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# ROSNER, ORTMAN & MOSS

COUNSEL FOR IMMIGRATION PARTNERS

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## Immigration Law Update

### Current Developments in Immigration

### Greetings!

*This is the latest installment in our efforts to keep you apprised of the rapidly changing U.S. immigration environment. Some of the most recent changes could have a serious impact on you or your employees, and we urge you to communicate these changes to interested parties.*

### **Karen Gabriel Moss Named the *Best Lawyers*® 2016 Immigration Law "Lawyer of the Year" in Cleveland, OH**

We are pleased to announce that Karen Gabriel Moss, partner at Rosner, Ortman, and Moss Partners has been recognized by *Best Lawyers*® as the 2016 Immigration Law "Lawyer of the Year" in Cleveland, OH. This recognition is only given to a single lawyer in each practice area in each community, making this accomplishment particularly significant. *Best Lawyers*® is a highly-regarded resource that recognizes outstanding attorneys that have earned the respect of their legal peers. The recognition is based on a peer-review survey in which more than 39,000 leading attorneys vote on the abilities of others in the practice area.

Ms. Moss has practiced immigration law since 1994, and has been a partner with Rosner, Ortman, and Moss since 2005. Ms. Moss has also been a speaker on employment-based immigration at the Cuyahoga County Bar Association, AILA regional seminars, and business conferences, as well as taught Immigration Law at Cleveland State University. Rosner, Ortman, and Moss Partners would like to officially congratulate Ms. Moss on this well-deserved recognition.

## **September Visa Bulletin Shows Substantial Retrogression in EB-2 Category**

The [September 2015 Visa Bulletin](#), released by the U.S. Department of State (DOS), shows a substantial retrogression in priority dates under for employment-based second-preference ("EB-2") category. For readers who are unfamiliar with the visa bulletin, the DOS publishes the bulletin every month to alert individuals of its per-country priority date cutoffs. While some categories have progressed, the most notable changes in the September 2015 Visa Bulletin affect citizens of China and India who are waiting to apply for immigrant visas under the EB-2 category.

As of September 1, the priority date under the EB-2 category for both China and India will retrogress to January 1, 2006-nearly an eight-year retrogression for China, and almost a three-year retrogression for India. This is disappointing news to many Chinese and Indian nationals who have already spent years waiting to apply for their Green Card.

There is, however, good news for Indian and Chinese nationals who are waiting to apply for their immigrant visa under the employment-based third-preference ("EB-3") category. The cut-off date in the EB-3 category for Chinese and Indian nationals progressed more than six-and-a-half months. As of September 1, foreign nationals from China and India who have priority dates before December 22, 2004 can apply for an immigrant visa.

The September 2015 Visa Bulletin is the last visa bulletin of the 2015 fiscal year, and therefore it is possible that the priority dates in these categories will progress at the start of the new fiscal year on October 1. If you have any questions regarding your priority date or eligibility to apply for an immigrant visa, please contact us to discuss your case in detail.

### **Future of 17-month STEM Extension for F-1 Students Uncertain**

On August 12, 2015, a federal district court in DC issued an order that could effectively terminate the seventeen-month optional practical training (OPT) extension program for F-1 STEM students. The court found that the Department of Homeland Security (DHS) did not comply with the procedures outlined in the Administrative Procedure Act (APA) when DHS issued its 2008 rule allowing STEM students on F-1 status to extend their OPT by seventeen months. Under the APA, DHS was required to publish a preliminary version of the rule, and allow for a comment period, during which time the public could review and provide commentary on the proposed rule. The APA provides for an exception to the notice-and-

comment period if an agency can establish that a notice-and-comment period would be impracticable, unnecessary, or contrary to the public interest. DHS argued that the rule was promulgated during a time when then the U.S. economy was in turmoil, and DHS needed to bypass the notice-and-comment period to ensure U.S. high-tech employers retained skilled technical workers. The federal judge, however, ruled that the agency failed to establish good cause to bypass the procedures, and, as such, the 2008 rule was invalid.

The judge has stayed the ruling until February 12, 2016, which allows DHS to reissue the rule, and follow the notice-and-comment period. If DHS is able to reissue the rule quickly, it is possible that there will be no interruption in the STEM OPT program. As of now, USCIS continues to accept STEM OPT applications. If DHS does not reissue the rule in the allotted time period, STEM OPT applications will no longer be accepted as of February 12, 2016. We are closely monitoring this situation and will provide updates on any changes. We recommend anyone able to file for a stem extension prior to February 12, 2016 to do so.

*For additional information about any of the topics presented here, please contact us. If you would prefer not to receive future e-mails of this nature, please unsubscribe on the link below.*

**Sincerely,**

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