



IMMIGRATION INSIDER

Vol. 15, No. 9C • September 15, 2019

Headlines:

Supreme Court Allows Enforcement of Trump Administration Asylum Rule – The Supreme Court has allowed enforcement of a new Trump administration rule, which requires asylum seekers passing through third countries to apply for asylum in those countries first before seeking asylum in the United States, to move forward pending disposition of the administration's appeal in the Ninth Circuit.

DHS Issues Guidance on Visa Requirements for Bahamian Citizens Traveling to the United States – The Department of Homeland Security (DHS) issued guidance for Bahamians wishing to travel to the United States following the recent devastation of Hurricane Dorian.

EI Salvador TPS EADs Listing a Sept. 9 Expiration Remain Valid Through Jan. 2 – Employment authorization documents for EI Salvadoran temporary protected status beneficiaries showing a category code of "A-12" or "C-19" and an expiration date of 09/09/2019 are valid through January 2, 2020. Workers do not need to present additional documentation.

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Supreme Court Allows Enforcement of Trump Administration Asylum Rule

The Supreme Court has allowed enforcement of a new Trump administration rule, which requires asylum seekers passing through third countries to apply for asylum in those countries first before seeking asylum in the United States, to move forward pending disposition of the administration's appeal in the Ninth Circuit. Most of those affected are Central Americans trying to reach the United States. Other migrants also seek asylum when they arrive at the southern border from other parts of the world, including Asia, Africa, and South America.

Two justices dissented from the Supreme Court's decision in *Barr v. East Bay Sanctuary Covenant*, including Ruth Bader Ginsburg and Sonia Sotomayor, who wrote, "Once again, the Executive Branch has issued a rule that seeks to upend longstanding practices regarding refugees who seek shelter from persecution." Thousands of people reportedly are waiting in Mexico for their turn to apply for asylum in the United States.

Details:

- Supreme Court's order with Justice Sotomayor's dissent, https://www.supremecourt.gov/opinions/18pdf/19a230_k53l.pdf
- Lower court decision, https://scholar.google.com/scholar_case?case=13675134656045640927&hl=en&as_sdt=6&as_vis=1&oi=scholar
- Trump administration's application for stay, https://www.supremecourt.gov/DocketPDF/19/19A230/113613/20190826132549423_East%20Bay%20II%20Stay%20FINAL.pdf
- Case history, <https://www.supremecourt.gov/search.aspx?filename=/docket/docketfiles/html/public/19a230.html>
- Interim final rule, <https://www.federalregister.gov/documents/2019/07/16/2019-15246/asylum-eligibility-and-procedural-modifications>
- News articles, <https://www.cbsnews.com/news/trump-asylum-ban-supreme-court-rules-administration-can-enforce-controversial-immigration-regulation-2019-09-11/>; <https://www.nytimes.com/2019/09/11/us/politics/supreme-court-trump-asylum.html>, <https://www.nytimes.com/2019/09/09/us/migrants-asylum-injunction.html>

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DHS Issues Guidance on Visa Requirements for Bahamian Citizens Traveling to the United States

The Department of Homeland Security (DHS) issued guidance on September 9, 2019, for Bahamians wishing to travel to the United States following the recent devastation of Hurricane Dorian. According to reports, the Trump administration does not plan to extend temporary protected status to Bahamians in the United States.

DHS is requiring all such Bahamians to possess valid, unexpired travel documents, such as a passport or Bahamian Travel Document listing the nationality as Bahamian. Bahamians arriving to the United States by vessel must be in possession of a valid passport and valid travel visa, DHS said. Bahamian citizens may apply for admission to the United States without a visa at one of the U.S. Customs and Border Protection (CBP) Preclearance facilities located in Nassau or Freeport International Airports if they meet certain requirements. Travelers who would otherwise qualify for the Visa Waiver Program and who travel by air from a CBP Preclearance facility in Freeport or Nassau may not need a U.S. visitor's visa. All other travelers arriving from the Bahamas (U.S. citizens and lawful permanent residents, and individuals of other nationalities) must possess a valid, unexpired government-issued passport.

Acting CBP Commissioner Mark Morgan told CNN, however, that CBP would "apply discretion on a case-by-case basis" to Bahamians who make it to the United States without travel documents. "We're not going to deny somebody solely because they don't have travel documents," he said. Meanwhile, Sens. Marco Rubio and Rick Scott sent a letter to the Trump administration asking it to suspend "certain visa requirements" for Bahamians with relatives in the United States with whom they can stay. The letter noted Florida's "historically deep ties with the Bahamas" and that many Floridians have family in the Bahamas. On September 9, 2019, Sen. Rubio tweeted that "a cruise ship took 1,500 survivors to Palm Beach without requiring them to show visas after coordinating a pre-screening for passports & clean criminal record with @CBP." This contrasted with a ferry that kicked 100 Bahamian passengers off; Sen. Rubio tweeted that that ship "apparently didn't coordinate a pre-screening & then didn't want to wait for one."

Details:

- DHS announcement, <https://www.dhs.gov/news/2019/09/09/visa-requirements-bahamas-citizens-traveling-united-states>
- CBP statement, https://help.cbp.gov/app/answers/detail/a_id/1250/~bahamian-citizen-document-requirements
- Rubio/Scott letter, https://www.rubio.senate.gov/public/_cache/files/ebc98fe7-3504-4676-b1f9-4dfa355adc52/6086FAE3328F31613558BEE80325D464.19.09.04-rubio-scott-letter-to-potus-re-bahamas.pdf
- Sen. Rubio's tweets, <https://twitter.com/marcorubio/status/1171112892101513216>
- CNN reports, <https://www.cnn.com/2019/09/10/politics/bahamas-tps-protections/index.html>, <https://www.cnn.com/2019/09/10/politics/mark-morgan-bahamian-evacuees-customs-border-protection-cnntv/index.html>
- U.S. Embassy in the Bahamas, <https://bs.usembassy.gov/>

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EI Salvador TPS EADs Listing a Sept. 9 Expiration Remain Valid Through Jan. 2

The Department of Justice (DOJ) issued a reminder on September 9, 2019, that employment authorization documents (EADs) for EI Salvadoran temporary protected status (TPS) beneficiaries showing a category code of "A-12" or "C-19" and an expiration date of 09/09/2019 are valid through January 2, 2020. DOJ noted that workers do not need to present additional documentation, such as an I-797C receipt notice, for this automatic extension for Form I-9 work authorization verification purposes.

EADs were also extended for TPS beneficiaries from Sudan, Nicaragua, and Haiti, pending resolution of *Ramos v. Nielsen*, in which the U.S. District Court for the Northern District of California enjoined DHS in late 2018 from implementing and enforcing decisions to terminate TPS for those countries.

Details:

- U.S. Citizenship and Immigration Services (USCIS) webpage on EI Salvador TPS, <https://www.uscis.gov/humanitarian/temporary-protected-status/temporary-protected-status-designated-country-el-salvador>
- March 2019 Federal Register notice announcing the automatic extension, <https://www.federalregister.gov/documents/2019/03/01/2019-03783/continuation-of-documentation-for-beneficiaries-of-temporary-protected-status-designations-for-sudan>
- USCIS update on *Ramos v. Nielsen*, <https://www.uscis.gov/update-ramos-v-nielsen>

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New Publications and Items of Interest

[How to prepare for immigration raids.](#) Cornell University's immigration technology clinic has developed an automated online interview to help people prepare if they or others are worried about being detained or deported. It can help people prepare their family, manage their property, close out their bank accounts, and perform other emergency preparations. The online interview is available in English and Spanish at https://www.immi.org/en/Home/make_a_plan.

[Responding to large-scale immigration raids.](#) The Immigration Justice Campaign and the American Immigration Lawyers Association have released information on what to do in the event of large-scale interior enforcement actions. See <https://www.immigrationjustice.us/volunteeropportunities/raids-preparation-teams> and <https://www.aila.org/advo-media/issues/all/featured-issue-2019-large-scale-enforcement>.

CBP accountability. A new website documents litigation across the United States in an effort to establish U.S. Customs and Border Protection (CBP) accountability and transparency. The website, which also directs readers to additional resources, is a joint project of the American Civil Liberties Union of San Diego and Imperial Counties, the American Immigration Council, the National Immigration Project of the National Lawyers Guild, and the Northwest Immigrant Rights Project. See <https://holdcbpaccountable.org/>.

Immigrant and Employee Rights webinars. The Department of Justice's Immigrant and Employee Rights Section is offering free webinars to the public. The webinars are for workers, employers, and advocates. For more information or to register, see <https://www.justice.gov/crt/webinars>.

Alliance of Business Immigration Lawyers:

- ABIL is available on Twitter: @ABILImmigration
- Recent ABIL member blogs are at <http://www.abilblog.com/>

Organizations providing help at the southern border and seeking non-lawyer and lawyer volunteers. Cornell Law School's Migration and Human Rights Program has compiled a list of organizations providing help at the southern border, and seeking donations and non-lawyer and lawyer volunteers to help migrants in U.S. detention and deportation proceedings. The list, which is updated on an ongoing basis, is at <http://www.lawschool.cornell.edu/MigrationandHumanRightsProgram/Organizations-seeking-non-lawyer-and-lawyer-volunteers.cfm>.

Nation of immigrants. Podcasts on U.S. immigration history and what it means to be an immigrant in America:

- Statutes of Liberty: <http://bit.ly/2thMM9O> (new episodes: A Prescription for Success: EB-1 for Physicians, <https://bit.ly/2J7oSjV>; The Best, Brightest, and Backlogged, discusses the backlog, who it affects, how to read the Visa Bulletin, and strategies for EB-1 visas, <https://bit.ly/2E6vamz>)
- Code Switch Podcast: What Does It Mean To Be A 'Nation of Immigrants?': <http://n.pr/2FeWWg4>
- Hidden Brain: The Huddled Masses and the Myth of America: <http://n.pr/2Fbo9kC>
- American Pendulum I: <http://bit.ly/2FbYKY3>

Advisories and tips:

- Community Advisory: Social Media, Criminalization, and Immigration has been published by the National Lawyers Guild's National Immigration Project. This advisory summarizes ways in which immigration agents may use social media against those in removal proceedings or involved in criminal cases. The advisory is at https://www.nationalimmigrationproject.org/PDFs/community/2017_03Apr_comm-adv-social.pdf.
- How to safeguard your data from searches at the border is the topic of several recent articles and blogs. See, for example, <https://www.nytimes.com/2017/03/21/technology/personaltech/crossing-the-border-heres-how-to-safeguard-your-data-from-searches.html> and <https://www.aclu.org/blog/free-future/can-border-agents-search-your-electronic-devices-its-complicated>.
- Listings and links to cases challenging executive orders, and related available pleadings, are available at <https://lawfareblog.com/litigation-documents-resources-related-trump-executive-order-immigration>.

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Cyrus Mehta (bio: <http://www.abil.com/lawyers/lawyers-mehta.cfm>) was quoted by *Law360* in "Attys Face Greater Urgency After High Court OKs Asylum Bar." Mr. Mehta said that if he were to represent someone who had perhaps sneaked into the U.S. but would have been subject to the asylum bar—which only applies to those who entered the U.S. after July 15—he would treat that person as a withholding of removal or CAT relief case, and advise the migrant of the limitations. But he said he could also bring an asylum claim on the person's behalf and challenge the legality of the regulation. For example, if the migrant had applied for asylum in a third country but hadn't been formally denied, the case could be made that a lack of response constitutes a "de facto refusal" in a country without a functioning asylum system. The article is available by registering at <https://www.law360.com/articles/1198444/attys-face-greater-urgency-after-high-court-oks-asylum-bar>.

Mr. Mehta has authored a new blog entry. "Poursina v. USCIS: Federal Courts May Not Have Last Word in Reviewing Denial of a National Interest Waiver" is at <http://blog.cyrusmehta.com/2019/09/poursina-v-uscis-federal-courts-may-not-have-last-word-in-reviewing-a-denial-of-a-national-interest-waiver.html>.

Stacy Caplow and **Maryellen Fullerton**, of **Cyrus D. Mehta & Partners PLLC**, have co-authored a new blog entry. "Migrant 'Protection' Protocol: A Report From the Front Lines" is at <http://blog.cyrusmehta.com/2019/09/migrant-protection-protocol-a-report-from-the-front-lines.html>.

Siskind Susser, PC, has received this year's InnovAction award from the College of Law Practice Management (along with Suffolk Law School) for its Visalaw.ai initiative. This is one of the legal field's top awards for practice management innovation, and Siskind Susser PC is the first immigration firm to receive it in the two decades it has been awarded. See <http://www.visalaw.com/siskind-susser-receives-2019-innovaction-award/>.

Stephen Yale-Loehr (bio: <http://www.abil.com/lawyers/lawyers-loehr.cfm?c=US>) was quoted by the *Houston Chronicle* in "Trump Administration Blocks Most Asylum Seekers in 'Profound' Change to System as Legal Fights Continue." He noted that Supreme Court justices historically have been more deferential to presidential power in immigration than in most other areas. But, recalling outrage over migrant family separation that caused the Trump administration to announce an end to the policy before a federal judge forced it to do so, he noted, "The court of public opinion is just as important as courts of law." See <https://www.houstonchronicle.com/news/houston-texas/houston/article/Trump-administration-blocks-most-asylum-seekers-14439089.php>.

Mr. Yale-Loehr was also quoted in the following media:

- Wall Street Journal, "AI Workers Deserve Special Visa Consideration, Group Says" (Mr. Yale-Loehr said that proposals by a global group focused on artificial intelligence that is calling on governments to revamp their visa policies to make it easier for AI professionals to move around the world are unlikely to succeed in the United States. "I wish them well, but a lot of these things I do not think are going to be implemented in the United States," he said. See <https://www.wsj.com/articles/ai-workers-deserve-special-visa-consideration-group-says-11568107802>
- Times of India, "Deloitte, Apple, Cognizant Biggest Filers of LCAs in FY 2019" (Mr. Yale-Loehr said the decline in H-1B filings is not limited to Indian companies. "Overall, the number of LCAs filed by the top 10 employers in the third quarter of 2019 was 218,906, down from 374,951 in the same quarter of 2018. The percentage decline is slightly higher for Indian companies, but the more significant finding is the overall decline," he said. See <https://timesofindia.indiatimes.com/business/india-business/deloitte-apple-cognizant-biggest-filers-of-lcas-in-fy2019/articleshow/71060708.cms>
- Law360 (available by registration), "Future of Asylum Bar Remains Uncertain, Despite Court Block." Mr. Yale-Loehr noted that another restricted injunction could also lead to

asylum seekers becoming "savvy" and deliberately entering the United States within the Ninth Circuit only. "Here with the stakes so high, I think that there are particularly compelling reasons to decide this issue nationwide and not circuit by circuit," he said. See <https://www.law360.com/publicpolicy/articles/1196922/future-of-asylum-bar-remains-uncertain-despite-court-block>

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Follow these links to access current processing times of the USCIS Service Centers and the Department of Labor, and 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/processTimesDisplay.do>

Department of State Visa Bulletin: <https://travel.state.gov/content/visas/en/law-and-policy/bulletin.html>

Visa application wait times for any post:

<https://travel.state.gov/content/visas/en/general/wait-times.html/>

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About ABIL

The Alliance of Business Immigration Lawyers (ABIL) offers a single point of contact for customer needs, news alerts, staff training, and other programs that benefit clients through the collaboration of more than 370 member lawyers and their more than 800 staff. Corporate counsel, human resource professionals, in-house immigration managers, and other corporate decision-makers turn to ABIL lawyers for outstanding legal skills and services. ABIL's work also includes advocating for enlightened immigration reform, providing speakers and media sources, presenting conferences, publishing books and articles on cutting-edge immigration topics, and sharing best practices, all with the ultimate goal of offering value-added services to business immigration clients.

The Alliance of Business Immigration Lawyers' website is at <http://www.abil.com/>. ABIL is also on Twitter: [@ABILImmigration](#).

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