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## IMMIGRATION UPDATE



Throughout this month try to make a special effort to spend time with your father and/or father-like figures in your life and wish them the happiest of Father's Days!

In this immigration update, we will cover the inability to use premium processing for certain petitions, the ongoing hold on DACA and DAPA implementation and other topics pertinent to you.

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### Amended Petition Filing Required for H-1B Worksite Changes



USCIS has issued a new policy requiring H-1B employers to file an amended petition whenever there is a change in the H-1B employee's work location. The memo is the



result of the AAO's decision in the *Matter of Simelo Solutions*, which held on 4/9/15 that a material change in employment occurs when an H-1B worker moves to a new location of employment. To read the policy, click

[here](#).

### **DACA Expansion and DAPA Implementation Still on Hold**

In a 42-page decision, the U.S. Court of Appeals for the 5th Circuit denied the Obama administration's request for an emergency stay of preliminary injunction against its Deferred Action for Parents of Americans (DAPA) and the expansion of Deferred Action for Childhood Arrivals (DACA) programs. The majority opinion held "because the government is unlikely to succeed on the merits of its appeal of the injunction, we deny the motion to stay." The court reasoned that the President had overstepped his authority. A hearing on the Administration's Appeal is scheduled for July. We will continue to provide updates in this complex matter that affects millions of people residing in the U.S.

### **"Lack of Experience" is a Lawful Reason for Rejecting U.S. Applicants**

In *Matter of Presto Absorbent Products, Inc.*, the Board of Alien Labor Certification Appeals (BALCA) reversed a denial of a PERM application for an engineering manager, finding that 20 CFR §656.17(g)(1) "does not indicate a level of specificity beyond what the Employer provided." The denial was based on the DOL's finding that the employer had failed to provide sufficient legal reasons for rejecting eight U.S. applicants. The employer's recruitment report showed the applicants were rejected because they lacked the experience required and that "all applicants were reviewed to determine if they would be able and qualified to perform the duties of the position with a reasonable amount of on-the-job training." All applicants were determined not to have been able and qualified for the position even with a reasonable amount of on-the-job training. To read the opinion, click [here](#).



### **Premium Processing for H-1B Extension Suspended**

USCIS has temporarily suspended premium processing for all H-1B extension of stay petitions until July 27, 2015. During this time, employers will not be able to file Form I-907, Request for Premium Processing Service, or Form I-129, Petition for a Nonimmigrant Worker, requesting an extension of stay for an H-1B nonimmigrant. This temporary suspension is intended to allow USCIS to implement and start processing the Employment Authorization Document (EAD) for certain H-4 spouses.

### **Revised Application for Employment Authorization Released**

USCIS recently published a revised Form I-765, Application for Employment Authorization. This revised form contains the eligibility category for certain H-4

dependent spouses to apply for employment authorization. Click [here](#) to view the form.

## July 2015 Visa Bulletin



There was forward movement in most employment-based and family-based visa categories. The EB-3 and the "Other Workers" categories for the Philippines are unavailable. Click [here](#) to view.

## USICS Releases Updated Processing Time Reports

USICS released processing time reports dated June 9, 2015, with processing dates as of March 31, 2015, for the [California Service Center \(CSC\)](#), the [Nebraska Service Center \(NSC\)](#), the [Texas Service Center \(TSC\)](#), the [Vermont Service Center \(VSC\)](#), the [National Benefits Center \(NBC\)](#) and the Immigrant Investor (EB-5) Program



[USCIS Service Center](#)  
[Department of Labor](#)  
[Visa Application Wait Times for any Post](#)

## NEW and NOTEWORTHY



On June 16, I had the privilege to be sworn in as the President of the Jacksonville Bar Association for the 2015-2016 term. I look forward to re-thinking our offerings to maximize the presence, health and wealth of our members and our community.

Have courage! - At the Leadership Florida Annual Meeting, I had the honor of meeting Bonnie St. John. Despite having her right leg amputated at age five, she became the first African-American to win medals in the Winter Paralympic competition as a ski racer, taking home a silver and two bronze medals in downhill events at the 1984 Paralympics in Innsbruck, Austria. Bonnie's inspirational message: Have courage!





My article titled "*Plenary Power under Review*" was featured in FOCUS, North Florida's Association of Corporate Counsel newsletter. Over 100 years ago, in the Chinese Exclusion Case, the SCOTUS set in motion a long line of

cases that established the doctrine of consular non-reviewability. Under this doctrine, decisions regarding the admission of foreign nationals to the U.S. rest exclusively within the powers of the Legislative and Executive branches, with the Judicial branch lacking any authority to review such determinations. In February 2015, the first case heard was on the subject of consular non-reviewability and plenary power. Click [here](#) to read more.

After the death of her mother, a dedicated Washington state woman who was raised by her father spearheaded the recognition of Father's Day. As a result of her efforts, Father's Day was first celebrated in 1910 and in 1972, President Nixon officially recognized Father's Day as a holiday.



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