

July 5, 2016

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Immigration Law Update

Current Developments in Immigration

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.

Supreme Court Decision Prohibits Obama Administration from Implementing DAPA and DACA Expansion

On June 23, 2016, the Supreme Court issued a 4-4 one-sentence decision in the *United States v. Texas* case. The case considered whether to allow President Obama's proposed Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA) and his expansion of Deferred Action for Childhood Arrivals (DACA) to move forward. The 4-4 impasse leaves the court of appeals ruling in place and effectively prohibits the USCIS from implementing those initiatives. The decision included only a notice of the 4-4 split with no opinion or legal argument.

The existing DACA program, begun in 2012, is not affected. After the Supreme Court ruling announcement, Secretary Johnson stated, "The President and I remain committed to fixing our broken immigration system. We are disappointed by the 4-4 vote in the Supreme Court today, and the gridlock in Congress that has stood in the way of more lasting, comprehensive immigration reform." See <https://www.dhs.gov/news/2016/06/23/statement-secretary-johnson-todays-supreme-court-decision>.

Non-Immigrant Visa Wait Times Growing in India

During the past two months, the wait times for a non-immigrant visa

interview have increased dramatically from a few weeks to as much as 100 days. As of June 28, 2016, published wait times were: New Dehli (36 days), Mumbai (65 days), Kolkata (70 days), Chennai (85 days) and Hyderabad (114 days).

Backlogs are likely to continue, if not worsen, during the busy summer months. The U.S. Department of State (DOS) reports that visa demand has increased by 80% in the past five years with more than one million visa applications processed during the 2016 fiscal year. DOS has requested approval from the Government of India to add consular positions to alleviate the increase in visa wait times.

In the interim, it may be wise to defer unnecessary travel to India until after the backlogs have subsided or, where travel is essential, to be prepared for lengthy delays in the scheduling of visa interviews. The Mission India visa appointment system provides a mechanism for requesting an expedited appointment, but these require genuine emergencies. First priority goes to cases involving humanitarian issues (e.g., travel to receive an organ donation, to care for a seriously ill relative in the U.S., etc.). Business emergencies take second priority. In making a business expedite request, it is important to articulate why the need to travel is urgent, why advance planning was not possible, the impact if travel does not occur, etc.

Alternatively, if an Indian national has reason to travel to another jurisdiction, applying outside of India as a Third Country National may be an option. Such applications are most likely to be successful in petition-based cases where INA §214(b) does not apply (i.e., H-1B and L-1).

A final strategy, though it may be hit or miss, is to sign back into the "Apply for a US Visa in India" website (<http://www.ustraveldocs.com/in>) once the foreign national receives an appointment notice and try to change the appointment to an earlier date. Openings may appear when other applicants cancel appointments.

**Brad Ortman to Speak at a Cleveland State University Workshop
on Managing an International Workforce on July 26, 2016**

Co-managing Partner Brad Ortman will be one of the panelists at a morning workshop sponsored by Global Cleveland and the Ohio Export Assistance Network. The session titled: "Ready, Set Global! Managing an International Workforce" will take place at the Monte Ahuja Global Business Center in Cleveland, Ohio on July 26, 2016 from 9:00 a.m. to 12:30 p.m.

The program will focus on human resource issues on managing a global workforce, including: steps to assess the readiness of organizations' HR function for global operations; recruitment challenges and strategies; basics on how to build a global compensation and benefits platform; managing expat assignments; employment contracts outside the U.S.; a legal overview on hiring foreign nationals; and hiring contract employees to leverage global operations. For further information, please see the attached link or contact

Brad. <http://www.campusce.net/csubusiness/course/course.aspx?C=562&pc=90&mc=&sc=>

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.

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