

FEBRUARY 2007

The law firm of **Klasko, Rulon, Stock & Seltzer, LLP** is pleased to present our *February 2007* newsletter covering immigration topics that are of interest to our clients.

Headlines:

- **1. Klasko Employment Immigration Seminar: Sign-up Now!**
- **2. Klasko Advises H-1B Applicants to Prepare NOW for April Filing.** The FY 2008 H-1B cap is expected to be met quickly; Klasko advises clients to begin preparing well in advance of the April 2, 2007 filing date.
- **3. USCIS News:**
 - **A. Agency Proposes Large Fee Increases** - Fees to file business immigration forms increase dramatically under USCIS's proposal.
 - **B. Change of Address Function Introduced on Web** - USCIS has launched a new Web-based service allowing most noncitizens to submit change-of-address information online.
 - **C. H-1C Nursing Relief Program Reauthorized** for an additional three years.
 - **D. P-1 Extension for Athletes and Entertainers Is Clarified** - USCIS recently released a memorandum on P-1 admission for minor league professionals, entertainers, and teams under the COMPETE Act of 2006.
 - **E. USCIS Releases TPS Details for Honduras, Nicaragua, El Salvador** - USCIS has approved a majority of temporary protected status applications received from Hondurans, Nicaraguans, and Salvadorans.
 - **F. New Naturalization Test Pilot Emphasizes Civics and History** - USCIS has released details about its pilot naturalization exam that began in February.
- **4. Foreign Entrepreneurs Start 25 Percent of New U.S. Technology Companies, Study Estimates** - A new study estimates that one out of every four U.S. technology start-ups over the past 10 years has at least one senior executive who was born outside the U.S.
- **5. Tips for Finding Immigration Information Quickly on the Internet**
- **6. Government Agency Links**
- **7. Recent News from Klasko** - Speaking Engagements, Recent Publications, Trivia, and more.

1. Klasko Employment Immigration Seminar: Sign-up Now!

Date: March 27, 2007
Time: 9:00am – 12:30pm*
Location: Union League of Philadelphia
140 S. Broad Street, Philadelphia
Topic: **Employment Immigration, Planning for Change**

Klasko's annual Spring Seminar: "**Employment Immigration – Planning for Change**" will be held on Tuesday, March 27, 2007, at The Union League of Philadelphia. The Spring Seminar will once again commence with a special session on the "*Fundamentals of Immigration Law*," a tutorial for those new to the field or just wanting a refresher. Topics during the main session will include:

- Legislative developments; prospects for immigration legislation in 2007
- Service center and bispecialization update
- PERM and BEC update
- Planning for changes in position, location or employer
- Developing employer best practices, *among many others.*

Look for your formal invitation in the mail. To register, call us at 215.825.8600, fax your completed registration form to 215.825.8699, or e-mail us at seminar@klaskolaw.com. We look forward to seeing you on March 27.

* 8:00am – 8:45am *Fundamentals*. Come to part or all of the morning events.

2. Klasko Rulon Advises H-1B Applicants: Get Ready NOW

H-1Bs will be available again effective October 1, 2007. Since H-1B petitions may be filed up to six months in advance of the start date, we are encouraging all graduating students and their potential employers to file on the earliest possible date - April 2, 2007. The cap is expected to be reached in the first few weeks of April.

While it is permissible to file the H-1B petition up to six months in advance of the start date, H-1B beneficiaries may not begin employment until the validity date of the petition - October 1, 2007. Moreover, unless they have a valid nonimmigrant status, beneficiaries of these H-1B petitions may not be authorized to stay in the U.S. until October 1, 2007. This may be particularly problematic for students currently authorized to work pursuant to Optional Practical Training (OPT), whose OPT expires more than 60 days in advance of October 1, 2007.

The above applies only to situations where the H-1B petition is subject to the cap. For example, if the intended beneficiary is currently in H-1B status, or has been in H-1B status in the past six years, he or she might not be subject to the cap. In addition, there is no issue related to the cap for most petitions to extend or change H-1B employment, or for petitions sponsored by institutions of higher education, nonprofits related to or affiliated with such institutions, and nonprofit or governmental research organizations.

See KRSS' Ralf D. Wiedemann's article "Prepare Now for Timely Filing of H-1B Petitions" ([Legal Intelligencer](#), January 17, 2007) for details on how to get ready for this filing. For a copy, e-mail Ralf at rwiedemann@klaskolaw.com.

Employers are encouraged to contact a KRSS attorney for advice in specific situations, and to contact their representatives in Congress to address the shortage of visas for skilled professionals.

3. USCIS News

A. USCIS Proposes Large Fee Increases

U.S. Citizenship and Immigration Services has proposed large filing fee increases for many immigration-related forms. There is a 60-day comment period on the proposed rule, and the increases are not expected to take effect until at least six months after publication (August 2007).

Some of the business-related forms that will be affected by the proposed increases, and their current and proposed fees, include:

- I-129, Petition for a Nonimmigrant Worker: current, \$190; proposed, \$320.
- I-140, Immigrant Petition for Alien Worker: current, \$195; proposed, \$475.
- I-485, Application to Register Permanent Residence or Adjust Status: current, \$325; proposed, \$905 for applicants 14 years of age or older (except certain refugees).
- I-765, Application for Employment Authorization: current, \$180; proposed, \$340.
- N-400, Application for Naturalization: current, \$330; proposed, \$595.

Comments on the proposed rule (Docket No. USCIS-2006-0044), which was published in the Federal Register on February 1, 2007, should be sent to USCIS by April 2, 2007. Supporting documentation and any comments received will be posted on <http://www.regulations.gov>. An advance copy of the regulation circulated on January 31, 2007, is posted at <http://bibdaily.com/pdfs/FeeRule.pdf>. Related announcements and fact sheets are posted at <http://www.uscis.gov/files/pressrelease/PRBuilding1.pdf>, <http://www.uscis.gov/files/pressrelease/FSbuilding.pdf>, <http://www.uscis.gov/files/pressrelease/QABuilding1.pdf>, and <http://www.uscis.gov/files/pressrelease/FSmethod.pdf>.

B. Change of Address Function Introduced on Web

On January 12, 2007, USCIS announced that it has launched a new Web-based service allowing most noncitizens to submit change-of-address information online. All noncitizens in the U.S. are legally required to keep USCIS informed of any change of address within 10 days of a move by completing an Alien Change of Address Card (Form AR-11). USCIS processes more than one million change-of-address requests each year. For more information, see: <http://www.uscis.gov/files/pressrelease/OnlineCoA.pdf>.

C. H-1C Nursing Relief Program Reauthorized for 3 Years

USCIS recently released guidance on the reauthorization for an additional three years of the Nursing Relief for Disadvantaged Areas Act of 1999 (NRDAA). Specifically, the agency noted that all I-129 petitions for H-1C

classification will be adjudicated exclusively at the Vermont Service Center in accordance with previous practice. The notice is posted at <http://www.uscis.gov/files/pressrelease/H1CReauth122606.pdf>.

D. P-1 Expansion for Athletes, Skaters and Entertainers Is Clarified

USCIS recently released a memorandum to the field on P-1 admission for minor league professionals, entertainers, and teams under the COMPETE Act of 2006, which expanded the P-1 nonimmigrant visa classification to include certain athletes who were admitted formerly as H-2B nonimmigrants.

The following types of athletes and performers who seek admission for the purpose of performing in a competition or theatrical ice skating production now fall under the P-1 nonimmigrant visa classification:

- An individual who performs as an athlete, individually or as part of a group, at an internationally recognized level of performance.
- A professional athlete employed by: (1) a team that is a member of an association of six or more professional sports teams whose total combined revenues exceed \$10 million per year, if the association governs the conduct of its members and regulates the contests and exhibitions in which its member teams regularly engage, or (2) any minor league team that is affiliated with such an association.
- Individual coaches or athletes performing with teams or franchises located in the U.S. that are part of an international league or association of 15 or more amateur sports teams if: (1) the foreign league is operating at the highest level of amateur performance in the relevant foreign country; (2) participation in that foreign league renders the players ineligible, whether on a temporary or permanent basis, to earn a scholarship or participate in the sport at a college or university in the U.S. under the rules of the National Collegiate Athletic Association; and (3) where a significant number of players who play in the foreign leagues are drafted by major league or minor league affiliates of such sports leagues in the U.S.
- Amateur or professional ice skaters who perform, individually or as part of a group, in theatrical ice skating productions or tours.

USCIS noted that the COMPETE Act excludes any foreign athlete (professional or amateur), or coach, from countries deemed state sponsors of terrorism. Revised P-1 regulations will follow. The notice is posted at <http://www.uscis.gov/files/pressrelease/COMPETEAct122806.pdf>.

E. New Naturalization Test Pilot Emphasizes Civics, History

On January 22, 2007, USCIS released details about its pilot naturalization exam. The new exam is intended to "encourage civic learning and patriotism among prospective citizens." The new test will emphasize the fundamental concepts of American democracy and the rights and responsibilities of citizenship.

The pilot testing program will begin in 10 cities beginning in February 2007 and will last two to three months. The 10 cities are Albany, NY; Boston, MA; Charleston, SC; Denver, CO; El Paso, TX; Kansas City, MO; Miami, FL; San Antonio, TX; Tucson, AZ; and Yakima, WA. USCIS has posted study materials at <http://www.uscis.gov/natzpilot>. The announcement, which includes a fact sheet, is posted at <http://www.uscis.gov/files/pressrelease/natztestfs.pdf>.

F. TPS Details for Honduras, Nicaragua, El Salvador Released

On January 26, 2007, USCIS announced that it has received approximately 80,000 temporary protected status (TPS) applications from nationals of Honduras and Nicaragua, and approved nearly 70,000 of those cases. USCIS has received approximately 236,000 TPS applications from nationals of El Salvador, and has approved nearly 196,000. Approved individuals already should have received, or will receive, an approval notice and either a notice of appointment to report to an Application Support Center for issuance of an extension sticker to extend their Employment Authorization Documents (EADs) through July 2007, or a new EAD "very shortly." Those who have been denied already have received their denial notices or will be receiving them shortly. The notices are posted at <http://www.uscis.gov/files/pressrelease/TPSMitch012607FS.pdf> (Honduras and Nicaragua) and http://www.uscis.gov/files/pressrelease/TPSEISal_012607FS.pdf (El Salvador).

4. Foreign Entrepreneurs Start 25 Percent of New U.S. Technology Companies, Study Estimates

A new study by Duke University researchers has estimated that one out of every four U.S. technology start-ups over the past 10 years has at least one senior executive who was born outside the U.S. The study's lead researcher, Vivek Wadhwa, called the new study "the most comprehensive study to date on the contribution of skilled U.S. immigrants."

The study is posted at http://memp.pratt.duke.edu/downloads/americas_new_immigrant_entrepreneurs.pdf. Mr. Wadhwa has authored a related article that recommends lifting the H-1B cap. The article, "Keeping Research and Leadership at Home," is posted at http://www.businessweek.com/smallbiz/content/jan2007/sb20070118_135378.htm.

5. Tips for Finding Immigration Information Quickly on the Internet

On November 1, 2006, USCIS announced that it had replaced its existing Web site with a "new and improved" site that promised to offer "easier access" to immigration information. Some familiar pages have been difficult to find on the new site. If you're having trouble navigating the revised USCIS Web site, try Google's advanced search engine. You can use Google's advanced search to "only return results from the site or domain" or search the keywords that you want, followed by "site: uscis.gov."

6. Government Agency Links

Follow these links to access current processing times of the USCIS Service Centers and the Department of Labor, or the Department of State's latest Visa Bulletin with the most recent cut-off dates for visa numbers:

USCIS Service Center processing times and case status online: <https://egov.immigration.gov/cris/jsps/index.jsp>

Department of Labor processing times and information on backlogs: <http://www.ows.doleta.gov/foreign/times.asp>

Department of State Visa Bulletin: http://travel.state.gov/visa/frvi/bulletin/bulletin_1360.html

7. Recent News from Klasko

KRSS Named Leading Immigration Firm

The prestigious *Chambers Global, The World's Leading Lawyers*, 2007 edition once again names **Klasko, Rulon, Stock & Seltzer, LLP** as a top tier immigration firm. The firm was selected as one of the six best immigration firms in the United States. *Chambers* recognized **KRSS** as having "one of the strongest medical practices in the country" and noted that firm Chairman **H. Ronald Klasko** is a "revered immigration lawyer" who is "adept at coming up with unique arguments that can save a client." Moreover, Klasko Partner **William A. Stock** was described as an "emerging star who is admired for his creative lawyering."

Suzanne B. Seltzer Receives Highest Rating

New York Partner **Suzanne B. Seltzer** has received an "AV" peer rating from LexisNexis Martindale-Hubbell - "the authoritative resource for the legal profession worldwide". According to Martindale, "an AV rating is a significant accomplishment - a testament to the fact that a lawyer's peers rank him/her at the highest level of professional excellence." Congratulations Suzanne!



Upcoming Speaking Engagements



H. Ronald Klasko, Chairman, will speak at the *28th Annual Immigration Law Update* sponsored by the Florida Bar International Law Section in Miami from February 22 to 23. Ron will lecture on tactics to qualify for EB-2; provide the latest updates on PERM and backlog processing; and offer a unique "creative solutions" workshop. On February 27, Ron will deliver a seminar at Tenet Healthcare Corporation in Philadelphia. In addition, Ron will participate in an American Immigration Lawyers Association (AILA) conference, a Pennsylvania Bar Institute seminar, and speak at Johns Hopkins University, among other speaking engagements in the coming weeks. If you are interested in having Ron speak at your program or for more information on how to arrange an on-site program, write to Ron at rkasko@klaskolaw.com.

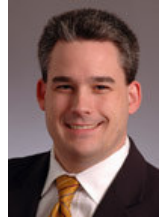
Associate **Geoffrey Forney** will also be presenting at the *28th Annual Immigration Law Update*, and will cover issues related to PERM labor certification adjudication. To request a copy of the presentation, write to Geoffrey at gforney@klaskolaw.com.

Recent Speaking Engagements

New York Partner **Suzanne B. Seltzer** and Associate **Ebin N. Sandler** presented a talk on "Immigration Options for Clinicians & Post-Docs" at Columbia University on February 8. Hot topics in immigration law including current issues with H-1B visas, J-1 visas, O-1 visas, and permanent residence status were discussed. To request a copy of the presentation materials or PowerPoint, e-mail Ebin at esandler@klaskolaw.com.

Suzanne also recently moderated a panel discussion on "Physician Visas: What You Need to Know Now" at a program sponsored by immigration publisher **ILW.com**. The impact of bi-specialization on O visas and other nonimmigrant visas was discussed.

William A. Stock, Partner and AILA Philadelphia Chapter Chair, served as Program Chair of the American Immigration Lawyers Association's (AILA) 2007 Midyear Conference in San Jose, Costa Rica, on January 19, 2007. The conference, "More Lore Than Law: Advising Clients, Managing Risks and Practicing Law Without Clear Guidelines," focused on advanced business immigration law. For more information on topics covered, write to Bill at wstock@klaskolaw.com.



Recent Publications

Ebin N. Sandler recently published "FAQs Clarify Requirements of Labor Certification Processes Under PERM System" in *The Legal Intelligencer* (February 21, 2007). In this article, Ebin discusses the role of the Department of Labor's FAQs for the Labor Certification and PERM system; he also addresses the most recently released FAQs. Write to Ebin at esandler@klaskolaw.com to request a copy.

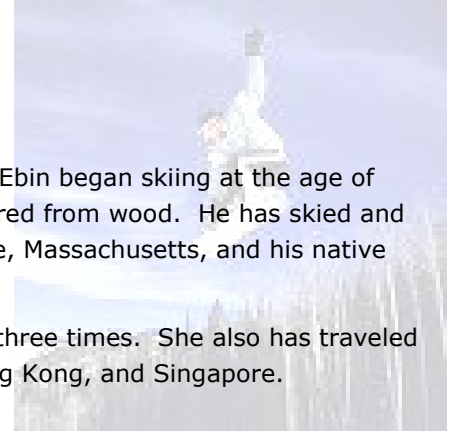
H. Ronald Klasko's newly authored article, "Portability: Freedom of Movement for Foreign National Employees" can be found in the Jan/Feb '07 issue of the *International Educator*. The article addresses portability issues for H-1Bs and adjustment of status applicants. E-mail Ron at rklasko@klaskolaw.com to request your copy.

"Labor Certification Survivor: Seven Steps to More Effective Labor Certifications," by **William A. Stock**, was featured in AILA's Midyear Conference Handbook. Bill's article explores what makes an effective labor certification and how to work with clients to prepare labor certifications that can easily be approved even if audited. For a copy of this article, e-mail Bill at wstock@klaskolaw.com.

Klasko Trivia

Did You Know. . .

- That Klasko Associate **Ebin Sandler** enjoys skiing and snowboarding. Ebin began skiing at the age of four and took up snowboarding when the boards were still manufactured from wood. He has skied and snowboarded in Colorado, California, Vermont, New Hampshire, Maine, Massachusetts, and his native Minnesota.
- That Associate **Joanne Matsuo** grew up in Japan and climbed Mt. Fuji three times. She also has traveled to other countries in Asia, including Cambodia, Indonesia, Korea, Hong Kong, and Singapore.



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