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Feature Article

DOCUMENT RETENTION POLICIES AND PRACTICES: AN OVERVIEW – This article provides an overview of document retention policies and practices in Canada and Italy.

Country Updates

COLOMBIA – This article summarizes several developments in Colombia: All visa procedures must now be completed online; the Migrant Mercosur visa for Chilean nationals has been suspended due to a lack of reciprocity; there has been a breakdown of diplomatic relations between Colombia and Venezuela that has affected migratory processes; and there are new conditions for Venezuelans traveling to Colombia with expired passports.

EUROPEAN UNION – As part of "red tape" reduction for European Union (EU) citizens living or working in another Member State, the apostille is no longer required on public documents issued by EU authorities.

FRANCE – A government order has established the rights of United Kingdom (UK) nationals continuing to stay in France in case of a "hard Brexit."

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Feature Article

This article provides an overview of document retention policies and practices in Canada and Italy.

Canada

In Canada, rules related to law firms retaining client documents and information are governed by provincial and territorial law societies. Accordingly, there are potentially 13 different sets of professional rules of conduct that govern document retention. Generally speaking, the provincial and territorial law societies will not set a firm rule but instead will make a recommendation for a best practice. In Ontario, lawyers are advised to keep client documents for 7 years, except Trust Account documents, which must be kept for 10 years. Trust Accounts are used in Canada to receive client fees in advance of work being completed and can also be used to hold client funds pending the completion of commercial or real estate transactions where the funds are applied to the purchase price. For this reason, lawyers are held to a higher standard of record-keeping for all documentation dealing with the handling of client funds. The Canada Revenue Agency also requires that businesses keep tax records for 7 years.

Recently, there have been a number of government initiatives and changes in legislation related to compliance with respect to immigration applications to support hiring foreign workers in Canada. These include Administrative Monetary Penalties against employers for non-compliance. Businesses that hire foreign workers must keep records related to the hiring and employment of the foreign worker, including copies of work permits, payroll documents, job descriptions, and timesheets for up to 6 years from the date of hire. In light of this requirement, immigration law firms providing legal services to businesses that hire foreign workers should also be keeping records for at least 6 years.

Italy

In Italy, an attorney must collect and store only the data that are necessary (not superfluous) for the achievement of the client's objectives.

The data can be deleted or returned at the client's request. There is no mandatory requirement to keep data for a certain time, unless it is necessary for the file's completion. However, lawyers are subject to malpractice claims for 10 years, and it is therefore advisable to keep the necessary data and documents until the expiration of the statute of limitation for a possible claim.

Regarding immigration-related documents, the law does not set forth a specific term, but considering that immigration compliance is also linked to tax and social security issues, it is advisable to store documents for at least 7 years, the statute of limitation for any tax claims.

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COLOMBIA

This article summarizes several developments in Colombia: All visa procedures must now be completed online; the Migrant Mercosur visa for Chilean nationals has been suspended due to a lack of reciprocity; there has been a breakdown of diplomatic relations between Colombia and Venezuela that has affected migratory processes; and there are new conditions for Venezuelans traveling to Colombia with expired passports.

Changes in the Visa Application Process

The Ministry of Foreign Affairs has announced that all visa procedures must now be completed online. Foreign nationals can only approach the Ministry when they are summoned by the authority or when they have received approval of their visa and they need the visa sticker stamped on the passport.

This change will affect processing times for all visas, Visitor (V), Migrant (M), and Resident (R), taking into consideration that in the past a visa could be obtained in person in a couple of hours. It will now be necessary to obtain approval of the application online, which takes approximately five business days.

Mercosur Visa Temporarily Suspended for Chilean Nationals

The Ministry of Foreign Affairs has suspended the issuance of the Migrant Mercosur visa for Chilean nationals. This decision was made due to the failure to apply the principle of reciprocity, because the Mercosur visa is not being issued for Colombian nationals in Chile.

Chilean nationals who are in the process of obtaining a Mercosur visa and continue to have a need to enter Colombia must reevaluate the existing migratory alternatives and proceed with a request for a different type of visa to enter and remain in the country in regular migratory status.

However, for foreign nationals who still hold a visa in this category, its validity will be respected and they should not make any changes at this time.

Breakdown of Diplomatic Relations Between Colombia and Venezuela and Its Impact on Migratory Processes

Due to the breakdown of diplomatic relations between Colombia and Venezuela, consular services in both countries have stopped and no further requests will be processed until further notice.

To provide an avenue for the migration of Venezuelan nationals to Colombia, the Ministry of Foreign Affairs has enabled its online platform for Venezuelans who wish to apply for a Colombian visa so they can proceed with their request.

On the other hand, Colombian nationals who require a visa or other processes through any Venezuelan consulate in Colombia will need to wait for these offices to resume their normal activities. They may wish to consider searching for an alternative, even if that will mean the process is completed in Venezuela or before a consulate abroad.

New Conditions for Venezuelans Traveling to Colombia with Expired Passports

The Ministry of Foreign Affairs has authorized Venezuelan nationals to enter, transit through, and leave the national territory of Colombia, even when their passports have expired. Passports in this condition may continue to be used for two years from the due date.

Likewise, Venezuelan passport holders under the conditions mentioned above may receive an Entry and Stay Permit granted by Migración Colombia upon entering the country. Exceptionally, those passports with an entry stamp will be valid as identification documents in the national territory of Colombia.

For visa processes, the Ministry has established that Venezuelan nationals who are holders of expired passports may request the issuance of a visa as long as it complies with the other provisions in force for the issuance of the corresponding visa.

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EUROPEAN UNION

As part of "red tape" reduction for European Union (EU) citizens living or working in another Member State, the apostille is no longer required on public documents issued by EU authorities.

As of February 16, 2019, the entry into force of Regulation 2016/1191 simplifies the circulation of certain public documents in the EU. A number of bureaucratic procedures will no longer be necessary when presenting public documents issued in one EU country to the authorities of another EU country.

Remarkably, public documents issued by the authorities of an EU country must now be accepted without the need of an *apostille* (authenticity stamp). Also, the regulation simplifies the rules concerning translation requirements.

A European Commission press release on this topic is at http://europa.eu/rapid/press-release_IP-19-1148_en.htm.

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FRANCE

A government order has established the rights of United Kingdom (UK) nationals continuing to stay in France after March 29, 2019, in case of a "hard Brexit."

The French government published an order determining the right of UK nationals continuing to stay in France after the Brexit date of March 29, 2019, in the most probable event of no exit agreement being reached between the UK and the European Union (EU). Such UK nationals will be allowed three to 12 months to acquire permanent residency if they have been in France for five years or more as of March 30, 2019, or acquire the appropriate permit to stay, if they have been in France as of that date for less than five years. [Update: The EU has given the UK another six months to leave the EU, to October 31, 2019.]

Ordonnance n° 2019-76 of 6 February 2019 was published in the *Journal Officiel* on February 7. The following are the principal terms affecting the immigration rights of UK nationals.

A transition period of 3 to 12 months. UK nationals continuing their stay and professional activities beyond the Brexit date may do so, as before such date, for a minimum period of three months from the Brexit date. A decree will be published that will set the final end date of the transition, which will be within 12 months of the Brexit date. Beyond this final end date, UK nationals must be in possession of the appropriate permits covering their stay and professional activities in France (Article 1 of the Order).

Presence of less than five years. UK nationals having resided for less than five years as of the Brexit date must apply for the various permits to stay according to their status (e.g., student, employee, temporary worker, posted worker, independent professional, unemployment

beneficiary, family member, long-term visitor). Such permits, when allowing work, will not be conditioned on labor market tests (Article 2).

Presence of five years or more. UK nationals having resided for five years or more in France as of the Brexit date will be entitled to the Residency Card, with 10-year validity (Article 3).

UK nationals practicing law in France. UK nationals who exercise the profession of lawyer (*avocat*) in France, based on their EU rights, may continue to do so for a period of 12 months from the Brexit date. Such lawyers may benefit from the disposition of Article 89 of the law of 31 December 1971 (Article 13).

Article 89 of the law of 31 December 1971 facilitates the registration of foreign lawyers with a French bar association after showing that they "effectively and regularly practiced French law on [French] national territory for a period of at least 3 years." Such activity must be demonstrated to the French bar association with which the foreign lawyer wishes to register. If over the three-year period the practice of French law was for a shorter period, the bar association will have discretion to determine if the foreign lawyer can practice French law.

Subsidiaries of law firms formed under UK law and registered with a French bar association on the Brexit date may continue to pursue their activities in France beyond that date, even if no lawyer registered under a UK qualification is still practicing within that structure. No new structure under UK law may be created in France after the Brexit date (Article 16).

Reciprocity required. The Order states that the preferential treatment provided for UK nationals can be suspended by a State Council decree, after three months following the Brexit date, if the French government observes that the UK government has not taken equivalent dispositions toward French nationals (Article 19).

Other areas. The 10-page order is quite dense. It touches on many areas (such as recognition of professional qualifications, cross-border service provision, welfare, health coverage, and jobs reserved for French and EU nationals). A decree to implement this order will soon be published.

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ITALY

A new decree outlines measures that will apply if the UK leaves the EU without a deal.

With Decree 25 March 2019, n. 22, the Italian government has outlined the measures that will apply if the United Kingdom (UK) leaves the European Union (EU) without a deal. In particular, article 14 refers to the residency rights of UK nationals and their non-EU family members living in Italy, and article 15 refers to citizenship applications.

UK citizens residing in Italy and their non-EU family members can apply for EU residence permits for long-term residents by December 31, 2020, if upon the date of Brexit they have regularly resided in Italy for at least five years. UK citizens residing in Italy and their non-EU family members can apply for EU residence permits "for residency" (*per residenza*), valid for five years, if upon the date of Brexit they have regularly resided in Italy for less than five years.

Starting on January 1, 2021, UK citizens and their non-EU family members who do not comply with these provisions will be subject to the same sanctions applicable to all noncompliant non-EU nationals.

UK citizens who are regularly residing in Italy for at least four years upon the date of Brexit can apply for Italian citizenship until December 31, 2020. Applications filed after that date will be processed under the same regulations applicable to all other non-EU nationals.

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UNITED KINGDOM

This article provides updates as of press time on the fast-changing Brexit situation. Also, new "e-gates" are now open to U.S. citizens and others.

Brexit Update: EU Extends Deadline to October 31

In a tumultuous period for British politics, the House of Commons rejected Prime Minister (PM) Theresa May's Brexit deal for a second time on March 12, 2019, by a wide margin of 149 votes. The following day, in a legally non-binding but politically significant motion, Parliament rejected leaving the EU without a Withdrawal Agreement and a Framework for the Future Relationship.

On March 14, House members rejected a series of amendments to the UK government's motion to extend Article 50. The first amendment to hold a second referendum was overwhelmingly defeated 334 to 85 (with the Labour party abstaining from the vote). The second, to enable the House to debate on the next steps in Brexit on March 20, was narrowly rejected 314 to 312. And the third amendment, which would have instructed the PM to request additional time from the EU in order to find a majority of support for an alternative approach, also failed to garner enough support in a vote of 318 to 302.

Among other things, following the amendments' defeat, the House passed the government's motion to extend Article 50 until June 30, 2019, by a wide margin of 412 in favor to 202 against. Subsequently, the EU extended the Brexit deadline to October 31, 2019, giving the UK another six months. As of press time, there was a range of potential future scenarios and the outcome was far from certain. The UK remains a member of the EU for the time being, but the ongoing uncertainty has created problems for businesses and investors in the UK. Stay tuned.

E-Gates

As of March 11, 2019, nationals of the United States and six other countries (Australia, Canada, Japan, New Zealand, Singapore, and South Korea) can now use electronic passport control gates when they enter the UK. People from these countries who do not already have a visa will automatically be granted entry as a standard visitor for six months, with the usual prohibition on employment and recourse to public funds.

The new system was announced in October 2018, and the legislation enabling it was passed in February 2019.

At the moment, electronic passport control gates—known as e-gates or ePassport gates—can be used by British and EU nationals aged 12 and over.

The following groups of people should not use e-gates:

- People who are entering the UK for the first time on a different type of visa, such as a spouse visa. These people must get their visa stamped by an Immigration Officer the first time they enter the UK.
- People who do not have a visa and are seeking entry for a different purpose; for example, under the Tier 5 (Temporary Worker) Creative and Sporting category or the Visitor (Permitted Paid Engagements) category. These people must see an Immigration Officer and ask to be stamped in under the appropriate category.
- People who have had immigration problems in the UK and are hoping to slip in without being questioned. Passengers using e-gates are checked against Border Force systems.

If the person is flagged on these systems, the gate will not open and they will be taken aside for questioning.

The new system will make entry to the UK much quicker for people traveling on business or for tourism.

Business travelers and their employers should bear in mind that the same restrictions apply to people entering as visitors regardless of whether they are stamped in by an Immigration Officer or use an e-gate. Visitors are not allowed to work or study in the UK except in very limited circumstances. They also cannot live in the UK for extended periods. The Home Office already collects entry and exit data from airlines and other carriers taking people to and from the UK. Anyone using e-gates can also expect to have their movements tracked. Visitors who appear to be spending most of their time in the UK will run into trouble, whether or not they use e-gates.

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New Publications and Items of Interest

Alliance of Business Immigration Lawyers:

- The latest immigration news is at <http://www.abil.com/news.cfm>.
- The latest published media releases include:
 - ABIL Says Proposed Change to Public Charge Rule Would Exclude Immigrants from Government Programs:
https://www.prweb.com/releases/abil_says_proposed_change_to_public_charge_rule_would_exclude_immigrants_from_government_programs/prweb15737932.htm
 - New Data Show Increase in H-1B Denials and RFEs:
https://www.prweb.com/releases/new_data_show_increase_in_h_1b_denials_and_rfes/prweb15673632.htm
 - ABIL Urges Administration to Change "Buy American and Hire American" Executive Order: <http://www.prweb.com/releases/2018/05/prweb15485457.htm>
 - ABIL Member Kuck Baxter Immigration Commercial Nominated for an Emmy:
<http://www.prweb.com/releases/2018/05/prweb15485460.htm>
 - ABIL Members Note Immigration Threats for Employers in 2018:
<http://www.prweb.com/releases/2018/03/prweb15261255.htm>
- ABIL is available on Twitter: [@ABILImmigration](#).
- Recent ABIL member blogs are at <http://www.abilblog.com/>.

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ABIL Member/Firm News

The Alliance of Business Immigration Lawyers (ABIL) was named the top immigration legal network by Chambers Global. Chambers noted, "[ABIL] is an association of legal providers based in over 20 countries, including 24 U.S. cities, providing a single contact point for management of global immigration needs. It assists with processing, filing, invoicing and online client case tracking. Members share information on important legislation, take part in joint training and collaborate on projects to provide a unified service offering. The network also maintains an up-to-date blog collating information on multiple jurisdictions."

In addition, ABIL members and firms were disproportionately top-rated in almost all of their jurisdictions relative to other immigration firms. ABIL encompasses two-thirds of Chambers USA's top band (ranking tier) in California out of thousands of California immigration law firms.

Below are **ABIL firms and individual members and associates** who were honored in Chambers Global and Chambers USA:

FIRMS

United States

Cyrus D Mehta & Associates PLLC
Foster, LLP
Fredrikson & Byron
Klasko Rulon Stock & Seltzer
Kuck Baxter
Maggio & Kattar
Miller Mayer
Parker, Butte Lane
Pearl Law Group
Seyfarth Shaw
Siskind Susser, PC
Wolfsdorf Rosenthal LLP

Canada

Corporate Immigration Law Firm
Gomberg Dalfen

Global

Alliance of Business Immigration Lawyers
Laura Devine Solicitors
Bener Law Office (Europe, Global – for Corporate/M&A)
Dorda (Europe, Global, High Net Worth)
Kingsley Napley (UK, US, Global, High Net Worth)
Laura Devine Solicitors (UK, US, Global, High Net Worth)
Sagardoy Abogados (Europe – for Employment)
Raczkowski Paruch (Europe – for Employment)
Tannus & Asociados (Latin America)

INDIVIDUALS

United States
Jim Alexander
Robert Aronson (US and Global)
Dagmar Butte
Charles Foster
David Fullmer
Anna Gallagher
H. Ronald Klasko (US and Global)
Charles Kuck (US and Global)
Judy Lee
Cyrus Mehta (US and Global)
John Meyer
Christy Nguyen
Angelo Paparelli
Julie Pearl
Jan Pederson
Gregory Siskind (US and Global)
Jennifer Stevens (US and Global)
William Stock

Anastasia Tonello
Bernard Wolfsdorf
Stephen Yale-Loehr (US and Global)

Canada

Jean-Philippe Brunet
Barbara Jo Caruso
Seth Dalfen
Avi Gomberg

Global (see also individual listings above under United States)

Sophie Barrett-Brown
Ilda de Sousa
Laura Devine
Nicolas Rollason
Jennifer Stevens
Rodrigo Tannus

For more information on rankings and areas of specialty, see <https://chambers.com/rankings/s?publicationTypeId=5&practiceAreaId=31&subsectionTypeId=1&locationId=12059>. Bios of ABIL members are available at <http://www.abil.com/>.

Robert Aronson and **Debra Schneider**, of **Fredrikson & Byron, P.A.**, have co-authored "A Bridge Over Troubled Waters: The High-Skilled Worker Rule and Its Impact on Employment-Based Immigration," published in 44 Mitchell Hamline L. Rev. 935-969 (2018) and available at <https://open.mitchellhamline.edu/cgi/viewcontent.cgi?article=1136&context=mhlr>.

Dagmar Butte (bio: <http://www.abil.com/lawyers/lawyers-butte.cfm?c=US>) will be speaking at the following events:

- AILA Rome Chapter Conference in Berlin, Germany, on April 30, 2019, on the effect of marijuana legalization at the state level on federal immigration law
- Federal Bar Association National Conference in Austin, Texas, on May 17, 2019, on "Fundamentals of Business Immigration Law"
- American Immigration Lawyers Association Annual Conference in Orlando, Florida, on June 19, 2019, on "Changes to Immigration Law Via Trump Administration Memos"
- Chair of Business Track for AILA Annual Conference in Orlando (see above)

Laura Devine Solicitors has won the LexisNexis 2019 Award for Wellbeing. The award recognizes the law firm or other legal organization that "has demonstrated the strongest commitment to providing or promoting a working environment that supports the mental and physical health of its staff, members or colleagues and enables them to maintain a healthy balance between their work pressures and home life." Details: <https://www.lexisnexislegalawards.co.uk/ehome/legalawards/2019-winners/>

Robert Loughran (bio: <http://www.abil.com/lawyers/lawyers-loughran.cfm>), partner at **Foster LLP**, recently spoke on a panel in Austin, Texas, at the South by Southwest (SXSW) Conference. "How Foreign Entrepreneurs Thrive in Trump's America: It's (Not So) Complicated" focused on the immigration, corporate, and financial/tax implications foreign entrepreneurs face when setting up a business in Texas and the United States in light of the Trump administration's new immigration policies. For more information, see <https://schedule.sxsw.com/2019/events/OE39188>.

Mr. Loughran and **Matthew Myers** presented on U.S. immigration considerations specific to Japanese investors, companies, and employees, to representatives of 19 Japanese companies visiting San Antonio, Texas, as part of an economic development delegation at a dinner hosted

by the San Antonio Economic Development Foundation. The event took place March 7, 2019.

Charles Foster and **John Meyer**, chairman and partner, respectively, at **Foster LLP**, attended the EB-5 & Uglobal Immigration Expo hosted by EB-5 Investors Magazine on February 11, 2019, in Dubai, United Arab Emirates. Mr. Foster presented an overview of the EB-5 Immigrant Investor Program and its latest developments to representatives of leading EB-5 regional centers, migration agencies, and potential investors. More information is at <https://www.eb5investors.com/conferences/2019-eb-5-expo-dubai>.

Mr. Foster delivered the keynote address at the immigration seminar, "Struggling With Your Immigration Status: Is Canada a Solution?," hosted by The Aga Khan Economic Planning Board and Indo-American Chamber of Commerce of Greater Houston on December 15, 2018, in Houston, Texas. Mr. Foster spoke about the EB-5 Investment Program as a possible alternative to the H-1B visa backlog. More information on this event is at <http://voiceofasia.news/seminar-on-growth-opportunities-in-canada-and-requirements-for-permanent-resident/>.

Mr. Meyer was a guest speaker for "Investing and Doing Business in Texas," an event hosted by Invierta en USA on January 30, 2019, in Mexico City, Mexico. Mr. Meyer spoke about the EB-5 Immigration Investor Program concerning how to obtain business and investment visas to immigrate to the United States. The audience included Mexican entrepreneurs who want to invest in, establish, and expand businesses in Texas. More information is at <https://inviertaenusa.com.mx/>.

Klasko Immigration Law Partners, LLP, has released "Avoiding Status Violations in the Side Gig Economy," which is Episode 12 of the podcast series, "Statutes of Liberty," available at <https://bit.ly/2T7yTa1>.

Anu Nair, of **Klasko Immigration Law Partners, LLP**, served as a panelist for "U.S. Immigration and IRS Update," a Business After Hours event sponsored by Gray Robinson Attorneys at Law and hosted by the Indian American Chamber of Commerce on January 15, 2019, in Orlando, Florida. She provided an overview of the EB-5 Immigrant Investor Program and spoke on the latest developments. She included an update on the impending visa backlog for Indian foreign nationals. More information is at <https://asiatrend.org/event/indian-american-chamber-of-commerce-business-after-hours-in-january-2019/>.

Charles Kuck (bio: <http://www.abil.com/lawyers/lawyers-kuck.cfm>) is the attorney for Grammy-nominated rapper 21 Savage, whose real name is She'yaa Bin Abraham-Joseph. Mr. Abraham-Joseph, who was born in England in 1992 and has been living in the United States since the age of seven, was detained recently on immigration charges by U.S. Immigration and Customs Enforcement (ICE) in Atlanta, Georgia. Mr. Kuck was quoted by *Reuters* in "Rapper 21 Savage Being Held Unfairly, Attorneys Claim." Mr. Kuck noted that "ICE has not charged Mr. Abraham-Joseph with any crime. As a minor, his family overstayed their work visas, and he, like almost two million other children, was left without legal status through no fault of his own." He said, "This is a civil law violation, and the continued detention of Mr. Abraham-Joseph serves no other purpose than to unnecessarily punish him and try to intimidate him into giving up his right to fight to remain in the United States." Mr. Kuck also said that ICE was refusing to release his client on bond based on "incorrect information about prior criminal charges." The article is at <https://www.reuters.com/article/us-people-21-savage/rapper-21-savage-being-held-unfairly-attorneys-claim-idUSKCN1PU07M>. Additional details of Mr. Abraham-Joseph's case are at http://tmz.vo.llnwd.net/o28/newsdesk/tmz_documents/0205_21_Savage%20Statement.pdf, <https://www.nytimes.com/2019/02/06/arts/music/21-savage-ice-atlanta-rapper.html>, <https://www.newyorker.com/culture/cultural-comment/the-shameful-arrest-of-21-savage>, <http://time.com/5524539/21-savage-immigration-case-facts/>, and <https://www.rollingstone.com/music/music-news/21-savage-released-on-bond-793921/>.

Cyrus Mehta (bio: <http://www.abil.com/lawyers/lawyers-mehta.cfm>) has authored several new blog entries. "The Best Way for Trump to Offer 'Love and Sympathy' is to Repeal the Muslim Ban" is at <http://blog.cyrusmehta.com/2019/03/the-best-way-for-trump-to-offer-love-and-sympathy-is-to-repeal-the-muslim-ban.html>. "Advancing a 'Social Group Plus' Claim After Matter

of A-B-" is at <http://blog.cyrusmehta.com/2019/03/advancing-a-social-group-plus-claim-after-matter-of-a-b.html>. "Trump Administration Imposes Another Unnecessary Obstacle: USCIS to Issue New Version of Form I-539 and New I-539A on March 8" is at <https://bit.ly/2EXM97Y>. "Don't Always Suck Up to Buy American Hire American" is at <http://blog.cyrusmehta.com/2019/02/dont-always-suck-up-to-buy-american-hire-american.html>.

David Isaacson, of **Cyrus Mehta's** office, has authored a new blog entry. "Not Sure Whether to Laugh or Cry: How the Border Patrol's Harassment of a Comedian Shows Why It Should Not Be Checking Documents in the United States" is at <https://bit.ly/2N6Z8aS>.

Angelo Paparelli (bio: <http://www.abil.com/lawyers/lawyers-paparelli.cfm>) has authored a new blog entry. "'Sue the miscreants!'—Challenging Unjust Work-Visa and Green-Card Denials with Flood-the-Zone and Head-Fake Immigration Strategies" is at <https://bit.ly/2O32gW3>.

Mr. Paparelli and **William Stock** (bio: <http://www.abil.com/lawyers/lawyers-stock.cfm?c=US>) spoke at the 2019 American Immigration Lawyers Association's Spring Federal Court Litigation Conference in Chicago, Illinois, on March 12, 2019. For more information, see <https://agora.aila.org/Conference/Detail/1550>.

Rodrigo Tannus (bio: <http://www.abil.com/lawyers/lawyers-tannus.cfm?c=CO>) has authored several new articles published in *Diario la Republica*:

- "Golden Visa," <https://www.asuntoslegales.com.co/analisis/rodrigo-tannus-serrano-510256/golden-visa-2807399>
- "Nacionalización colombiana y sus efectos," <https://www.asuntoslegales.com.co/analisis/rodrigo-tannus-serrano-510256/nacionalizacion-colombiana-y-sus-efectos-2823854>
- "Permiso de ingreso y permanencia de tránsito temporal," <https://www.asuntoslegales.com.co/analisis/rodrigo-tannus-serrano-510256/permiso-de-ingreso-y-permanencia-de-transito-temporal-2815843>

Stephen Yale-Loehr (bio: <http://www.abil.com/lawyers/lawyers-loehr.cfm?c=US>) was quoted in several publications regarding President Trump's threat to close the U.S. border with Mexico:

- CNN: Mr. Yale-Loehr noted that the President would run into problems if he closed the entire border to green card holders and U.S. citizens: "They could argue that doing so violates their First Amendment rights to freedom of association and travel." <https://www.cnn.com/2019/04/01/politics/fact-check-can-trump-close-the-border/index.html>
- Univision (Spanish): "Las amenazas de Trump en la frontera y el corte de la ayuda a los países centroamericanos (como castigo por no detener las oleadas de inmigrantes en busca de asilo) pueden ser ilegales y, desde luego, una tontería." <https://www.univision.com/noticias/inmigracion/veto-migratorio-parte-dos-cerrar-la-frontera-sur-solo-agravara-los-problemas>
- Sinclair Broadcast Group, many newspapers: "Any effort to close the U.S.-Mexico border or cut off aid is doomed to failure. It is like stopping funding for cancer research on the theory that fewer cancers will occur. We need more foreign aid, not less, to attack the root conditions of poverty and violence in Central America so fewer people in those countries will flee to the United States." <https://abcnews4.com/news/nation-world/trump-looks-to-cut-aid-and-close-border-but-dems-experts-call-moves-counterproductive>
- Law360: Mr. Yale-Loehr noted that the first version of President Trump's travel ban raised similar concerns. If the President issued a narrower proclamation closing the border only for asylum-seekers, they could argue that this violates INA 208(a)(1), which provides that any migrant physically present in the United States or who arrives in the United States, whether or not at a designated port of arrival, can apply for asylum. Available by registering or subscribing at

<https://www.law360.com/articles/1145316/trump-proposal-to-close-border-could-create-legal-quagmire>

- USA Today: "We'd be shooting ourselves in the foot by closing the border. It's like stopping funding for cancer research on the theory that we'll get fewer cancers." <https://www.usatoday.com/story/news/politics/2019/04/03/donald-trump-faces-logistical-nightmare-closing-u-s-mexico-border/3337332002/>
- Business Insider: "The legal challenges to a border declaration will depend on what President Trump does. If President Trump closed the border to green card holders and U.S. citizens, they could argue that doing so violates their First Amendment rights to freedom of association and travel." <https://www.businessinsider.com/us-mexico-border-closed-what-could-happen-2019-4>

Mr. Yale-Loehr was quoted by *WENY* regarding a failed EB-5 project in upstate New York. <https://www.weny.com/story/40231467/lawsuit-horseheads-hotel-project-is-illusion-for-foreign-investors-looking-for-green-cards>

Mr. Yale-Loehr was quoted by *Bloomberg Law* regarding a 10 percent immigration surcharge proposal in the Trump administration's budget request to Congress. It "seems minimal," he noted, but "would have a real detrimental impact on many people who can ill afford these increased filing fees." He said the surcharge is likely "dead on arrival," noting that even the Trump administration thinks "that such a change will only occur with congressional approval" and "the Democrats would never agree to this." Further, he noted, "Some employers already are balking at the high filing fees for needed employees. Adding a 10 percent surcharge will make it even more financially onerous. We may see fewer H-1B petitions being filed as a result." Available by registering or subscribing at <https://news.bloomberglaw.com/daily-labor-report/big-immigration-impact-could-come-from-modest-deficit-proposal>.

Mr. Yale-Loehr was quoted by *Voice of San Diego* in an article about a California county's asylum policy lawsuit. Mr. Yale-Loehr agreed that the federal government's failure to follow rulemaking procedures was the county lawsuit's most potent argument. "I think it's a good lawsuit and they raise serious allegations. We'll just have to wait to see which judge they get." <https://www.voiceofsandiego.org/topics/government/heres-what-legal-experts-think-is-the-strongest-argument-in-the-countys-asylum-policy-lawsuit/>

Mr. Yale-Loehr was quoted by CNN in "Supreme Court Will Take Up Immigration-Related Case Next Term." The case, *Kansas v. Garcia*, concerns Kansas' prosecution of three immigrants for using stolen Social Security numbers for employment. The Kansas Supreme Court overturned their convictions, ruling that federal immigration law preempts a state from prosecuting undocumented immigrants when the claim is based on information culled from federal immigration forms. If the Supreme Court takes up the case and overturns the Kansas court's decision, he noted, "all states could prosecute noncitizens for identity theft more easily. The Supreme Court largely struck down Arizona's similar efforts in 2012. Given the change in Supreme Court members since then, it will be interesting to see how the court revisits the issue." The article is at <https://www.cnn.com/2019/03/18/politics/scotus-immigration-case/index.html>. Details about the case are at <https://www.scotusblog.com/case-files/cases/kansas-v-garcia/>.

Mr. Yale-Loehr was quoted by the *New York Times* in "Ninth Circuit Appeals Court Grants More Protections for Asylum Seekers." In response to the court's decision that immigration authorities can no longer swiftly remove asylum seekers who fail an initial screening, Mr. Yale-Loehr said, "This is a historic decision. But the government will surely appeal this to the Supreme Court." The article is at <https://www.nytimes.com/2019/03/07/us/asylum-seekers-ninth-circuit.html>.

Mr. Yale-Loehr was quoted by CNN in "Meet the Immigrant Who Got a Second Chance from Justice Neil Gorsuch." The article notes that Justice Gorsuch sided with the Supreme Court's liberals in invalidating a provision of federal law that requires the mandatory removal of immigrants who have been convicted of some "crimes of violence," agreeing that the law was

unconstitutionally vague. Mr. Yale-Loehr noted that Justice Gorsuch's vote did not necessarily make him pro-immigrant in every case, as evidenced by some of his other opinions. "But like his predecessor, Justice Scalia, he hates vague laws. This case shows that Congress needs to be more careful when it drafts immigration laws," Mr. Yale-Loehr said. The article is at <https://edition.cnn.com/2019/03/05/politics/james-dimaya-justice-neil-gorsuch/>.

Mr. Yale-Loehr was quoted by *Bisnow South Florida* in "EB-5 Fund USIF Sued for Racketeering by Representative of Chinese Investors." The U.S. Immigration Fund bundles foreign money to be loaned to developers for U.S. based projects. The Chicago-based Chinese-American researcher who filed the suit, Xuejun Makhous, also known as Zoe Ma, alleges that Chinese investors were led to believe that they were backing a five-year loan with a real estate development as collateral, but they were actually purchasing limited partnership interests in a fund not secured by real estate. "It's an interesting but novel argument. It remains for the court to decide whether it has validity." The article is at <https://www.bisnow.com/south-florida/news/capital-markets/qiaowai-usif-zoe-ma-rico-97607>.

Mr. Yale-Loehr was quoted by CNN in "Trump Says Alabama Woman Who Joined ISIS Should Not Return to U.S." Mr. Yale-Loehr said Hoda Muthana's situation was "not clear-cut. It would depend on the facts, if the State Department argues that her father's diplomatic status was still in effect. The family argues it expired. So ultimately, it may be up to a court to sort this out." Ms. Muthana's family has filed a lawsuit challenging the U.S. government's assertion that she is not a U.S. citizen, the article notes. It is available at <https://www.cnn.com/2019/02/20/politics/hoda-muthana-state-department/index.html>. The lawsuit is available at <https://www.scribd.com/document/400220594/Hoda-Muthana-Lawsuit>.

Mr. Yale-Loehr was quoted by *Bisnow South Florida* in "Inside the Wild Legal Battle Over EB-5 Fraud, Defamation and a \$2.5B Times Square Project." Mr. Yale-Loehr noted that the EB-5 program was established as a part of a bigger overhaul of legal immigration in the early 1990s, "in part because Australia and Canada had similar programs." Noting that it was enacted as a pilot program and still needs to be reauthorized periodically, he said redeployment has become contentious as processing times for visas have grown. Contracts can be structured various ways, he said, with all the money from a group being moved together at one time or in tranches. The article is at <https://www.bisnow.com/national/news/capital-markets/eb5-mastroianni-usif-brook-lenfest-doug-litowitz-defamation-lawsuit-chinese-97342?rt=67115>.

Mr. Yale-Loehr was quoted by the *Cornell Daily Sun* in "Tompkins County Deputy Called ICE to Report Mexican Man in U.S. Illegally, Drawing Sheriff's Ire." Mr. Yale-Loehr said, "I agree that it is a close call, but the county resolution explicitly states that nothing in the resolution bars a sheriff's officer from sending a statement of a person's immigration status to federal immigration authorities." The article is at <https://cornellsun.com/2019/02/07/tompkins-county-sheriffs-deputy-called-ice-to-report-mexican-man-in-country-illegally/>.

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