



A newsletter on all things Immigration-related.
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ANNOUNCEMENTS

1.1 USCIS UPDATES

U.S. Citizenship and Immigration Services (USCIS) announced a preliminary number of nearly 163,000 H-1B petitions received during the filing period ending on April 7, 2008. More than 31,200 of those petitions were for the advanced degree category.

1.2 CONSULAR ISSUES

In responding to increased workload, some Consular posts, like Kingston, Jamaica, have even begun experimenting with weekend appointments. In response to the growing demand for appointments, the embassy experimented with special Saturday-only visa renewal opportunity for holders of 10-year B1/B2 visas. Of the 1,048 who had registered as instructed and were interviewed on March 8, 95% had their visas renewed.

1.3 BUSINESS CORNER

Have you ever considered consulting? Have you ever given thought to running all aspects of your business based on statistics? The results may surprise you!

1.4 Q & A ... DID YOU KNOW?

Applications for Advance Parole or Re-Entry Permits now require fingerprinting as part of the application

Dear Valued Reader, Around the world, Immigration Lawyers who practice U.S. Immigration law are sitting back in their chairs, breathing long, deep sighs of profound relief (“aaaaahh!”). Another crazy H-1B visa window for cap-subject petitions



has come and gone, and now those timely delivered petitions are in the hands of USCIS, like a batch of newborn babies in the maternity ward, each petition softly cradled and tended to by a loving USCIS-nurse, some in blue, some in pink...

WAKE UP!

Our “counter-parts” at the Service Centers of the USCIS are overwhelmed right now, having to wade through piles of petitions filed for approximately 60,000 available cap-subject H-1B’s, not including 20,000 for holders of advanced U.S. degrees. I can’t even begin to imagine what the mail-rooms at USCIS look like right now... But believe you me, the courier services of Brown, Yellow and Blue (U*S, D*L, Fed*x) are celebrating right now, after having delivered some 200,000 packages to USCIS over the course of one week, above and beyond what is delivered on any normal week.

USCIS will again resort to combing through this chaos via a

‘random’ computerized drawing. Those unlucky applications which won’t be picked by the almighty USCIS-computer, will simply returned to Sender, unprocessed, with some sterile, unapologetic cover letter on top. To those who receive their applications back from USCIS, this means either “better luck next year”, or back to the drawing board.

PART 2: Increased Searches & Seizures by Customs and Border Protection (CBP)... increased safety or harassment?

I started this column in last month’s newsletter, and many of you indicated your appreciation of my touching on this subject.

To briefly recap on part one: (1) on entry to the United States, visitors are ‘greeted’ by members of CBP, who are charged with maintaining the security and integrity of the U.S. borders. (2) some travellers are subjected to a so-called “hard secondary inspection”, which often result in lengthy, very adversarial interrogations, detentions and luggage searches. (3) on the rise is the increased search of travelers’ laptops and paper-files during the secondary inspection process, particularly for travelers on the Visa Waiver or on B1/B2 Visas. (4) oftentimes, zealous officers look for “evidence” of wrongdoing... watch what you bring with you, be mindful of the data on your laptop. (5) asking the United

States for permission to enter is tantamount to consent given to be questioned and searched.

By requesting admission into the United States you are giving CBP "carte blanche" for searching you electronically and physically, if they feel it necessary to do so.

The important thing is to not panic and to always keep your composure and calm and for heaven's sake, remain polite and respectful. CBP officers smell fear and nervousness like trained bloodhounds, and nothing will aggravate the officer more than the mere appearance of disrespect or dishonesty (even if only perceived as such).

Once you repeatedly tell yourself to 'be nice' and get your sweating under control, do whatever you can to keep your answers SHORT and CONCISE. In my experience the worst secondary inspections are those where the intimidated traveller starts talking uncontrollably... CBP officers are extremely well-schooled to find inconsistencies and self-incriminating statements.

It is important to try and ascertain the need/reason behind the secondary inspection. Is there something in your immigration history that caught the attention of the officer in the computer? Is there something in your passport amiss? Have your answers at the initial inspection caused the officer to inquire in more detail? ... Gut-check time here: (in all honesty) *WAS* there something you were hoping to hide, or something you were hoping would remain undetected? ... oftentimes, those who are apprehensive of the passport inspection, often have a reason to feel so.

Passport inspections by CBP are supposed to be routine, quick and uniform in application. We all know that's not entirely so in practice, but keep in mind that CBP wants to

inspect and clear each traveller within 90 seconds or less. On any given day, at any Port-of-Entry, each day some 95%+ do get cleared without further ado.

For those who are in the United States, contemplating travelling internationally (and yes, having to re-enter), I would advise to seek counsel from an immigration lawyer BEFORE you go, if you have ANY reason to be concerned about re-entry.

For those who are outside the United States, contemplating coming to the U.S., a strict form of "*know before you go*" is a MUST. You do not want to be standing at a Port-of-Entry in the U.S. after a long, trans-continental flight, only to be refused admission and sent back on that very same flight you just came in on, or even worse, spend a night in CBP-custody (no room service!), before heading back to point of origin.

Regardless of where one is, international travel and subsequent arrival at the U.S. border is a sweat-inducing experience for many. Make sure your documentation is in order. (...and don't forget your travel companions or family members): (1) are you subject to visa requirements? (2) if you are, do you have the appropriate visa for your purpose in the U.S.? (3) if travelling visa-free, have you complied with all conditions? (4) is your passport in compliance? (5) do you have necessary supporting documentation to present at the border? does the documentation match with and support your stated purpose?

If you have (or could have) an issue which could affect your admissibility, discuss this with an immigration lawyer, BEFORE you travel. Try not to give CBP any reasons to send you to secondary inspection. If you end up there anyway, do not panic. I always advise my clients to keep one

of my business cards in their passport so they can contact me if necessary, if stuck at a Port-of-Entry. I also advise my clients carry a sealed envelope from me addressed to CBP, if the circumstances warrant a special written explanation, without which the traveller's admission to the U.S. may be in jeopardy.

Are you or do you know a foreign student on F-1 status? Under limited circumstances, they CAN work in the U.S.

Optional Practical Training (OPT) is temporary employment that is directly related to an F-1 student's major area of study. Under the prior rules, an F-1 student could be authorized to receive up to a total of 12 months of practical training either before (pre-) and/or after (post-) completion of studies.

Students must initiate the process by requesting the Designated School Official (DSO) at their academic institution to recommend the OPT. The DSO makes such recommendation by endorsing the student's Form I-20 and by making appropriate notation in SEVIS, the system used to track F-1 students.

Students then file Form I-765, Application for Employment Authorization Document (EAD), with U.S. Citizenship and Immigration Services (USCIS). If approved, USCIS will issue an EAD to the student.

The student may begin engaging in pre- or post-completion OPT only after an application has been approved and an EAD has been issued.

I hope you have enjoyed this issue. Keep your comments coming. Sincerely and respectfully Yours,

