

OCTOBER 2008

The law firm of **Klasko, Rulon, Stock & Seltzer, LLP** is pleased to present our *October 2008* newsletter covering immigration topics that are of interest to our clients.

Headlines:

- **1. Employment-based First Preference Category Will Remain "Current" for November 2008** – The employment-based First Preference category will remain "current" for November as will the employment-based Second Preference category except that cut-off dates for China–Mainland born and India will advance to June 1, 2004 and June 1, 2003, respectively.
- **2. EAD Delays: What To Do?** – The USCIS Ombudsman recommended several steps if an EAD is delayed beyond 90 days.
- **3. SEVIS Fees Increasing October 27, ICE Clarifies Procedures** – ICE published a Final Rule increasing the Student and Exchange Visitor Program school certification petition fees and the application fees for nonimmigrants seeking to become academic or vocational students, or exchange visitors.
- **4. Congress Extends the EB-5 Regional Center, Religious Worker, E-Verify and Conrad 30 Programs until March 2009** – Congress has extended the EB-5 Regional Center, Religious Worker, E-Verify and Conrad 30 immigration programs that were due to expire this fall.
- **5. Travel May Be Risky While Adjustment Application Is Pending, Recent Case Shows** – Traveling outside the U.S. while an adjustment of status application is pending can be risky, even with advance parole.
- **6. USCIS Reminds About 'Flexibilities' When Travel is Delayed Unexpectedly** – Given recent severe weather in the Caribbean, USCIS issued a reminder about available services and agency "flexibilities."
- **7. Ninth Circuit Upholds Arizona Law Targeting Employers Hiring Undocumented Workers** – The law's principal sanction is the revocation of state licenses to do business in Arizona for employers who hire undocumented workers.
- **8. USCIS Extends TPS for Nicaraguans, Hondurans, El Salvadorans; Only Updated TPS Forms Will Be Accepted** – The extension means that those who have already been granted TPS are eligible to reregister during the designated reregistration period.
- **9. Streamlined Process Announced by DHS for Otherwise Eligible HIV-Positive Individuals to Enter the United States** – DHS announced publication of a Final Rule that will streamline the issuance of short term nonimmigrant visas to individuals who have tested positive for HIV, but are otherwise qualified to enter the United States.
- **10. United States and Ireland to Implement a Twelve-Month Intern Work and Travel Pilot Program** – The United States and Ireland have signed a Memorandum of Understanding on a Twelve Month

Intern Work and Travel Pilot Program for post-secondary students or young people within 12 months of graduation.

- **11. President Bush Authorizes the Admission of Up to 80,000 Refugees for Fiscal Year (FY 2009) Commencing October 1, 2008** – On October 1, 2008, President Bush announced he was authorizing the admission of up to 80,000 refugees during FY 2009 based upon his determination that this is justified by humanitarian concerns or otherwise in the national interest.
- **12. Customs and Border Protection (CBP) Launches Interactive Tool that Reminds Traveler to Obtain Required Documents as Departure Date Nears** – CBP is making available a traveler-centric desktop widget to remind US and Canadian travelers to obtain appropriate travel documents under the Western Hemisphere Travel Initiative (WHTI).
- **13. USCIS Delays Implementation of Direct Mail Program for Form N-400, Application for Naturalization** – USCIS announced on October 9, 2008 that it was delaying the implementation of the Direct Mail Program for the N-400 Applications.
- **14. USCIS Has Increased Period of Stay for TN Workers From Canada and Mexico** – USCIS has increased the maximum period of time that a TN nonimmigrant worker from Canada or Mexico may remain in the United States before seeking readmission or obtaining an extension of stay.
- **15. Government Agency Links**
- **16. Klasko News** – Upcoming and recent speaking engagements, publications, and more.

1. Employment-based First Preference Category Will Remain “Current” for November 2008

The employment-based First Preference category for the month of November 2008 will be “current” as will the employment-based Second Preference category, except that the cut-off dates for China-Mainland born and India will advance to June 1, 2004 and June 1, 2003, respectively. The November 2008 Third Preference category cut-off dates for the “professional skilled worker” sub-category and the “Other Worker” sub-category will advance to May 1, 2005 and January 15, 2003, respectively, except for China, India, Mexico and the Philippines. The professional/skilled workers Third Preference category cut-off dates for these four countries, respectively, will be February 1, 2002, October 1, 2001, September 1, 2002 and May 1, 2005. The Third Preference category cut-off date for “Other Workers” will advance to January 15, 2003. The November 2008 Visa Bulletin is available at http://travel.state.gov/visa/frvi/bulletin/bulletin_4357.html.

2. EAD Delays: What To Do?

U.S. Citizenship and Immigration Services (USCIS) ombudsman has been receiving numerous inquiries about employment authorization document (EAD) applications pending more than 90 days. USCIS regulations require the agency to approve EAD applications within 90 days, but that is not happening in some cases. The USCIS ombudsman recommends the following steps:

Step 1: Call USCIS National Customer Service Center (NCSC) at 1-800 375-5283 and record the time and date of the call and the name and number of the representative:

- Explain to the representative that your EAD has been pending more than 90 days and ask for a "service request." You should receive a response to your service request within a week - or -
- Ask the representative to request an interim card for you. You should receive an EAD or response within a week.

Step 2: If you choose to visit a local USCIS office, schedule an INFOPASS appointment to visit that office at <http://www.infopass.uscis.gov>. During the appointment, ask to apply for an interim EAD. The Ombudsman notes that USCIS local offices no longer issue interim EADs, but the local office can review your case and determine eligibility. The local office will then forward your request to the appropriate USCIS Service Center. You should receive an EAD or response within a week, the Ombudsman states.

Step 3: If you have tried both Step 1 and Step 2 and have still not received your EAD or an interim card, the Ombudsman asks that you e-mail cisombudsman.publicaffairs@dhs.gov the details of your efforts. Include the date and time of your call to the NCSC and the name of the representative. If you visited a USCIS office, provide that information. The Ombudsman promises to "look into your case and review how we may be of assistance."

For all other case inquiries, the Ombudsman says you should submit DHS Form 7001 to the Ombudsman's office. For more on this issue, see http://www.dhs.gov/xabout/structure/gc_1221837986181.shtm.

3. SEVIS Fees Increasing October 27, ICE Clarifies Procedures

U.S. Immigration and Customs Enforcement (ICE) published a Final Rule effective October 27, 2008, that increases the Student and Exchange Visitor Program (SEVP) school certification petition fees and the application fees for nonimmigrants seeking to become academic (F visa) or vocational (M visa) students, or exchange visitors (J visa).

The rule sets the following fees: \$1,700 for a school certification petition and \$655 for each site visit for certification, and \$200 for each F or M student. The rule also sets a \$180 fee for most J exchange visitors; however, the \$35 fee for each J exchange visitor seeking admission as an au pair, camp counselor, or summer work/travel program participant will remain the same.

The rule also establishes procedures for the oversight and recertification of schools attended by F and/or M students, establishes procedures for schools to submit recertification petitions, adds a provision allowing a school to voluntarily withdraw from its certification, and clarifies procedures for school operation with regard to F and M students during recertification and following a denial of recertification or a withdrawal of certification.

The full text of the final rule is available at <http://edocket.access.gpo.gov/2008/pdf/E8-22786.pdf>.

4. Congress Extends the EB-5 Regional Center, Religious Worker, E-Verify and Conrad 30 Programs until March 2009

Congress has extended the EB-5 immigrant investor regional center program; the E-Verify program, which allows employers to electronically verify an employee's work eligibility; the religious worker visa program; and the Conrad State 30 program for certain foreign doctors who work in medically underserved areas. These programs were due to expire this fall but have been extended by Congress until March 6, 2009. The EB-5 regional center and E-Verify programs were included in H.R. 2638, a bill that funds the federal government for the next several months. The religious worker and Conrad State 30 programs were passed in separate bills (S. 3606 and H.R. 5571, respectively).

5. Travel May Be Risky While Adjustment Application Is Pending, Recent Case Shows

The Alliance of Business Immigration Lawyers warns that traveling outside the U.S. while an adjustment of status application is pending can be risky, even with advance parole. A recent case illustrates this point. While his adjustment application was pending, Nadeem Hassan, a citizen of Pakistan, traveled outside the U.S. to Saudi Arabia. He received an I-512 advance parole travel document, which granted him permission to return to the U.S. so long as his application for adjustment remained pending. While Hassan was abroad, the government denied his adjustment application and revoked the advance parole. When he attempted to return to the U.S., he was denied admission, placed in expedited removal proceedings, and removed. He challenged the denial of status adjustment and revocation of advance parole.

A federal district court held that under the REAL ID Act of 2005, both the denial of the adjustment of status and the revocation of the advance parole were discretionary decisions that the court lacked jurisdiction to review, and the U.S. Court of Appeals for the Ninth Circuit recently agreed, affirming the district court's dismissal of the case. The Ninth Circuit noted that Hassan was granted advance parole solely to allow him to return to the U.S. while his application for status adjustment was pending. Thus, the court reasoned, once Hassan's application for adjustment of status was denied, he was no longer eligible for advance parole.

The full text of the decision is available at <http://www.metnews.com/sos.cgi?0908%2F0617252>.

6. USCIS Reminds About 'Flexibilities' When Travel Is Delayed Unexpectedly

USCIS recently released a statement noting that it realizes that unexpected events in a person's home country can sometimes affect travel or other plans. Given recent severe weather in the Caribbean, USCIS decided to issue a reminder about available services and agency "flexibilities."

USCIS noted that nonimmigrant tourists and business visitors (B-1/B-2 visa holders) may request an extension of stay (Form I-539, Application to Extend/Change Nonimmigrant Status) when unexpected events in their home country delay their travel. Those who request an extension will need to explain how the event has disrupted their ability to travel home and how much longer they anticipate staying in the U.S., and also will need to show that they will be able to support themselves in their nonimmigrant status for the additional time

requested. In addition, USCIS said it will consider requests for a change of status to that of a person here temporarily on business (B-1) or pleasure (B-2) where the individual is no longer able to extend their pre-existing nonimmigrant status in another category.

USCIS also said that if unexpected events affect the ability of an F-1 or M-1 nonimmigrant student to continue to pay for his or her education, the student may request off-campus employment (Form I-765, Application for Employment Authorization). To qualify, the student must demonstrate how the unexpected event has affected his or her ability to continue to pay for education without being employed.

Nonimmigrant visitors affected by unexpected events in their home country also may request expedited processing of the above applications or for an application or petition filed for a service or benefit that is otherwise immediately available.

Individuals who are abroad and have lost their USCIS-issued travel documents, or whose documents have expired due to an unexpected event that delayed their original travel plans, may contact a U.S. Embassy or Consulate, USCIS said.

The announcement is available at

<http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=e7a1ae70e09c110VgnVCM1000004718190aRCRD&vgnnextchannel=68439c7755cb9010VgnVCM10000045f3d6a1RCRD>.

7. Ninth Circuit Upholds Arizona Law Targeting Employers Hiring Undocumented Workers

The U.S. Court of Appeals for the Ninth Circuit recently upheld the district court in *CPLC v. Napolitano*, a facial challenge to a 2007 Arizona state law, the Legal Arizona Workers Act (LAWA), that targets employers who hire undocumented workers. The law's principal sanction is the revocation of state licenses to do business in Arizona. The Ninth Circuit noted that the law has yet to be enforced against any employer. The plaintiffs, various business and civil rights organizations, alleged that the LAWA violates employers' rights to due process by denying them an opportunity to challenge the federal determination of the work authorization status of their employees before sanctions are imposed.

The district court had held that the law was not preempted. The main argument on appeal was that the law is expressly preempted by federal immigration law preempting state regulation other than through licensing and similar laws. The Ninth Circuit found that the district court correctly determined that the LAWA was a "licensing" law within the meaning of the federal provision and therefore was not expressly preempted.

The court also noted a secondary, implied preemption issue that principally relates to the provision requiring employers to use the electronic verification system, E-Verify, to check the work authorization status of employees through federal records. Under current federal immigration law, use of the system is voluntary; the court noted that the Arizona law makes it mandatory. The court held that such a requirement to use the federal verification tool, for which there is no substitute under development in either the state, federal, or private sectors, is not expressly or impliedly preempted by federal policy.

The plaintiffs also contended that the Arizona statute does not guarantee employers an opportunity to be heard before their business licenses may be revoked. The statute, the court said, "can and should be reasonably interpreted to allow employers, before any license can be adversely affected, to present evidence to rebut the

presumption that an employee is unauthorized.” The Ninth Circuit upheld the statute in all respects against the facial challenge, but observed that it was brought against “a blank factual background of enforcement and outside the context of any particular case. If and when the statute is enforced, and the factual background is developed, other challenges to the [LAWA] as applied in any particular instance or manner will not be controlled by our decision,” the court stated.

The Ninth Circuit's opinion is available at

[http://www.ca9.uscourts.gov/ca9/newopinions.nsf/F05A5F67FDA9AEE6882574C7005021AB/\\$file/0717272.pdf](http://www.ca9.uscourts.gov/ca9/newopinions.nsf/F05A5F67FDA9AEE6882574C7005021AB/$file/0717272.pdf).

8. USCIS Extends TPS for Nicaraguans, Hondurans, El Salvadorans; Only Updated TPS Forms Will Be Accepted

USCIS has extended temporary protected status for 18 months for nationals of Nicaragua, Honduras, and El Salvador. TPS for Nicaraguans and Hondurans has been extended through July 5, 2010; TPS for Salvadorans has been extended through September 9, 2010. The extension means that those who have already been granted TPS are eligible to reregister during the designated reregistration period.

USCIS also issued a reminder that only the October 17, 2007, version of the Application for Temporary Protected Status (Form I-821) will be accepted. Additionally, only the May 27, 2008, or later version of the Application for Employment Authorization (Form I-765) will be accepted. USCIS will reject all applications using previous editions.

The reminder about using updated forms is available at http://www.uscis.gov/files/article/I-821_I-765%20reminder_17Sep08.pdf. Further information on the TPS extensions is available for Nicaraguans (http://www.uscis.gov/files/article/USCISUpdate_NicaraguaTPS_26Sep08.pdf), Hondurans (http://www.uscis.gov/files/article/USICS_Update_Honduras26Sep08.pdf), and Salvadorans (http://www.uscis.gov/files/article/update_elsal_tps_24Sep08.pdf). FAQs are also available for Nicaraguans ([http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnnextoid=36da19e272b9c110VgnVCM1000004718190aRCRD&vgnnextchannel=68439c7755cb9010VgnVCM10000045f3d6a1RCRD](http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnnextoid=36da19e272b9c110VgnVCM1000004718190aRCRD&vgnnextchannel=68439c7755cb9010VgnVCM10000045f3d6a1RCRDhttp://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnnextoid=36da19e272b9c110VgnVCM1000004718190aRCRD&vgnnextchannel=68439c7755cb9010VgnVCM10000045f3d6a1RCRD)), Hondurans (<http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnnextoid=36da19e272b9c110VgnVCM1000004718190aRCRD&vgnnextchannel=68439c7755cb9010VgnVCM10000045f3d6a1RCRD>), and Salvadorans (<http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnnextoid=9ac3fcca4e49c110VgnVCM1000004718190aRCRD&vgnnextchannel=68439c7755cb9010VgnVCM10000045f3d6a1RCRD>).

9. Streamlined Process Announced by DHS for Otherwise Eligible HIV-Positive Individuals to Enter the United States

DHS announced publication of a Final Rule that will streamline the issuance of short term nonimmigrant visas to individuals who have tested positive for HIV, but are otherwise qualified to enter the United States. Under this new regulation, DOS consular officers overseas will now have the authority to grant temporary, nonimmigrant

visas to otherwise eligible applicants who are HIV-positive and meet certain requirements. Previously, individuals who are HIV-positive were prohibited from receiving a visa to visit the United States at all without an individual waiver. As a result, DOS had made individual recommendations to DHS on whether or not to grant a waiver. DHS would then proceed with case-by-case evaluations, and determine whether to authorize issuance of a visa to allow an applicant's temporary admission as a visitor for up to 30 days; the applicant still must meet all of the other normal criteria for the granting of a U.S. visa. The issuance of visas under the rule will also be subject to certain criteria designed to ensure an HIV-positive person's activities while in the United States do not present a risk to the public health. Travelers who do not meet the specific requirements of the rule, or who wish to follow the pre-existing process, may elect to follow the existing procedure for a case-by-case determination of their eligibility for a visa and admission authorization. Visas issued under this final rule will not publicly identify any traveler as HIV-positive. The Final Rule is available at <http://www.dhs.gov/xprevprot/laws/>.

10. United States and Ireland to Implement a Twelve-Month Intern Work and Travel Pilot Program

The United States and Ireland have signed a Memorandum of Understanding on a Twelve Month Intern Work and Travel Pilot Program for post-secondary students or young people within 12 months of graduation. This new exchange program will allow young people from Ireland to enter the United States for a period of twelve months on a J-1 exchange visitor visa. There also will be reciprocal opportunities for young people from the United States to travel to Ireland. This will allow students from both countries to participate in a variety of internships, and to travel independently within the United States and Ireland. The program will be coordinated by the private sector under the auspices of the U.S. Department of State's Bureau of Education and Cultural Affairs, and falls under the Intern Category of the Exchange Visitor Program. This program is set to be launched in late 2008 or early 2009. Further details and prerequisites on the program will be available from the U.S. Embassy in Dublin and Ireland's Embassy in Washington, DC.

11. President Bush Authorizes the Admission of Up to 80,000 Refugees for Fiscal Year (FY 2009) Commencing October 1, 2008

On October 1, 2008, President Bush announced he was authorizing the admission of up to 80,000 refugees during FY 2009 based upon his determination that this is justified by humanitarian concerns or otherwise in the national interest. The 80,000 ceiling, according to President Bush, is to be construed as a maximum not to be exceeded and not a minimum to be achieved. The 80,000 admissions numbers are to be allocated among refugees of special humanitarian concern to the United States in accordance with the following regional allocations:

Africa.....	12,000	Latin America/Caribbean.....	4,500
East Asia.....	9,000	Near East/South Asia.....	37,000
Europe and Central Asia.....	2,500	Unallocated Reserve.....	5,000

The allocation to East Asia includes Amerasian immigrants and their family members while the 5,000 unallocated refugee numbers are to be allocated to regional ceilings, as needed. President Bush also authorized the Secretary of State to transfer unused admissions allocated to a particular region to one or more other

regions, if there is a need for greater admissions for the region or regions to which the admissions are being transferred. Finally, he specified that persons in Vietnam, Cuba, the former Soviet Union, Iraq and in exceptional circumstances, persons identified by a United States Embassy in any location, if otherwise qualified, were to be considered refugees for the purpose of admission to the United States within their countries or habitual residence.

12. Customs and Border Protection (CBP) Launches Interactive Tool that Reminds Traveler to Obtain Required Documents as Departure Date Nears

CBP is making available a traveler-centric desktop widget to remind US and Canadian travelers to obtain appropriate travel documents under the Western Hemisphere Travel Initiative (WHTI). The automated widget provides a trip countdown timer and weather at the traveler's destination and reminds US and Canadian travelers entering the U.S. from Canada, Mexico, Bermuda or the Caribbean to obtain appropriate travel documents as they must present a passport or other WHTI-compliant document beginning June 1, 2009. The widget is designed so that anyone making travel plans on the Internet can take advantage of the trip countdown and weather functions and is available to download on the www.GetYouHome.gov website.

13. USCIS Delays Implementation of Direct Mail Program for Form N-400, Application for Naturalization

USCIS announced on October 9, 2008 that it was delaying the implementation of the Direct Mail Program for the N-400 Application. Last month, USCIS published a notice in the *Federal Register*, which would have changed the filing address for N-400 from USCIS Service Centers to two lockbox facilities in Arizona and Texas. Implementation of this new process was to begin on October 14, 2008. USCIS is delaying implementation of this new filing procedure to conduct additional tests of the technology involved. Accordingly, applicants for naturalization should continue to submit their Form N-400 according to the instructions on the form until further notice. In almost all cases, this means applicants will submit their N-400s to a USCIS Service Center. Additional information can be found on the web at www.uscis.gov.

14. USCIS Has Increased Period of Stay for TN Workers from Canada and Mexico

USCIS has increased the maximum period of time that a TN nonimmigrant worker from Canada or Mexico may remain in the United States before seeking readmission or obtaining an extension of stay. This final rule changes the initial period of admission for TN workers from one to three years, making it equal to the initial period of admission given to H-1B professional workers. Eligible TN nonimmigrants may now be allowed to receive extensions of stay in increments of up to three years instead of the prior maximum period of stay of one year.

The TN nonimmigrant classification is visa category available to eligible Mexicans and Canadians with at least a bachelor's degree or appropriate professional credentials who work in certain qualified fields pursuant to the

North American Free Trade Agreement (NAFTA). Qualified professions identified within NAFTA include, but are not limited to, accountants, engineers, attorneys, pharmacists, scientists, and teachers.

This final rule will ease administrative burdens and costs on TN workers. It will also benefit US employers by increasing the amount of time TN nonimmigrants will be able to work for them before having to seek an extension of status. Spouses and unmarried minor children of TN nonimmigrants in their corresponding nonimmigrant classifications will also benefit from the new regulation.

15. 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 online: <https://egov.uscis.gov/cris/jsps/ptimes.jsp>
- Department of Labor processing times and information on backlogs: <http://www.foreignlaborcert.doleta.gov/times.cfm>
- Department of State Visa Bulletin: http://travel.state.gov/visa/frvi/bulletin/bulletin_1360.html

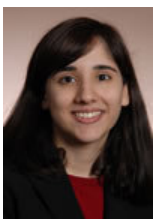
16. Klasko News

Two New Associates Join Firm

Klasko, Rulon, Stock & Seltzer, LLP, is pleased to announce that **Jonathan Willmoth** and **Neelam Ihsanullah** have joined the Firm.



Jonathan Willmoth, an associate in the Firm's Philadelphia office, represents clients in a wide variety of employment-based immigrant and nonimmigrant visa petitions, including consular processing of visa petition approvals. Jonathan has successfully represented large corporate clients in H-1B, L-1, Alien of Extraordinary Ability, H-3, and related petitions. He has also represented universities and research organizations in national interest waiver cases as well as outstanding researcher petitions and special handling labor certifications. Prior to joining the Firm, Jonathan was an associate with the McCrummen Immigration Law Group, LLC in Kansas City, Missouri. He is a member of the American Immigration Lawyers Association and the Missouri Bar Association. Jonathan received his undergraduate (B.A. German, 1998) and law (J.D., 2002) degrees from the University of Missouri-Kansas City.



Neelam Ihsanullah, an Associate in the Firm's Philadelphia office, focuses her practice on employment-based and family-based immigration, as well as assisting clients in removal proceedings. A member of the American Immigration Lawyers Association and the National Immigration Project of the National Lawyers Guild, Neelam is currently admitted in California, the United States District Court for the Northern District of California and the United States Court of Appeals for the Ninth Circuit and will soon be admitted to the Pennsylvania bar. A Phi Beta Kappa

graduate of Ohio State University (B.A., *magna cum laude*, August 2003), Neelam received her law degree from the University of California Berkeley School of Law (J.D., May 2007). Neelam's interests include national parks, English literature and foreign films.

Partners Named in Best Lawyers in America 2009 Edition



Best Lawyers®

H. Ronald Klasko, Richard R. Rulon, William A. Stock and Suzanne B. Seltzer have all been selected by their peers for inclusion in the 2009 edition of *The Best Lawyers in America®* published by Woodward/White Inc. for the specialty of immigration law. According to the Editor, "selection in *Best Lawyers®* is based on an exhaustive and rigorous peer-review survey comprising more than 2.5 million confidential evaluations by the top attorneys in the country. Because no fee or purchase is required, being listed in *Best Lawyers* is considered a singular honor." *Best Lawyers* is regarded as the definitive guide to legal excellence in the United States. Congratulations to Ron, Rich, Bill and Suzanne on being chosen by your fellow attorneys to be included in *The Best Lawyers in America*.

New York Partner Honored in New York Magazine and Super Lawyers

Suzanne B. Seltzer has been named in *New York Super Lawyers 2008* and in *The New York Area's Best Lawyers 2009*, a special section of *New York Magazine*. Congratulations Suzanne!

Upcoming Speaking Engagements

Ron Klasko will be speaking at several sessions of the NAFSA Region VIII Conference in Pittsburg, PA from November 5-8, 2008. For the conference booklet and more details, visit <http://www.region8.nafsa.org/Regionalconference.html>.

Suzanne Seltzer and Kate Kalmykov will be speaking at New York University, Columbia University and Fairleigh Dickinson University on October 29, November 7, and November 20, 2008, respectively. Suzanne and Kate will be discussing H-1B visas, H-1B alternatives, extending OPT, permanent residence status, and travel issues. For related articles and the PowerPoint presentation to be used at these talks, visit <http://www.klaskolaw.com/events-calendar.php?action=view&id=110>.

Recent Speaking Engagements



Ron Klasko presented "Immigration Options after F-1 or J-1 Status" for the Philadelphia Area International Educators' Network (PAIEN) on Tuesday, October 28, 2008 in Philadelphia. Ron covered such topics as basic H-1B visa requirements, portability, H-1B quota and options for dealing with it, strategies to enhance chances of getting H-1B, travel and status issues, among many other topics. For more information on this talk, write to Ron at rklasko@klaskolaw.com.

Ron Klasko spoke to MBA students at the Harvard Business School in Boston, MA on October 24. To review the PowerPoint presentation used at this session, click on the following link:

http://www.klaskolaw.com/library/Harvard%20University_MBA%20Students.ppt. Ron was at Yale University the day before (October 23) and lectured at three separate sessions to undergraduates, MBAs, and PhD candidates. For the listing of topics discussed and to access relevant articles, click here <http://www.klaskolaw.com/events-calendar.php?action=view&id=96>.



On Tuesday, October 21, Ron Klasko served as discussion leader for the American Immigration Lawyers Association national webinar "Looking into the Future: Visa Availability & Retrogression." Ron and co-panelists Charlie W. Oppenheim, Chief, Immigrant Visa Control and Reporting, Department of State, and Nathan Waxman, Esq., discussed how the quota system works and the interplay with the visa bulletin. The program provided practice pointers on how to deal with retrogression issues. The faculty also discussed:

- How to figure out the EB numbers
- Recapturing priority dates
- "Downgrading" in the EB categories to move forward
- Projections for the coming year
- The interplay of AC-21 and maintaining H-1B status
- CSPA (when is 21 really 21?)



Also, on this day (October 21), Ron visited the World Trade Center Delaware (WTCDE) in Wilmington, DE and discussed hot topics in immigration, E-Verify, investor visas, options for entrepreneurs, and EB-5 regional centers. For more information on this talk, click here: <http://www.klaskolaw.com/events-calendar.php?action=view&id=113>.

Ron also addressed scholars and researchers at the Wistar Institute in Philadelphia on October 8, 2008. For topics, PowerPoint and related articles, click here: <http://www.klaskolaw.com/events-calendar.php?action=view&id=109>.

Moreover, Ron addressed participants at the 22nd Annual American Immigration Lawyers Association (AILA) Central Florida Chapter Immigration Law Seminar in Clearwater, FL on October 3, 2008. Ron's presentation entitled "Advising the Wealthy Client", discussed choosing between E-2 and L-1 visas and individual and regional center EB-5s. For more information on any of the above events, contact Ron via e-mail at rklasko@klaskolaw.com.

Elise Fialkowski served as a panelist at the Pennsylvania Bar Institute's (PBI) Immigration Law Forum 2008 program on September 26, 2008. Elise discussed hot topics in immigration including increased criminal enforcement by ICE against employers, their executives, human resource personnel and managers, ICE raids, E-Verify and new and proposed rules requiring its use. For more information, on E-Verify or ICE enforcement, contact Elise at efialkowski@klaskolaw.com.

Client Alerts

KRSS released a Client Alert on October 15, 2008 entitled "Department of Homeland Security Increases its Stay for TN Visa Holders." This alert discussed the impact of USCIS increasing the maximum period of admission for TN Nonimmigrants from one year to three years. To read the full Client Alert, click here:

<http://www.klaskolaw.com/client-alerts.php?action=view&id=171>. If you have further questions regarding the new rule for TN nonimmigrants, please contact one of the firm's attorneys.

Recent Publications



Kate Kalmykov's recently authored article, "Restrictions on the L-1B Visa and What this Means for Employers and the Economy" was published in *The Legal Intelligencer* on October 23, 2008. In this article, Kate addresses the implications for employers of a recent decision by the Administrative Appeals Office (AAO) on the adjudication of L-1B petition by the U.S. Citizenship and Immigration Service. This decision significantly narrows the interpretation of what "specialized knowledge" is and will require multinational organizations transferring their L-1B employees to the United States to present well-documented applications in order to meet the USCIS' burden of proof. Contact Kate at kkalmykov@klaskolaw.com to request a copy of this publication.

Disclaimer/Reminder: *This newsletter does not constitute direct legal advice and is for informational purposes only. The information provided should never replace informed counsel when specific immigration-related guidance is needed. Copyright © 2008 Alliance of Business Immigration Lawyers and Klasko, Rulon, Stock & Seltzer, LLP. All rights reserved.*