

IMMIGRATION INSIDER

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Headlines:

Biden Administration Kicks Off Cross-Agency Naturalization Campaign – The Biden administration announced an interagency campaign to promote naturalization "to all who are eligible."

District Court Vacates Final Rule Affecting Wages for H-1B, PERM Workers; OFLC Updates Implementation – In light of delays and a June district court order vacating the final rule, the operative version of the regulations "continues to be the version in place on October 7, 2020, prior to the publication" of the interim final rule, the Office of Foreign Labor Certification said.

USCIS Releases Guidance Following June 30 Expiration of EB-5 Regional Center Program – The agency released guidance on July 1, 2021, noting that the lapse does not affect EB-5 petitions filed by investors who are not seeking a visa under the Regional Center Program.

State Dept. Provides Guidance on COVID-19 Restrictions and Exceptions, Including National Interest – The exceptions include general categories like U.S. citizens, lawful permanent residents, and certain types of workers, as well as national interest.

USCIS Allows Resubmission of Certain FY 2021 H-1B Petitions Rejected or Closed Due to Start Date – USCIS will accept resubmitted fiscal year 2021 H-1B cap-subject petitions that were rejected or administratively closed solely because the requested start date was after October 1, 2020.

Flexibilities Extended for Responding to Certain USCIS Requests – In response to the COVID-19 pandemic, USCIS is extending to September 30, 2021, previously announced flexibilities to assist applicants, petitioners, and requestors responding to certain requests.

Employers Encouraged to Consider Supplemental H-2B Allocation in Filling Positions – If by July 8, 2021, fewer than 6,000 beneficiaries are requested toward the visas initially set aside for Northern Triangle countries, USCIS will announce by July 23 that the unused visas will be made available to employers "regardless of the beneficiary's country of nationality, subject to the returning worker requirement."

Labor Dept. Announces H-2B Application Filing Timeline for 2021 Peak Filing Season – The three-day filing window to submit an H-2B Application for Temporary Employment Certification requesting a work start date of October 1, 2021, will open on July 3, 2021.

CBP Continues Temporary Travel Restrictions From Canada, Mexico Into United States Via Land POEs and Ferries – Temporary limits on nonessential travel of individuals from Canada or Mexico into the United States at land ports of entry along the border, including ferry service, will continue through July 21, 2021.

H-2B Employer Data Hub Launched – USCIS launched the hub to provide information to the public on employers or agents petitioning for H-2B workers.

Afghans To Be Evacuated Who Worked To Help United States, Biden Says – A group of affected Afghans will be brought to Guam or a third country to complete their application process before receiving Special Immigrant Visas.

Final Action Dates Advance in Visa Bulletin for July; Possible Expiration of Employment Fifth and Regional Center Visa Categories Noted – The Department of State's Visa Bulletin for July includes advances in final action dates for China and Vietnam. The bulletin also notes that because there has not yet been legislative action to extend the EB-5 program, final action dates for the I5 and R5 categories are listed as "Unavailable" for July.

USCIS Reports on FY 2022 H-1B Cap Registration Process – USCIS reported that the H-1B cap electronic registration process was "again well-received by users, who provided a high satisfaction score with the system for FY 2022 (4.87 out of 5)." USCIS received 308,613 H-1B registrations during the initial registration period and selected 87,500 registrations projected as needed to reach the FY 2022 numerical allocations.

Transitional Parole, Employment Authorization Extended for CNMI Long-Term Resident Status Applicants – USCIS will automatically extend parole and employment authorization, if applicable, for parolees who timely applied for Commonwealth of the Northern Mariana Islands long-term resident status.

USCIS Clarifies Evidence Requirements for Adjustment Under Liberian Refugee Immigration Fairness – The updated guidance clarifies what evidence an applicant may submit to establish Liberian nationality when applying for adjustment of status under LRIF.

Vermont Service Center Address Changes – As of June 25, 2021, the Vermont Service Center will no longer receive any incoming mail at the St. Albans, Vermont, facility, which is being decommissioned. Mail sent to the previous address will be forwarded for one year.

Justice Dept. Settles With Texas-Based Industrial Contractor to Resolve Immigration-Related Discrimination Claim – The settlement resolves claims that Tecon discriminated against a naturalized U.S. citizen based on her Venezuelan national origin by rejecting her U.S. passport and requiring other documents to prove her work authorization.

USCIS Updates Policies to Improve Immigration Services: Expedited Processing, RFEs/NOIDs, EADs – USCIS issued new policy updates to clarify the criteria and circumstances for expedited processing; improve guidance for requests for evidence and notices of intent to deny; and increase the validity period for initial and renewal work authorization documents for certain noncitizens with pending adjustment of status applications.

USCIS Announces Lockbox Filing Flexibilities – USCIS announced filing flexibilities to provide relief to certain applicants and petitioners affected by delays at a USCIS lockbox. These flexibilities only apply to benefit requests submitted to a USCIS lockbox and not to USCIS service centers or field offices.

I-9 Guidance Released for H-2B Workers Seeking to Change Employers – USCIS issued guidance on the Form I-9 Employment Authorization Verification process, for H-2B workers seeking to change employers.

Supreme Court Rules Unlawful Entry Precludes TPS Recipient's Eligibility for LPR Status – In *Sanchez v. Mayorkas*, the U.S. Supreme Court held that a Temporary Protected Status recipient is not eligible for lawful permanent resident status merely because of the TPS. Eligibility for LPR status generally requires an "admission" into the United States.

Judge Robert Katzmann Dies – Robert A. Katzmann, who served as chief judge of the U.S. Court of Appeals for the Second Circuit in New York, among other roles, was widely known and respected in the immigration law community.

ABIL Global: Canada – This article discusses the demise of the Owner Operator Labour Market Impact Assessment, and what options remain for entrepreneurs hoping to come to Canada.

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Biden Administration Kicks Off Cross-Agency Naturalization Campaign

On July 2, 2021, the Biden administration announced an interagency campaign to promote naturalization "to all who are eligible." Secretary of Homeland Security Alejandro Mayorkas said that the strategy "will ensure that aspiring citizens are able to pursue naturalization through a clear and coordinated process."

U.S. Citizenship and Immigration Services (USCIS) said that the interagency strategy for promoting naturalization reflects the collaboration of USCIS; the Departments of Education, Health and Human Services, State, Labor, Housing and Urban Development, Defense, Justice, Veterans Affairs, and Agriculture, and the Social Security Administration. These agencies are part of the interagency naturalization working group established pursuant to President Biden's executive order 14012, issued in February, to prioritize citizenship education and awareness through capacity building and expanded partnerships.

Activities will include:

- Use of data regarding potential naturalization-eligible populations;
- Citizenship public education and awareness campaign;
- National and community targeted outreach through traditional and social media;
- Stakeholder engagement;
- Promotion of citizenship and education resources;
- The USCIS Outstanding Americans by Choice initiative;
- The USCIS Citizenship and Integration Grant Program; and
- Capacity building through collaboration and partnerships.

USCIS reported that more than 9,400 new citizens will be naturalized in 170 ceremonies between June 30 and July 7, 2021. This year's Independence Day activities included a naturalization ceremony with President Biden at the White House on July 2 and a ceremony with Secretary Mayorkas administering the oath of allegiance virtually to 22 military service members serving overseas, which took place on June 30.

Details:

- Interagency Strategy for Promoting Naturalization, July 2, 2021, <https://www.uscis.gov/promotingnaturalization>
- "Biden Unveils Push to Encourage U.S. Citizenship," The Hill, July 2, 2021, <https://thehill.com/policy/national-security/561356-biden-unveils-push-to-encourage-us-citizenship>
- Executive Order 14012, <https://bit.ly/2V0Dzpk> (release); https://www.uscis.gov/sites/default/files/document/reports/Interagency_Strategy_for_Promoting_Naturalization_Final.pdf (report)
- "Biden Thanks New Citizens for Choosing America at a White House Naturalization Ceremony," New York Times, July 2, 2021, <https://www.nytimes.com/2021/07/02/us/politics/biden-naturalization-ceremony.html>

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District Court Vacates Final Rule Affecting Wages for H-1B, PERM Workers; OFLC Updates Implementation

On June 23, 2021, the U.S. District Court for the Northern District of California issued an order in *Chamber of Commerce v. DHS*, vacating the final rule, "Strengthening Wage Protections for the Temporary and Permanent Employment of Certain Aliens in the United States" and

remanding the matter to the U.S. Department of Labor. The Department did not oppose the vacating of the rule. In its motion, the Department stated that until the agency conducts further review, it "cannot say for certain the extent to which the final rule may need to be revised, but the concerns raised to this point suggest that there may need to be significant changes to the rulemaking going forward."

The Department published the final rule on January 14, 2021, following district court orders that set aside an October 8, 2020, interim final rule. The final rule amended the Department's regulations governing the prevailing wages for employment opportunities that U.S. employers seek to fill with foreign workers on a permanent or temporary basis under the PERM, H-1B, H-1B1, or E-3 visa programs. The Department has twice delayed the effective date of the final rule. In light of these delays and now the June order vacating the final rule, the operative version of the regulations at 20 CFR §§ 656.40 and 655.731 "continues to be the version in place on October 7, 2020, prior to the publication" of the interim final rule, the Office of Foreign Labor Certification said.

The Department will need to issue a new regulation if it wishes to change the current prevailing wage for high-skilled foreign nationals. In April 2021, the Department requested information from the public on data sources for calculating the prevailing wage for H-1B visa holders and employment-based immigrants. DOL may use the information it received from the public if it decides to make changes to the prevailing wage system for foreign-born professionals.

Details:

- OFLC announcement (scroll down to June 29, 2021), <https://www.dol.gov/agencies/eta/foreign-labor>
- Request for Information, Employment and Training Administration, Dept. of Labor, April 2, 2021, <https://bit.ly/36ax1Ch>

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USCIS Releases Guidance Following June 30 Expiration of EB-5 Regional Center Program

The EB-5 Immigrant Investor Regional Center Program expired on June 30, 2021. U.S. Citizenship and Immigration Services released related guidance on July 1, 2021, noting that the lapse does not affect EB-5 petitions filed by investors who are not seeking a visa under the Regional Center Program. Due to the lapse, USCIS will reject the following forms received on or after July 1, 2021:

- Form I-924, Application for Regional Center Designation Under the Immigrant Investor Program, except when the application type indicates that it is an amendment to the regional center's name, organizational structure, ownership, or administration; and
- Form I-526, Immigrant Petition by Alien Investor, when it indicates that the petitioner's investment is associated with an approved regional center.

USCIS said it will continue to accept and review Form I-829, Petition by Entrepreneur to Remove Conditions on Permanent Resident Status, including those filed on or after July 1, 2021. USCIS is rejecting all Forms I-485, Application to Register Permanent Residence or Adjust Status, and any associated Forms I-765, Application for Employment Authorization, and Forms I-131, Application for Travel Document, based on an approved Regional Center Form I-526.

Details:

- USCIS alert, July 1, 2021, <https://www.uscis.gov/working-in-the-united-states/permanent-workers/eb-5-immigrant-investor-program>

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State Dept. Provides Guidance on COVID-19 Restrictions and Exceptions, Including National Interest

The Department of State released guidance on June 24, 2021, on restrictions and exceptions under four presidential proclamations that suspend entry into the United States of noncitizens who were physically present in any of 33 countries during the 14-day period preceding their entry or attempted entry into the United States.

The exceptions include general categories like U.S. citizens, lawful permanent residents, and certain types of workers, as well as national interest.

Details:

- "COVID-19 Travel Restrictions and Exceptions," Dept. of State, June 24, 2021, <https://travel.state.gov/content/travel/en/us-visas/visa-information-resources/covid-19-travel-restrictions-and-exceptions.html>

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USCIS Allows Resubmission of Certain FY 2021 H-1B Petitions Rejected or Closed Due to Start Date

U.S. Citizenship and Immigration Services (USCIS) announced on June 23, 2021, that it will accept resubmitted fiscal year (FY) 2021 H-1B cap-subject petitions that were rejected or administratively closed solely because the requested start date was after October 1, 2020.

Those whose FY 2021 petitions were rejected or administratively closed solely because the petition was based on a registration submitted during the initial registration period, but the petitioner requested a start date after October 1, 2020, may resubmit that previously filed petition, with all applicable fees, at the address provided in the USCIS alert. Such petitions must be resubmitted before October 1, 2021, USCIS said. If properly resubmitted, the agency will consider the petition to have been filed on the original receipt date.

Details:

- USCIS alert, June 23, 2021, <https://www.uscis.gov/news/alerts/uscis-will-allow-resubmission-of-certain-fy-2021-h-1b-petitions-rejected-or-closed-due-to-start-date>

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Flexibilities Extended for Responding to Certain USCIS Requests

In response to the COVID-19 pandemic, U.S. Citizenship and Immigration Services (USCIS) is extending to September 30, 2021, the flexibilities it announced on March 30, 2020, to assist applicants, petitioners, and requestors responding to certain requests, including:

- Requests for Evidence
- Continuations to Request Evidence (N-14)
- Notices of Intent to Deny, Revoke, or Rescind
- Notices of Intent to Terminate (regional centers)

- Motions to Reopen an N-400 Pursuant to 8 CFR 335.5, Receipt of Derogatory Information After Grant.

In addition, USCIS will consider a Form I-290B, Notice of Appeal or Motion, or Form N-336, Request for a Hearing on a Decision in Naturalization Proceedings (Under Section 336 of the INA), if (1) the form was filed up to 60 calendar days from the issuance of a decision USCIS made; and the agency made that decision from March 1, 2020, through September 30, 2021. USCIS said it will consider a response to the above requests and notices received within 60 calendar days after the response due date set in the request or notice before taking any action. Additionally, the agency will consider a Form N-336 or Form I-290B received up to 60 calendar days from the date of the decision before taking any action.

Details:

- USCIS alert, June 24, 2021, <https://www.uscis.gov/news/alerts/uscis-extends-flexibility-for-responding-to-agency-requests-5>

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Employers Encouraged to Consider Supplemental H-2B Allocation in Filling Positions

Following up on a temporary final rule issued on May 25, 2021, that made available an additional 22,000 H-2B temporary nonagricultural guest worker visas for fiscal year 2021 to employers who are likely to suffer irreparable harm without the additional workers, U.S. Citizenship and Immigration Services (USCIS) said on June 24, 2021, that it "strongly encourages qualified U.S. employers to consider" the supplemental allocation of 6,000 visas initially reserved for nationals of Northern Triangle countries (Honduras, El Salvador, and Guatemala) in filling positions for which they cannot find qualified and available U.S. workers.

If by July 8, 2021, fewer than 6,000 beneficiaries are requested toward the visas initially set aside for Northern Triangle countries, USCIS will announce by July 23 that the unused visas will be made available to employers "regardless of the beneficiary's country of nationality, subject to the returning worker requirement."

USCIS announced the information above in an email broadcast on June 24, 2021.

Details:

- "Cap Reached for Additional Returning Worker H-2B Visas for FY 2021," June 3, 2021, <https://www.uscis.gov/news/alerts/cap-reached-for-additional-returning-worker-h-2b-visas-for-fy-2021>

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Labor Dept. Announces H-2B Application Filing Timeline for 2021 Peak Filing Season

The Department of Labor's Office of Foreign Labor Certification (OFLC) reminded employers and other interested stakeholders on June 23, 2021, that the three-day filing window to submit an H-2B Application for Temporary Employment Certification (Form ETA-9142B and appendices) requesting a work start date of October 1, 2021, opened on July 3, 2021, at 12 a.m. ET and closed on July 5, 2021, at 11:59 p.m. ET. This three-day period was the earliest an employer could file an application for an October 1, 2021, work start date, which is the first day of the semiannual visa allotment for the first half of fiscal year 2022. OFLC said that employers seeking start dates of October 2, 2021, or later must comply with the timeliness requirements at 20 CFR § 655.15(b).

OFLC said that H-2B applications requesting an October 1, 2021, work start date will be denied if they are filed before the start date.

OFLC will randomly order for processing all H-2B applications requesting a work start date of October 1, 2021, that are filed during the three-day filing window using randomization procedures published in the Federal Register on March 4, 2019.

Details:

- OFLC notice (scroll down to "June 23, 2021. H-2B Application Filing Timelines for 2021 Peak Filing Season"), <https://www.dol.gov/agencies/eta/foreign-labor>
- "Selection Procedures for Reviewing Applications Filed by Employers Seeking Temporary Employment of H-2B Foreign Workers in the United States," Employment and Training Administration, March 4, 2019, <https://www.govinfo.gov/content/pkg/FR-2019-03-04/pdf/2019-03809.pdf>

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CBP Continues Temporary Travel Restrictions From Canada, Mexico Into United States Via Land POEs and Ferries

The Department of Homeland Security (DHS) announced that temporary limits on nonessential travel of individuals from Canada or Mexico into the United States at land ports of entry along the border, including ferry service, will continue through July 21, 2021. The restrictions only allow processing for entry into the United States of those travelers engaged in "essential travel," as defined in the notice.

Details:

- Federal Register notice (Canada), June 23, 2021, <https://www.govinfo.gov/content/pkg/FR-2021-06-23/pdf/2021-13238.pdf>
- Federal Register notice (Mexico), June 23, 2021, <https://www.govinfo.gov/content/pkg/FR-2021-06-23/pdf/2021-13235.pdf>

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H-2B Employer Data Hub Launched

U.S. Citizenship and Immigration Services (USCIS) launched an H-2B Employer Data Hub to provide information to the public on employers or agents petitioning for H-2B workers. The hub allows the public to search for H-2B petitioners by cap fiscal year back to 2015; employer (petitioner) name, city, state, zip code, worksite state, cap type, North American Industry Classification System code, and Standard Occupational Classification code.

Details:

- USCIS notice, June 23, 2021, <https://www.uscis.gov/news/alerts/uscis-launches-h-2b-employer-data-hub>

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Afghans To Be Evacuated Who Worked To Help United States, Biden Says

Following urgent pleas from lawmakers and affected Afghans, the United States will evacuate some Afghans who helped the country by working as interpreters and translators for the U.S. military and in other roles, officials said on June 24, 2021. "Those who helped us are not going

to be left behind," President Joe Biden said to reporters. The goal is to evacuate them before the U.S. military drawdown from Afghanistan in September.

According to reports, a group of affected Afghans will be brought to Guam or a third country to complete their application process before receiving Special Immigrant Visas (SIVs). The details are unclear about how many will be evacuated, which country they will go to, and how long the process will take. An estimated 18,000 Afghans are in the SIV pipeline, according to a Department of State spokesperson.

Details:

- The Biden Administration Says It Will Evacuate Afghans Who Worked With U.S. Troops," NBC News, June 24, 2021, <https://www.nbcnews.com/news/world/biden-administration-says-it-will-evacuate-afghans-who-worked-u-n1272265>

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Final Action Dates Advance in Visa Bulletin for July; Possible Expiration of Employment Fifth and Regional Center Visa Categories Noted

The Department of State's Visa Bulletin for July includes advances in final action dates for China (moving forward almost two months, to November 8, 2015), and Vietnam (leaping forward almost two years, to April 1, 2020).

The bulletin also notes that since there has not yet been legislative action to extend the EB-5 regional center program, final action dates for the I5 and R5 categories are listed as "Unavailable" for July. If Congress extends the regional center program for July, the final action dates would immediately become "Current" for July for all countries except China-mainland born I5 and R5, which would be subject to a November 8, 2015, final action date, and Vietnam I5 and R5, which would be subject to an April 1, 2020, final action date, the bulletin states.

Details:

- Visa Bulletin, Dept. of State, July 2021, <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin/2021/visa-bulletin-for-july-2021.html>

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USCIS Reports on FY 2022 H-1B Cap Registration Process

U.S. Citizenship and Immigration Services (USCIS) reported that the H-1B cap electronic registration process was "again well-received by users, who provided a high satisfaction score with the system for FY [fiscal year] 2022 (4.87 out of 5)." USCIS received 308,613 H-1B registrations during the initial registration period and selected 87,500 registrations projected as needed to reach the FY 2022 numerical allocations. More than 37,000 prospective petitioners submitted registrations. Roughly 48 percent of all registrations requested consideration under the advanced degree exemption, USCIS said.

USCIS noted that for FY 2021, the agency received 274,237 H-1B registrations and initially selected 106,100 registrations projected as needed to reach the FY 2021 numerical allocations. USCIS conducted a second selection in August 2020 of an additional 18,315 registrations due to low filing volume from the initial selection. This resulted in a total of 124,415 selected registrations for FY 2021, the agency said.

Details:

- H-1B Electronic Registration Process, USCIS, June 9, 2021, <https://www.uscis.gov/working-in-the-united-states/temporary-workers/h-1b-specialty-occupations-and-fashion-models/h-1b-electronic-registration-process>

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Transitional Parole, Employment Authorization Extended for CNMI Long-Term Resident Status Applicants

U.S. Citizenship and Immigration Services (USCIS) announced on June 16, 2021, that it will automatically extend parole and employment authorization, if applicable, for parolees who timely applied for Commonwealth of the Northern Mariana Islands (CNMI) long-term resident status.

This specific extension of parole applies only to current parolees who timely filed Form I-955, Application for CNMI Long-Term Resident Status, and Form I-765, Application for Employment Authorization, and whose applications remain pending on June 30, 2021, the agency said. USCIS will automatically extend their parole (and employment authorization, if applicable) without interruption through December 30, 2021, or the date on which USCIS makes a final decision on their Forms I-955 and I-765, whichever is earlier.

For eligible parolees whose timely filed Forms I-955 and I-765 remain pending on June 30, 2021, and who have an Employment Authorization Document (EAD), if applicable, expiring on or before June 30, 2021, the USCIS alert lists the documentation that will serve as evidence of identity and work authorization for Form I-9, Employment Eligibility Verification, purposes until December 30, 2021 (or the date on which USCIS makes a final decision on their long-term resident status application, whichever is earlier):

Details:

- USCIS alert, <https://www.uscis.gov/news/alerts/uscis-extends-transitional-parole-for-cnmi-long-term-resident-status-applicants-1>

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USCIS Clarifies Evidence Requirements for Adjustment Under Liberian Refugee Immigration Fairness

U.S. Citizenship and Immigration Services (USCIS) announced on June 17, 2021, that it is updating guidance in the USCIS Policy Manual regarding eligibility for adjustment of status under Liberian Refugee Immigration Fairness (LRIF). The updated guidance clarifies what evidence an applicant may submit to establish Liberian nationality when applying for adjustment of status under LRIF.

The updated guidance includes examples of secondary evidence that could support an applicant's claim of Liberian nationality, as part of the totality of the evidence; for example, expired Liberian passports, baptismal records or other religious documents, school records, and medical records. USCIS said it will evaluate all evidence an applicant provides, including the applicant's testimony during an interview, to evaluate their eligibility for adjustment of status.

USCIS will accept properly filed applications from LRIF applicants until December 20, 2021.

Details:

- USCIS alert, June 17, 2021, <https://www.uscis.gov/news/alerts/uscis-clarifies-evidence-requirements-under-liberian-refugee-immigration-fairness>

- Chapter 5—Liberian Refugee Immigration Fairness, USCIS Policy Manual, <https://www.uscis.gov/policy-manual/volume-7-part-p-chapter-5>
- LRIF page, USCIS, <https://www.uscis.gov/green-card/green-card-eligibility/liberian-refugee-immigration-fairness>

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Vermont Service Center Address Changes

U.S. Citizenship and Immigration Services (USCIS) announced that as of June 25, 2021, the Vermont Service Center is no longer receiving any incoming mail at the St. Albans, Vermont, facility, which is being decommissioned.

Mail sent to the previous address will be forwarded for one year, but any mail sent to the previous addresses after June 2022 may be returned to the sender by the U.S. Postal Service or the courier service used.

A chart in the USCIS alert lists the updated addresses. The alert states that senders should continue to use the St. Albans addresses in the chart under "Previous Address" through June 24, 2021.

Details:

- USCIS alert, June 17, 2021, <https://www.uscis.gov/news/alerts/vermont-service-center-address-change>

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Justice Dept. Settles With Texas-Based Industrial Contractor to Resolve Immigration-Related Discrimination Claim

The Department of Justice announced on June 15, 2021, that it reached a settlement with Tecon Services Inc. (Tecon), an industrial insulation, fireproofing, and painting contractor based in Texas. The settlement resolves claims that Tecon discriminated against a naturalized U.S. citizen based on her Venezuelan national origin by rejecting her U.S. passport and requiring other documents to prove her work authorization, in violation of the anti-discrimination provisions of the Immigration and Nationality Act.

Details:

- Justice Dept. media release, June 15, 2021, <https://www.justice.gov/opa/pr/justice-department-settles-texas-based-industrial-contractor-resolve-immigration-related>
- Settlement agreement, <https://www.justice.gov/opa/press-release/file/1404476/download>

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USCIS Updates Policies to Improve Immigration Services: Expedited Processing, RFEs/NOIDs, EADs

U.S. Citizenship and Immigration Services (USCIS) issued new policy updates to clarify the criteria and circumstances for expedited processing; improve guidance for requests for evidence (RFE) and notices of intent to deny (NOID); and increase the validity period for initial and renewal employment authorization documents (EADs) for certain noncitizens with pending adjustment of status applications.

Secretary of Homeland Security Alejandro Mayorkas said the agency is "taking action to eliminate policies that fail to promote access to the legal immigration system, and will continue to make improvements that help individuals navigate the path to citizenship, and that modernize our immigration system." Acting USCIS Director Tracy Renaud said that USCIS is "committed to promoting policies and procedures that ensure we operate in a fair, efficient, and humane manner that reflects America's heritage as a land of opportunity for those who seek it."

Highlights of the updates include:

Expedited Processing

USCIS is providing enhanced guidance to clarify when expedited processing of a benefit request may be warranted. The new guidance also permits nonprofit organizations whose request is "in furtherance of the cultural and social interests of the United States" to request that a benefit be considered for expedited processing regardless of whether premium processing is available for that benefit.

Requests for Evidence (RFEs) and Notices of Intent to Deny (NOIDs)

USCIS is returning to the adjudicative principles of a June 2013 memo, and is rescinding a July 2018 memo that allowed agency officers to deny certain immigration benefit requests instead of first issuing an RFE or NOID. The updated policy will give benefit requestors "an opportunity to correct innocent mistakes and unintentional omissions."

Employment Authorization Documents (EADs)

The one-year validity period on both initial and renewal EADs is increased to two years for certain adjustment-of-status applicants. This is expected "to reduce the number of employment authorization requests USCIS receives and allow the agency to shift limited resources to other priority areas."

Details:

- USCIS notice, <https://www.uscis.gov/news/news-releases/uscis-updates-policies-to-improve-immigration-services>
- "Policy Alert: USCIS Expedite Criteria and Circumstances," PA-2021-12, USCIS, June 9, 2021, <https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20210609-ExpediteCriteria.pdf>
- "How to Make an Expedite Request," USCIS, <https://www.uscis.gov/forms/filing-guidance/how-to-make-an-expedite-request>
- "Policy Alert: Requests for Evidence and Notices of Intent to Deny," PA-2021-11, USCIS, June 9, 2021, <https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20210609-RFEs%26NOIDs.pdf>
- "Policy Alert: Employment Authorization for Certain Adjustment Applicants," PA-2021-10, USCIS, June 9, 2021, <https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20210609-EmploymentAuthorization.pdf>
- USCIS Policy Manual, <https://www.uscis.gov/policy-manual>

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USCIS Announces Lockbox Filing Flexibilities

U.S. Citizenship and Immigration Services (USCIS) announced filing flexibilities to provide relief to certain applicants and petitioners affected by delays at a USCIS lockbox. These flexibilities

only apply to benefit requests submitted to a USCIS lockbox and not to USCIS service centers or field offices, the agency said.

The following temporary flexibilities are effective until August 9, 2021:

- If an applicant/petitioner submitted a benefit request to a USCIS lockbox between October 1, 2020, and April 1, 2021, and that request was rejected during that timeframe solely due to a filing fee payment that expired while the benefit request was awaiting processing, the applicant/petitioner may resubmit the request with a new fee payment. If USCIS concurs that it rejected the benefit request because of the delay, USCIS will deem the request to have been received on the initial filing date it was first received and waive the \$30 dishonored check fee.
- USCIS will allow applicants/petitioners to submit documentation with a benefit request resubmission demonstrating that because of the time that elapsed between when a benefit request was originally submitted to a USCIS lockbox and when USCIS rejected it, an applicant, co-applicant, beneficiary, or derivative has reached an age that makes them no longer eligible to file for the benefit requested. If USCIS agrees that the delayed rejection caused the person to be ineligible due to age, USCIS will accept the request and deem it to have been received on the date the initial benefit request was received. This flexibility does not apply to Form N-600K, Application for Citizenship and Issuance of Certificate Under Section 322.

Applicants and petitioners can contact USCIS to verify that previously filed benefit requests were not rejected in error. If USCIS concurs, it may allow applicants and petitioners to resubmit an erroneously rejected benefit request and deem the benefit request to have been received on the date the initial benefit request was first received at a USCIS lockbox, the agency said.

Details:

- USCIS notice, <https://www.uscis.gov/news/alerts/uscis-announces-lockbox-filing-flexibilities>

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I-9 Guidance Released for H-2B Workers Seeking to Change Employers

U.S. Citizenship and Immigration Services (USCIS) issued guidance on the Form I-9 Employment Authorization Verification process for H-2B workers seeking to change employers. The guidance follows a joint temporary rule published on May 25, 2021, by the Departments of Homeland Security and Labor to increase the numerical limits on fiscal year 2021 H-2B nonimmigrant visas and temporarily provide job portability for H-2B workers already in the United States so they can begin work immediately with a new employer after an H-2B petition (supported by a valid temporary labor certification) is received by USCIS and before it is approved.

[Under the temporary rule, portability applies if:](#)

- The new employer's extension of stay H-2B petition was received before May 25, 2021, and was pending on May 25. The new employer may employ the H-2B worker while the extension of stay petition is pending, for a period not to exceed 60 days, beginning on the employment start date on the petition or May 25, whichever date is later; or
- USCIS receives the H-2B petition between May 25 and November 22, 2021. The H-2B worker is authorized to begin employment with the new employer for a period not to exceed 60 days beginning on the Received Date on Form I-797 (Notice of Action) acknowledging receipt of the petition requesting an extension of stay or if the start date

occurs after the I-797 Received Date, for a period up to 60 days beginning on the employment start date on the petition.

The H-2B employee's unexpired Form I-94, Arrival/Departure Record, indicating his or her H-2B status, along with the employee's foreign passport, qualify as a Form I-9 List A document.

The notice includes additional information about how the new employer should complete List A, among other details.

Details:

- USCIS notice, <https://www.uscis.gov/i-9-central/covid-19-form-i-9-related-news/form-i-9-guidance-for-h-2b-workers-seeking-to-change-employers>

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Supreme Court Rules Unlawful Entry Precludes TPS Recipient's Eligibility for LPR Status

In *Sanchez v. Mayorkas*, decided June 7, 2021, the U.S. Supreme Court held that a Temporary Protected Status (TPS) recipient is not eligible for lawful permanent resident (LPR) status merely because of the TPS. Eligibility for LPR status generally requires an "admission" into the United States—defined as "the lawful entry of the alien into the United States after inspection and authorization by an immigration officer"—which precludes TPS recipients who entered the United States unlawfully from eligibility for LPR status.

Details:

- *Sanchez v. Mayorkas*, https://www.supremecourt.gov/opinions/20pdf/20-315_q713.pdf
- "Supreme Court Rules Against Immigrants in Temporary Status Seeking Green Cards," CNN, June 7, 2021, <https://www.cnn.com/2021/06/07/politics/supreme-court-immigrants-green-card-case/index.html>

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Judge Robert Katzmann Dies

Robert A. Katzmann, who served as chief judge of the U.S. Court of Appeals for the Second Circuit in New York, among other roles, died on June 9, 2021, at the age of 68.

Judge Katzmann inspired many practitioners to do pro bono work and find ways for immigrants to get adequate representation in removal proceedings. He was considered a brilliant jurist whose influence went far beyond the bench. One of his last decisions on the Second Circuit was *Cuthill v. Blinken*, in which he dissected the Child Status Protection Act (CSPA) and found a link between Sections 2 and 3 to hold that a child's age was protected even when the parent naturalized. Because the plaintiff's daughter was statutorily under 21 years old when the plaintiff naturalized, she qualified for an immediate relative green card, the judge held.

Among his many accomplishments, Judge Katzmann authored a book, *Judging Statutes*, which Oxford University Press called "[a] spirited and compelling defense of why judges must look at the legislative record behind a law—and not merely the statute itself."

Details:

- "Robert Katzmann, U.S. Judge With Reach Beyond the Bench, Dies at 68," New York Times, June 11, 2021, <https://www.nytimes.com/2021/06/10/us/robert-katzmann-dead.html>

- "A Humane Judge, Gone Too Soon," New York Times, June 11, 2021, <https://www.nytimes.com/2021/06/11/opinion/Robert-Katzmann-judge-dead.html?action=click&module=RelatedLinks&pgtype=Article>
- *Cuthill v. Blinken*, <https://law.justia.com/cases/federal/appellate-courts/ca2/19-3138/19-3138-2021-03-09.html>
- "Judging Statutes," by Robert A. Katzmann, <https://global.oup.com/academic/product/judging-statutes-9780199362134?cc=us&lang=en&>

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ABIL Global: Canada

This article discusses the demise of the Owner Operator Labour Market Impact Assessment, and what options remain for entrepreneurs hoping to come to Canada.

In Canada, the starting point to obtain a work permit as a foreign national is a labour market impact assessment (LMIA). This requires a Canadian company to demonstrate that they advertised the position and that Canadian citizens and permanent residents were given a reasonable opportunity to apply for the position. Until recently, one of the most popular exemptions from advertising to support an LMIA application was the Owner Operator category. Where a foreign national owned more than 50 percent of a Canadian company, no advertising was required, and the Canadian company merely had to establish that the impact of hiring the foreign national would have a neutral or positive impact on the Canadian labor market and that the job offer was genuine.

The Entrepreneur permanent residence category was eliminated approximately two decades ago. Since then, many of the provinces have designed entrepreneur programs, but these provincial programs typically require a minimum investment and creation of jobs in Canada and often take months to be approved. Accordingly, in the absence of a true entrepreneur program, the Owner Operator LMIA provided a path for many self-employed business entrepreneurs to initially come to Canada to work, gain Canadian experience working for a Canadian company, and then ultimately apply for permanent residence under the Express Entry path.

What options remain for entrepreneurs hoping to come to Canada and start a new business?

Recently, Immigration, Refugees and Citizenship Canada (IRCC) launched the Start-Up Visa Program. This program requires foreign nationals to secure financial backing from a designated angel fund or venture capital funds or the support of a business incubator. The Start-Up Visa Program has been underutilized, likely because entrepreneurs are not interested in sharing their business ideas or ownership in their future business.

There is also a C-11 work permit for Entrepreneurs/Self-Employed candidates, but it does not include a direct path to permanent residence. Since most successful candidates for permanent residence require "Canadian work experience," and self-employed work is not considered "Canadian work experience" (*Immigration and Refugee Protection Act*), it is unlikely that C-11 work permit holders will qualify for permanent residence.

With the elimination of the Owner Operator LMIA and limitations with the Start-Up Visa, C-11 work permit, and provincial programs for entrepreneurs, Canada is missing out on the potential to attract entrepreneurs. Given that it is well-established that new immigrants are often risk-takers and therefore make good entrepreneurs, this could have a negative long-term impact on Canada's immigration program and economy. This is particularly relevant in light of estimates of approximately a trillion dollars' worth of small and medium-sized businesses in Canada that are owned by baby boomers who are set to retire within the next 10 years. So far there has been no indication IRCC plans to develop more policies and programs to create paths for entrepreneurs.

New Publications and Items of Interest

Immigrant and Employee Rights Section webinars. The Immigrant and Employee Rights Section of the Department of Justice's Civil Rights Division is offering free webinars for the public. There are webinars for workers, employers, and advocates. <https://www.justice.gov/crt/webinars>

COVID-19 resources. The response of the U.S. immigration agencies to the coronavirus (COVID-19) pandemic is constantly evolving, making it difficult to report relevant, up-to-date information. The list of online resources below is intended to serve as a quick reference to the most current available agency information.

General Information

- [Coronavirus.gov](https://www.cdc.gov/coronavirus): Primary federal site for general coronavirus information
- [USA.gov/coronavirus](https://www.usa.gov/coronavirus): Catalog of U.S. government's response to coronavirus
- [CDC.gov/coronavirus](https://www.cdc.gov/coronavirus): Centers for Disease Control and Prevention information
- American Immigration Lawyers Association: <https://www.aila.org/advo-media/issues/all/covid-19> (links to practice alerts on this site are restricted to members)
- NAFSA: <https://www.nafsa.org/regulatory-information/coronavirus-critical-resources>

Immigration Agency Information

Department of Homeland Security: [DHS.gov/coronavirus](https://www.dhs.gov/coronavirus)

- <https://www.dhs.gov/coronavirus-news-updates>
- <https://www.dhs.gov/news/2020/03/17/fact-sheet-dhs-notice-arrival-restrictions-china-iran-and-certain-countries-europe>
- USCIS: [USCIS.gov/coronavirus](https://www.uscis.gov/coronavirus)
- ICE:
 - Overview and FAQs: <https://www.ice.gov/coronavirus>
 - Requirements for ICE Detention Facilities: <https://www.ice.gov/doclib/coronavirus/eroCOVID19responseReqsCleanFacilities.pdf>
- CBP:
 - Updates and Announcements: <https://www.cbp.gov/newsroom/coronavirus>
 - Accessing I-94 Information: <https://i94.cbp.dhs.gov/i94/#/home>

Department of Labor:

- Office of Foreign Labor Certification:
 - OFLC Announcements (COVID-19 announcements included here): <https://www.foreignlaborcert.doleta.gov/>
 - COVID-19 FAQs:
 - Round 1 (Mar. 20, 2020): https://www.foreignlaborcert.doleta.gov/pdf/DOL-OFLC_COVID-19_FAQs_Round%201_03.20.2020.pdf
 - Round 2 (Apr. 1, 2020): https://www.foreignlaborcert.doleta.gov/pdf/DOL-OFLC_COVID-19_FAQs_Round%202_04.01.2020.pdf
 - Round 3 (Apr. 9, 2020): https://www.foreignlaborcert.doleta.gov/pdf/DOL-OFLC_COVID-19_FAQs_Round%203.pdf

State Department: <https://www.state.gov/coronavirus/>

- Travel advisories: <https://travel.state.gov/content/travel/en/traveladvisories/ea/covid-19-information.html>
- Country-specific information: <https://travel.state.gov/content/travel/en/traveladvisories/COVID-19-Country-Specific-Information.html>
- J-1 exchange visitor information: <https://j1visa.state.gov/covid-19/>

Justice Department

- Executive Office for Immigration Review: <https://www.justice.gov/eoir/eoir-operational-status-during-coronavirus-pandemic>

Agency Twitter Accounts

- EOIR: @DOJ_EOIR
- ICE: @ICEgov
- Study in the States: @StudyinStates
- USCIS: @USCIS

Immigrant and employee rights webinars. The Department of Justice's Immigrant and Employee Rights Section (IER), of the Civil Rights Division, is offering a number of free webinars for workers, employers, and advocates. For more information, see <https://www.justice.gov/crt/webinars>.

E-Verify webinar schedule. E-Verify has released its calendar of webinars at https://www.e-verify.gov/calendar-field_date_and_time/month.

Alliance of Business Immigration Lawyers:

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

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ABIL Member/Firm News

Below is a list of ABIL members and affiliated attorneys on American Immigration Lawyers Association (AILA) National Committees for the 2021-2022 term:

USCIS Liaison Committee: Marketa Lindt

DOL Liaison Committee: Vincent Lau (chair), Bob White (vice chair), Loan Huynh, Meredith Jolie, Christian Park, Lynn Susser

DOS Committee: Magaly Cheng

ICE/EOIR Liaison Committee: Aaron Hall (vice chair)

Business Section Steering Committee: Vic Goel

Ethics Committee: Miki Matrician, Cyrus Mehta

EB-5 Committee: Joe Barnett, John Pratt, Bernard Wolfsdorf

H-1B Task Force: Dagmar Butte, Vic Goel

High Impact Litigation Committee: Ronald Klasko (chair), Charles Kuck, Marketa Lindt, Stephen Yale-Loehr

National Amicus Committee: David Isaacson

Verification Committee: Dawn Lurie

Technology and Innovation Committee: William Stock (chair), Hannah Little, Julie Pearl

Distance Learning Committee: Vic Goel, Vince Lau

Client Resources Committee: Elissa Taub

Lawyer Well-Being Committee: Jennifer Howard

Media Advocacy Committee: Adam Cohen

Executive Committee: Jeff Joseph (treasurer)

Membership Committee: Ari Sauer

Investments Committee: William Stock (chair)

2022 Annual Conference Committee, Special Sessions and Events Track

Member: Michele Madera

Mid-Year Conference Committee: Dagmar Butte

Several **Alliance of Business Immigration Lawyers members** and lawyers in their firms presented at the American Immigration Lawyers Association's Annual Conference in June 2021:

"You're FOIAed!": The Immigration Attorney's Secret Weapon

Dagmar Butte

Litigating Your First Federal Court Case: You Can Do It!

Ira Kurzban

Removal & Litigation: Who Wants to Be a Millionaire Immigration Attorney?

Ira Kurzban

Employment-Based Adjustment of Status Today

Cyrus Mehta

Bernard Wolfsdorf

Up Your Game: New Marketing Techniques for 2021

Gregory Siskind

Compendium Live: Understanding the Ethics Rule on Lawyer Trust Accounts

Miki Matrician

Asylum 101: Protecting Refugees in the United States

Stephen Yale-Loehr

Asylum: The Current State of Particular Social Groups

Lily Axelrod

Labor Certification 101

Matthew Morse

Litigation: More Critical Now Than Ever Before for Business Immigration Practitioners

Ronald Klasko

Charles Kuck

PERM Labor Certification: Still Alive and Doing Reasonably Well!

Marketa Lindt

U.S. Immigration and Customs Enforcement (ICE) Open Forum

Aaron Hall

U.S. Department of Labor (DOL) Open Forum

Vincent Lau

Lengthy Absences and the Struggle of Maintaining Residence

Avi Friedman

INA § 237(a)(1)(H) Works Like Magic: Fraud Waivers

David Isaacson

Oh, Where Are the Good Old Times? Trying to Be an L-1 Intracompany Transferee

Elise Fialkowski

H-2 Practice: What Are We So Afraid Of?

Loan Huynh

Show Me the Money: Financial Best Practices

Kirby Joseph

Several **Alliance of Business Immigration Lawyers Global members** presented at the 2021 AILA/Global Migration Section Annual Global Immigration Virtual Forum:

COVID-19: It Ain't Over 'til it's Over

Nicolas Rollason

The Post-Brexit Era: Where Are We Now?

Gunther Mävers

Legal Ethics in a COVID/Post-COVID World

Maria Celebi

Adapting to the New World: Top Tips for Practice Management & Technology

Gregory Siskind

What is the Future of Global Immigration in the Post-COVID-19 World?

Ariel Orrego-Villacorta

Philip Yip

Oxana Bowman was named partner at **Foster LLP**. Ms. Bowman is an experienced employment-based immigration attorney. She is a graduate of the University of Houston Law Center (UHLC) and has a master's degree from North Caucasus Federal University in Russia. She worked as a research assistant for the UHLC and mentors university students at the UHLC Upper Management Mentoring and Part-Time Partners Program.

<https://www.fosterglobal.com/blog/oxana-bowman-named-partner-at-foster-llp/>

Klasko Immigration Law Partners, LLP, has released a new podcast episode, "EB-1 Visa in Pop Culture: Beth Harmon from the Queen's Gambit." In the podcast, part of Klasko's series "Statutes of Liberty," the Klasko EB-1 team discusses the criteria that might qualify the fictional main character from Netflix's hit miniseries, *The Queen's Gambit*, for an extraordinary ability green card. <https://bit.ly/2SaUVdi>

Cyrus Mehta (bio: <http://www.abil.com/lawyers/lawyers-mehta.cfm>) and **William Stock** (bio: <http://www.abil.com/lawyers/lawyers-stock.cfm?c=US>) were quoted by *Forbes* in "Trump's H-1B Visa Wage Rule Is Dead: What's Next?" Highlights include:

- **Mr. Mehta** said, "If the Biden administration wants to develop a fair way to determine prevailing wages, the prevailing wage ought not to be based on surveys factoring wages paid by *all* employers in the industry. For instance, nonprofits find it very difficult to hire foreign national lawyers on H-1B visas or sponsor them for green cards as they have to rely on wage surveys that include what the largest law firms also pay entry-level lawyers, which can cross \$200,000. The government should also not assume that all lawyers wish to only work for firms that pay the highest wages. Some lawyers desire to work for nonprofits or smaller firms as lifestyle choices or because they find the work truly challenging or are altruistic. Similarly, startups are also affected by formalistic prevailing wage surveys."
- **Mr. Stock** said, "The Standard Occupational Classification's 'Classification Principles and Coding Guidelines' states that first-level supervisors of professionals such as engineers, physicians and accountants are classified within those occupations, and not within the managerial occupations (such as Computer and Information Systems Managers). [The Department of Labor] should incorporate this classification principle into its wage methodology to avoid setting artificially high wages for first-level supervisors of workers in those professional occupations."

The article is at <https://www.forbes.com/sites/stuartanderson/2021/07/01/trumps-h-1b-visa-wage-rule-is-dead-whats-next/?sh=f9382384a218>

Mr. Mehta authored a new blog post: "Reflections on Giuliani's Suspension of His New York Bar License." <http://blog.cyrusmehta.com/2021/06/reflections-on-giulianis-suspension-of-his-new-york-bar-license.html>

Mr. Mehta posted a new video blog, "Reflections on the Life and Impact of the Late Judge Robert Katzmman." In the video, Mr. Mehta explains how Judge Katzmman was the impetus for projects to help immigrants receive legal representation that affected so many families and individuals, and shares a little about why this work needs to continue in memory and honor of the late jurist, <https://thinkimmigration.org/blog/2021/06/16/reflections-on-the-life-and-impact-of-the-late-judge-robert-katzmann/>. **Mr. Mehta** also co-wrote "In Memoriam: Judge Robert A. Katzmman's Lasting Legacy for Immigrants in Need of Representation." <https://bit.ly/3gDoaiu>.

Mr. Mehta and **Kaitlyn Box** co-authored a new blog post: "Sanchez v. Mayorkas: Although TPS Is Not An Admission, Justice Kagan's Opinion Leaves Open Avenues For TPS Recipients To Adjust Status As Nonimmigrants." <https://bit.ly/3iVqG4X>

Ari Sauer and **Greg Siskind**, of **Siskind Susser PC**, authored the American Immigration Lawyers Association's *Immigration Law Practice & Procedure Manual: A "Cookbook" of Essential Practice Materials*, published as a two-volume set. The book provides how-to guidance on preparing and filing common immigration applications and petitions. Each chapter contains the resources attorneys need to prepare a specific type of immigration case. <https://agora.aila.org/Product/Detail/4814?sel=description>

Stephen Yale-Loehr (bio: <http://www.abil.com/lawyers/lawyers-loehr.cfm?c=US>) was quoted by the Associated Press in "Key Part of U.S. Residency Program for Investors Set to Expire," which appeared in many outlets. He said that the EB-5 regional center program provides valuable benefits to the United States: "Given our efforts to jumpstart the economy after the pandemic, it is particularly unfortunate that the Senate failed to extend the program." <https://apnews.com/article/lindsey-graham-real-estate-bills-lifestyle-travel-c7ba67f7b5fdd1f541ee472d396296c2>

Mr. Yale-Loehr was quoted by the Real Deal in "Trouble in EB-5 Land: Congress at Impasse on Extension." He said, "Any lapse adversely affects the program because investors get skittish about what is going on here and they don't understand how it works." <https://therealdeal.com/2021/06/28/trouble-in-eb-5-land-congress-at-impasse-on-extension/>

Mr. Yale-Loehr was quoted by Bloomberg Law in "Backlog of Investor Visa Applications in Limbo as Program Dies." Asked whether the expiration of the EB-5 regional center program on June 30, 2021, will put pressure on lawmakers to act, Mr. Yale-Loehr noted that with Congress tied up in negotiations over infrastructure spending, "it's a competition of priorities." <https://news.bloomberglaw.com/daily-labor-report/backlog-of-investor-visa-applications-in-limbo-as-program-dies-1>

Mr. Yale-Loehr was quoted by Univision in "Can the Governor of Texas Arrest Illegal Immigrants and Build a Wall on the Border?" Mr. Yale-Loehr said, "The federal government will surely challenge Governor Abbott's immigration plans as illegal. Arizona tried something similar about 10 years ago, but the Supreme Court struck down key parts of SB 1070 because it interfered with federal immigration law." <https://www.univision.com/noticias/inmigracion/gobernador-greg-abbott-detenciones-en-la-frontera-muro-texas> (Spanish, with English translation offered)

Mr. Yale-Loehr was quoted in an Associated Press article that ran in several news outlets, including *U.S. News & World Report*: "Governor: Texas Building New Border Barrier; No Details Yet." He said the federal government likely would challenge whether Texas has authority to construct barriers along the border: "While states can do certain things under state law regarding immigration, erecting barriers along the border or arresting migrants is beyond the pale in my view." <https://www.usnews.com/news/us/articles/2021-06-11/governor-texas-building-new-border-barrier-no-details-yet>

Mr. Yale-Loehr was quoted by CNBC in "Facing Shortage of High-Skilled Workers, Employers Are Seeking More Immigrant Talent, Study Finds." "We have not revamped our legal immigration categories, including business immigration, since 1990. Some of those categories are out of alignment with our needs in the United States today. The pandemic has exacerbated those inconsistencies because people who are desperately needed to restart various businesses have been unable to enter the United States," he said. <https://www.cnn.com/2021/06/10/study-employers-seek-immigrants-amid-shortage-of-high-skilled-workers.html>

Mr. Yale-Loehr was quoted by Voice of America in "TPS Holders Seek More Stable Immigration Status." He said the next move on temporary protected status could be up to Congress following a recent Supreme Court decision. "The Court noted that Congress could fix the problem through legislation. Indeed, such a bill is pending in Congress. The decision highlights the need for Congress to enact immigration legislation to fix our broken immigration system." Mr. Yale-Loehr noted that some TPS holders have been living in the United States for more than 20 years. <https://www.voanews.com/usa/immigration/tps-holders-seek-more-stable-immigration-status>

Mr. Yale-Loehr was quoted by Univision in "What Happens Now With the Beneficiaries of TPS After the Ruling of the Supreme Court?" "The decision of the Supreme Court this Monday revolved around a technical distinction between 'inspection' and 'admission' according to U.S. immigration law. The Court indicated that Congress could solve the problem through legislation. In fact, that bill is pending in the Senate. The decision highlights the need for Congress to enact immigration legislation to fix our broken immigration system," he said.

<https://www.univision.com/noticias/inmigracion/que-pasa-ahora-con-beneficiarios-tps-tras-fallo-corte-suprema> (Spanish, with English translation option)

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Government Agency Links

Follow these links to access current processing times of the USCIS Service Centers and the Department of State's latest Visa Bulletin with the most recent cut-off dates for visa numbers:

USCIS case processing times online: <https://egov.uscis.gov/processing-times/>

Department of State Visa Bulletin: <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin.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 390 member lawyers and their more than 1,100 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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