

# COVID-19 – Unprecedented Impact to Nation's Immigration System September 2020 Updates

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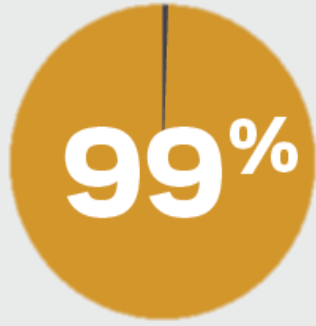
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# Agenda

- Quick Update on H-1 Cap
- Administrative Impacts to our Immigration System
  - Department of Homeland Security
  - Department of State
  - Department of Labor



# Our Value Proposition



**Over 99% Success Rate**

Brown continues to succeed at over a 99% success rate every year



Maintain excellent relationship with **USCIS/DOS**

Focus exclusively on **Immigration** **10 Attorneys, 27 staff** – largest stand-alone boutique business immigration law firm in Midwest

Serve all U.S. time zones in a **central location**



Approach each case with a **bespoke strategy**



Provide a highly skilled legal team at a **lower cost** by Midshoring



Utilize the **latest tech** available to support you



# H-1B Cap Filing Update

- Nearly 275,000 H-1 Registrations received
- Virtually BIL filings have been approved
- New wave of registrants picked 8/14 (have 90 days to file)
- Second wave is filed (at least 10% couldn't file)
- Option still exists for third (yet smaller) wave – likely in December/January
- PP is open for all (no restriction anticipated)
- Other breaking news – possible H-1 regs, awaiting outcome of PP lawsuits





# Many Threats Remain to Immigration System

- Underlying commercial rules – still issues with travel/schedules, physical space constraints
- Are all borders open? (trade is a common exception)
- Is quarantine/SIP required? Are exceptions available?
- Important to craft individualized plan that fits the specific situation
- Chaotic immigration policy reflective of administration – one element is policy based, other element is restrictive
- Great uncertainty remains – best not to travel unless emergent



# Department of Homeland Security

- CBP – Restriction on processing at ports of entry
  - US/Canada border – no visitors – L/TNs still allowed at port of entry; Mexico is similar – land more restrictive than air
  - Travel bans for China, Schengen area, UK, Ireland, Iran Brazil – exceptions apply
  - Option for National Interest Exemption (NIE) from TBs
  - Trusted traveler enrolment reopened (not Can/Mex)
- USCIS – Cont'd loosening of RFE times (extra 60 days); scans ok; GC appts waived; local office/ASCs reopening – still delays
- Gov't errors remain difficult to fix



# Department of State

- U.S. consulates opening based on local conditions, reduced appointment scheduling – still no IV processing (with exception of DV)
- Some flexibility for 3<sup>rd</sup> country processing (E-3/Mex)
- Normal NIV schedule unlikely till spring 2021, IV scheduling unknown (NVC is still processing DS-260s/230s)
- Recently Consulates prioritized F-1 students and J-1 post-docs
- Presidential Proclamation June 22<sup>nd</sup> – halted new H-1/H-2, L-1, and J-1 visas; new DOS guidance gives some “clarity”



# Department of State (Cont.)

- For PP impacted cases – we can review DOS guidance and possibly move forward, if not we can prep cases in advance of 1/1/21 and continue processing
- Reminder – do not leave US if you need a visa without first understanding Covid/consular availability (otherwise no guarantee on when you can return)
- Hail Mary – those unable to get a visa b/c of consular unavailability [entry without visa – pay \$\$\$] (not b/c of PP)
- Visa drop box option extended – within 24 months of expiration – mail-in options for E-3s





# Department of Labor Updates

- PERMs still issued electronically & recruitment period extended for certain PERMs
- LCA posting requirements remain – pivot to electronic LCAs where possible/necessary; short-term and home placements require different solutions
- PERM - Internal posting requirements remain – not replaced by electronic means [wait for resumption of business vs. post now]
- Prevailing wage determination is still very slow
- I-9 - original document verification suspension extended (must be 100% telecommute), eVerify - can delay on tentative nonconfirmations



# Way Forward

- Focus on the basics and look to the exceptions
- Higher level chess game is needed and flexibility required
- Know when to bring in outside legal team:
  - If person stuck or has emergent travel
  - If RIF planned
  - If wage reduction planned
  - If work from home never reviewed
  - If workers moving out of MSA/state
  - If new hire not in



# Final Thoughts

- Our goal – dig in and support all clients with issues
- Get everyone we can through this time of disruption unscathed
- Showing signs things returning to normal – I give it 3-4 months of additional disruption before system returns to normal hours of operation
- Still may be pockets of issues in the globe
- Then give it 6+ months for system to catch up
- There will be ongoing delays for appointments (USCIS and DOS) and case processing
- Each case has become more unique requiring more involvement/skill





# Questions?

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