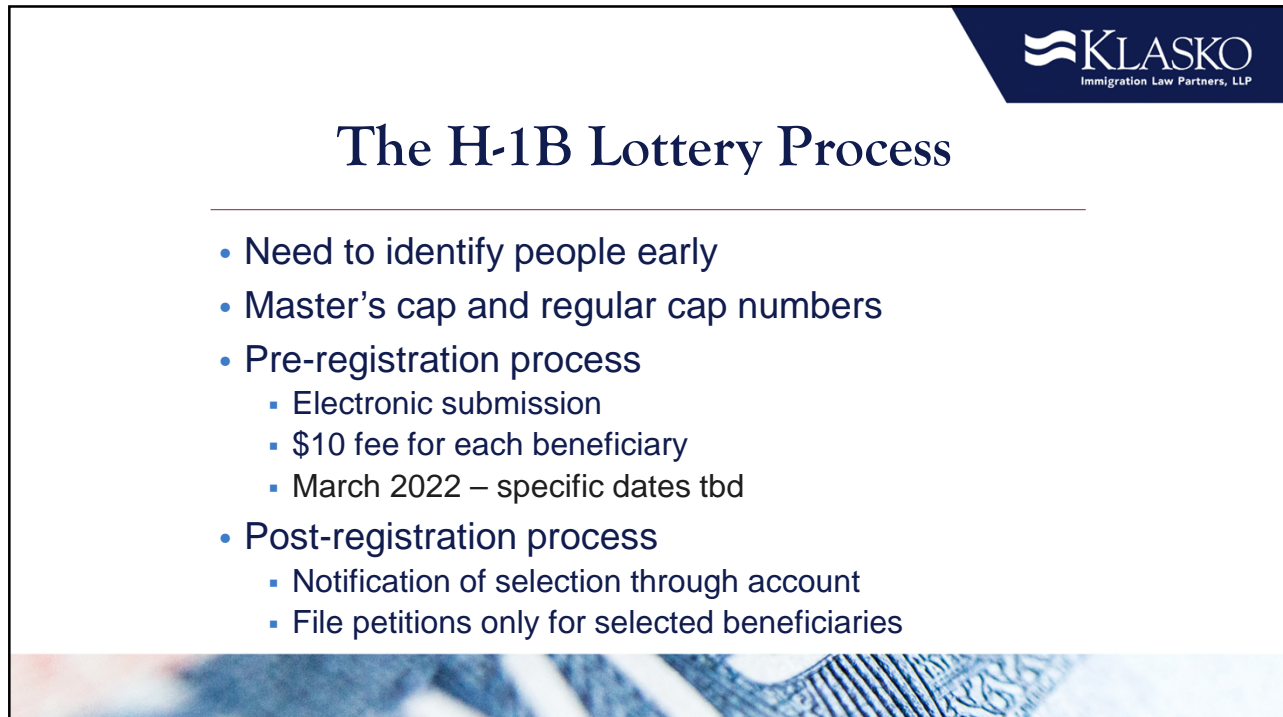
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2022 H-1B Lottery: *The New Normal*

Michele G. Madera • William A. Stock • Nigel D. James

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The H-1B Lottery Process

- Need to identify people early
- Master's cap and regular cap numbers
- Pre-registration process
 - Electronic submission
 - \$10 fee for each beneficiary
 - March 2022 – specific dates tbd
- Post-registration process
 - Notification of selection through account
 - File petitions only for selected beneficiaries

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Lessons From 2021

- Importance of account creation and approval by employers
- Multiple registration problems
- Notification timing
- Premium processing of cap and other H's
- More than one round of selection
 - Cap gap timing considerations

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H-1B Lottery Litigation

- Latest updates on litigation
- What were companies doing to game the lottery?
- Will there be a limit on the number of sponsoring companies for a beneficiary?
- How many filings to expect in 2022?

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POLL

**How many registrations do
you anticipate making in
2022?**



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What You Need to Do Now

- Register company's account
 - Registration with Department of Labor for LCA
 - Preparing for issues before registration
 - Occupational classification
 - Prevailing wage
 - Status maintenance until October 1
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Anticipating Issues for 2022 Filings

- Specialty occupations
- LCA category
- Alternative wage surveys being questioned
- Problem occupations
- Offsite work, travel, and itineraries
- Remote work (local vs. national)
- Prior periods of CPT, OPT and maintenance of status

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Identifying 2022 Cap Cases

- Need to identify/prepare cases early
 - Consider multiple filings from other employers
- OPT
- L-1A and L-1B
- TN
- Overseas employees
- H-4 EAD
- DACA/TPS/Other
- Prior problematic Hs

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Strategic Advice

- Requesting more information upfront
- Anticipating RFEs
- Set expectations with managers
 - Timing (cap gap limitations)
 - RFEs
- Consider backup plans

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H-1B Alternatives

- Continue F-1 work authorization (CPT, STEM, OPT)
- H-3 training for non-STEM fields
- Employment abroad and L-1 eligibility
- Consider spousal status
- O-1 or EB-1 / NIW
- Labor certification / direct to green card

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Status of Regulatory Changes Post-Election

- DOL Prevailing Wage Rule vacated
- DHS Wage-Based H-1B Selection Rule vacated
- Likely Cancelled by Biden Administration:
 - Redefining H-1B “specialty occupation” and “employer-employee”
 - Changing F-1 and J-1 “D/S” to set dates
 - Eliminating “B-1 in lieu of H-1B”
- Travel bans rescinded

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Questions?



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SHRM Certificate of Completion

- Please email Kristin at **kdohan@klaskolaw.com** for your certificate of completion.
- Program is valid for **1.0 PDC**
- Activity ID is: **22-PED3V**

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For Further Information



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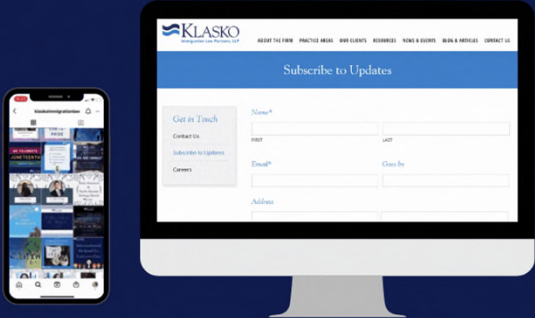
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Michele G. Madera
Partner

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

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

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

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

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William A. Stock
Partner

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Bill Stock is a founding partner of Klasko Immigration Law Partners and has been providing immigration assistance and solutions to leading multinational corporations, universities, research institutions, hospitals, and individuals for over 25 years.

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

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

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Nigel D. James
Associate

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Nigel James navigates intricate immigration laws to streamline employment and family-based immigration matters for corporate and individual clients.

Nigel has provided legal advice on family-based and employment-based immigration, including applications for H-1B, L-1, labor certifications, national interest waivers, and complex requests from the U.S. Citizenship & Immigration Services (USCIS). He also has experience with removal defense matters before the Executive Office for Immigration Review (EOIR) and the Board of Immigration Appeals (BIA), T visas for victims of labor and sex trafficking, naturalization, and humanitarian matters.

Nigel received his B.A. in Biological Sciences from Clemson University and his J.D. from the Villanova University Charles Widger School of Law.

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