since every situation is unique, call ISS today to discuss what alternatives might save you and your employees needless hassle or difficulty. ☺

H-1B Site Visits

The U.S. Citizenship and Immigration Services' (USCIS) Office of Fraud Detection and National Security (FDNS) has recently begun unannounced site visits to H-1B employers and their clients.

In 2004, the USCIS created the FDNS, funded by the fraud fee, to detect and deter fraud in non-immigrant visa programs and to strengthen the CIS' efforts at issuing visas only to those who truly qualify and who pose no danger to the United States. As part of their investigation, the FDNS officer collects information to verify information pertaining to petitions that are pending or have been approved.

Unannounced site visits may occur at the H-1B employer's place of business or at the H-1B non-immigrant's work location—even if that work location is not under the direct control of the H-1B employer (i.e., an H-1B employee contracted to work at a third-party location). The primary purpose of the visit is to verify that the information provided on the I-129 petition accurately reflects the conditions of employment.

During the interview with the employer, the FDNS officer may seek to review the company's tax returns, payroll reports, and/or other pertinent documentation to demonstrate that it is a bona fide business. The officer may request information such as the H-1B nonimmigrant's title, job duties, work location, and salary or ask to review a copy of the H-1B nonimmigrant's most recent pay stub.

Continued on page 4...

FROM THE LAWYER'S DESK

Kendra S. Kembel, Esq.



Q How can an H-1B employee be “Out of Status” if he has an unexpired H-1B visa and I-94 card and is still working for the same employer who filed his H-1B?

A Employers file H-1B visas for a specific occupation at a specified work location. If the job duties materially change, due to promotion for example, or the work location or hours change then the employee may be “Out of Status.” To avoid this and before the changes take affect, it may be necessary for the employer to file an Amended Petition to reflect the change in conditions of employment.

Q What are the adverse consequences of being “Out of Status”?

A Being Out of Status is never a good idea when it can be easily avoided. Nonetheless, significant consequences begin to accrue when you have accumulated more than 180 days of violation. Being Out of Status for more than 180 days may adversely affect the processing of your Green Card or may hinder your ability to obtain a visa stamp in your passport and thus may delay or deter your re-entry to the United States.

Q What is the purpose of filing what ISS calls a Porting Package?

A Throughout the immigration process, employers and employees are required to keep the USCIS informed of material changes pertaining to the applicant's employment. Failure to do so may adversely affect your employee's ability to receive further immigration benefits. During the Green Card process, when the I-140 petition is filed and approvable and the I-485 petition has been pending for more than 180 days, the employee is permitted to change (“port”) their employment to another job provided the change is in the “same or similar occupational classification.” The USCIS has the right to determine if the new job duties are or are not in the same or similar occupational classification. Filing a Porting Package fulfills the employers' reporting obligations and demonstrates the essential facts supporting the change thus minimizing the risks associated with an adverse determination by the USCIS.

Q Are there any special employer obligations if an H-1B visa holder is subject to a layoff or termination?

A When an H-1B visa holder is subject to a lay-off or termination, the employer is required to offer the employee reasonable one-way travel expenses to their home country. It is wise to maintain a

written record of this offer even if the offer is refused. Additionally, the employer should notify the USCIS in writing of the beneficiary's termination of H-1B employment. ☺



ISS would like to welcome
LAEL HASSINGER, ESQ.

to our legal team.

Lael has over nine years of experience in immigration with a particular focus in DOL PERM processing.

Prior to joining ISS, Lael was a licensed attorney in Australia practicing in a large corporate law firm.

Today Lael is affiliated with the Law Offices of Kendra S. Kembel, Esq. and ISS is pleased to have another extraordinary member added to our experienced legal team.

AHHH...Love is In the Air!

It's that time of year when around the holidays a man searches for the perfect engagement ring and nervously pops the question...“Will you marry me?” Of course the answer is “Yes!” and the families are filled with excitement and wedding plans begin to be made...WAIT! Did anyone think about the Family-Based Green Card?!

If you're a foreign-born individual preparing to marry a U.S. citizen and are in need of securing a Family-Based Green Card (FBGC), ISS can help. With the number of clients that ISS represents across the United States, foreign-born employees are turning to ISS to process their FBGCs.

Many employers are opting to pay for the family-based process instead of the more expensive employment-based process. If you're an HR Manager and would like to consider this option, you will save time and money.

Give us a call. We'll be happy to answer your questions and file your case quickly and without hassle. You worry about the wedding—we'll worry about your green card. ☺

Site Visits, continued from page 2...

The officer may seek an interview with the beneficiary and ask questions about items such as, job title, job duties and responsibilities, employment dates, position location, requirements for the position, academic background, previous employment or experience, current address, and information about dependents, if any.

Routine site visits should present little difficulty to employers who maintain good records, keep their immigration files up-to-date, and observe the conditions written in the H-1B petition. For more information on this important program see the News section of our website. ☺

UNDERSTAND BUSINESS IMMIGRATION TODAY!

Few business topics are as complicated and rapidly changing as immigration. But understanding the ins and outs of business immigration is often essential to making the best decisions for your company and its foreign-born employees.

Where can you receive accurate, easy-to-understand, and relevant information without spending thousands of dollars and traveling several days to seminars and conferences? Simple! Sign-up for one or more ISS webinars today.

At our website you'll find a list of webinars with topics like:

- Solving the Immigration Puzzle – Immigration 101
- All My Foreign-born Employees Need Green Cards – Now What?
- Changes, Challenges, Confusion? –DOS, DOL & USCIS Updates
- Temporary Seasonal Workers – Navigating the H-2B Maze

What does it cost? It's **FREE**. For a limited time ISS is bringing this series of topics at no cost to you.

How do I register? Simply go to our website: www.immigrationsupport.com and click on the Webinar banner at our home page.

What else do I need to know? Each Webinar has limited space so it's first come first serve. Be sure to register early!

Can't wait for the scheduled Webinar? Call us today at **1.800.437.7313** with your immigration questions. ☺

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1300 Bent Creek Boulevard
Mechanicsburg, PA 17050
800-437-7313 within the U.S.
717-506-5203 International
717-506-5208 Fax
info@ImmigrationSupport.com
www.ImmigrationSupport.com

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