

COUNSEL

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f Paschal Nwokocho Law Offices, LLC.

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About Counsel

A newsletter publication of Paschal Nwokocho Law Offices, LLC, Counsel is dedicated to the needs and interests of our clients and subscribers.

Each issue of Counsel explores specific areas of immigration law, which may be of personal or business interest to its readers.

Counsel does not constitute legal advice. Readers are urged to consult an attorney before acting on any information contained in this publication.

Our Mission

At Paschal Nwokocho Law Offices, our mission is to provide the highest quality professional, client-driven legal services to businesses and individuals at reasonable rates.

We believe the Immigration and Nationality laws of the United States should work for our clients, *not* against them. And we employ all available tools to seek the best possible solutions on their behalf.

NEWS!

Announcements

Earlier this year, Paschal Nwokocho was appointed the American Immigration Lawyers Association (AILA) Minnesota/Dakota Chapter liaison with the Immigration and Customs Enforcement (ICE) and the Office of Chief Counsel (OCC). ICE is responsible for the detention and removal of aliens, while OCC is the legal counsel for ICE. In this role, Mr. Nwokocho brings the concerns of the members of the Bar to the attention of the two offices, serves as a communication link as well as help solve problems the parties may be experiencing.

In November 2006, our office wrote to the USCIS Ombudsman, demanding a review of the current processing system for Special Immigrant—Religious Worker. This addressed the growing problem with the transfer of cases from the various service centers to the California Service Center the result being a long delay in adjudication of cases, as well as confusion to applicants regarding which office the application should be sent to.

We encourage our clients and subscribers to read the ombudsman's report to congress. Copy can be located at http://www.dhs.gov/xabout/structure/editorial_0890.shtm. The report shows how inefficient the Immigration Service has become, and how the Service is often more motivated by the funds it generates from immigrants than by providing the services for which it was established.

To request a copy of our letter to the ombudsman, please contact the office.

Jitla Arner-Meyerhoff joined our office this fall as a paralegal. A

2005 graduate of Macalester College, St. Paul, MN. Jilta is enthusiastic about working with immigrants and is eager to pursue a career in International Law. Please join us in welcoming Jilta.



Registered Nurses—Visa Exhausted

In November 2006, some of us were shocked to see that there were no more Schedule A (Registered Nurse and Physical Therapist) visas available. (Schedule A occupations are those the Department of Labor has determined that there is severe shortage of, and that there aren't sufficient qualified U.S. workers to fill the need). Indeed, there was a retrogression in that category to November 2005, before it changed in December 2006 to unavailable.

This has presented a serious challenge to our institutional clients and individuals who have come to rely on foreign nurses to meet their demand. We hope the incoming congress can see this as one of the opportunities to enact meaningful legislative changes. One of the changes we would like to see is to make Schedule A occupations not subject to the cap. Senator Sam Brownback (R-KS) has made a proposal that does just that. His amendment is part of a bill currently pending before the House and the Senate. We hope it is something both houses will pass.



Religious Worker's Petition under Scrutiny.

In November 2006, the Immigration Service announced that it was temporarily suspending premium process of Religious Worker Petitions. Premium processing allows applicants to get a decision on a case within 15 business days if they paid the fee

of \$1,000. According to the Service, the suspension is because of incidents of fraud they discovered in the system by the Fraud detection unit of the Immigration Service.

Among the options the Immigration Service is considering within this 6 months period is either to permanently remove Religious Workers from the class of petitions one could premium process or provide additional conditions under which one could premium process a case.

Religious Workers are a class of immigrants that continue to serve a growing need in the United States. A lot of organizations have come to depend on foreign religious workers to meet their needs. While we fully support the effort by the Immigration Service to eliminate incidents of fraud, we hope careful attention will be paid to the vast majority of legitimate petitions.

This level of scrutiny makes it imperative that any organization or individual interested in the filing for any type of religious-related petition engage the services of experienced professionals. The process is getting more complex. Petitioners have to make sure they are adequately counseled. Thorough advice should go beyond what forms to use, to other issues the correct strategy to pursue to achieve the goal and legal implications of documents one used in support of the application.



New Procedure in the Deportation and Removal Department.

In November 2006, the Immigration and Customs Enforcement office introduced a draconian process in the detention and removal section. The new process affects most people who have their cases before

the Immigration Court. Individuals will now have to be fingerprinted and "idented." The Officers would then have to determine whether to put the individual in custody or under Intensive Supervision Program. (ISAP). Under ISAP, the individual is put on ankle bracelet for the first one month of the program and is also required to personally report to the local office three time a week for the first month.

Individuals exempt from this draconian process are those who were previously detained by the Immigration Service or who have been "idented" in the past.

At Paschal Nwokocha Law Offices, we believe this is one of the most ridiculous waste of resources by the government we have recently seen. This seems to be a bureaucratic attempt to make ISAP relevant and justify its existence. Otherwise, there is no reason why someone who has had their case before the Immigration Service, and who has complied with the Immigration laws and conditions, should be put on such a program. Most immigrants are law abiding and would appear at the Immigration Service upon request. Thus, there is no need to humiliate them through this absurd program. We will continue our effort to see that this program is eliminated or scaled down.



Post Elections Analysis

The new House leadership ushered in by the last election offers some hope that new ideas and perspectives will be brought to bear on the immigration debate. According to AILF Ben Johnson, Representatives John Conyers (D-14th/MI), the presumptive chair of the House Judiciary Committee, and Sheila Jackson-Lee (D-18th/TX), last year's ranking Democratic member in the House Subcommittee

on Immigration, have been strong supporters of immigration-reform proposals far more comprehensive than the enforcement-only measures favored by their Republican counterparts. Representative Zoe Lofgren (D-16th/CA), who is in contention for Chair of the House Immigration Subcommittee, has also been an articulate voice for a sensible, workable immigration policy. This new leadership also is much more likely to take a second look at the due-process protections that Congress stripped from immigrants in 1996. For more than a decade, even legal immigrants have been subject to detention and deportation for offenses such as shoplifting and other minor offenses that the law defines as “aggravated felonies” for lawful permanent residents but not for U.S. citizens. Moreover, this law has been applied retroactively to crimes committed before it was even passed. The erosions of due process protections and the inhumane treatment of detained immigrants has been a stain on our judicial system that has been largely ignored by the Republican controlled Congress.

The bottom line is that although the outcomes of the November 7 election were dramatic, the results are not likely to score an immediate victory for immigration reform legislation. The new Democratic controlled Congress, however, is in a much better position to be able to navigate this complex and politically divisive issue. If they are able to rise to the challenge, the rewards for the American public, and the U.S. economy, could be huge. The debate has opened some ugly wounds in communities around the country that desperately need to heal. Most Americans, though frustrated and angry about Congressional inaction on this issue, are proud of our tradition as a nation of immigrants. The clear message from the election is for Congress to stop the political rhetoric and get to work on creating a secure, reliable, and legal framework that will allow

us to continue that noble tradition.



5 Myths About Religious Workers Petitions

(Back by popular demand)

Our office has handled more than 100 religious worker petitions, and has filed petitions in all the regions of the United States. The following are some of the myths we have identified from our years of consulting with organizations and individuals.

1. *You have to be a church or a 501(c) to file the Religious Worker petition.*
Any organization set up for religious purposes can file the petition so long as they meet certain criteria.
2. *R-1 status and Special Immigrant Status for religious worker are the same.*
R -1 is non-immigrant and Special Immigrant leads to Permanent Residency. See the above discussion for details of the distinction.
3. *You are guaranteed Permanent Residency status if you filed your Special Immigrant petition while you are in status.*
Your status at the time you file the Permanent Residency application determines whether your application will be approved.
4. *My organization has to have so much money in the bank account before we can file the application for a new pastor.*
The organization’s ability to pay, not the amount in bank account is more important.
5. *Any lawyer can effectively and successfully file a religious worker petition.*

The complexity of the process and the various instructions



Did you know?..

- **Western Hemisphere Travel Initiative** - On November 24, a DHS/DOS final rule was published which provides that, with limited exceptions, beginning on January 23, 2007, all U.S. citizens and nonimmigrant from Canada, Bermuda, and Mexico who enter or depart the U.S. from within the Western Hemisphere at air ports-of-entry will be required to present a valid passport
- **Naturalization:** On November 30, the CIS announced that, starting in January 2007, it will introduce a pilot naturalization exam in 10 cities with a revised civics and English test. The agency also released a list of 144 questions and answers for the new civics test.
- **INFOPASS:** The Immigration Service now requires most people to have scheduled appointments before they can come to the immigration office to inquire about their case.

Reader's Corner

Readers are encouraged to send questions and comments to Counsel at Paschal Nwokocha Law Offices.

To subscribe to or unsubscribe from Counsel, or to receive copies of Counsel for your business, please send your request to:

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TPS Update

Temporary Protected Status (TPS) for Certain Nationals of Burundi and Liberia

On September 14, the DHS announced that it was extending TPS for certain nationals of Burundi from November 2, 2006 to November 2, 2007

On September 18, the DHS announced that it would terminate TPS status for Liberians effective October 1, 2007. All Liberians on TPS status must start exploring their immigration options for maintaining status in the United States. They should request for a complete copy of the immigration file from the Immigration Service and consult with knowledgeable professionals.



If you need legal services relating to immigration or other legal issues and would like to schedule a consultation...

Call us for an appointment

651.917.0020

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Visit us on the Web:

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Problems!***

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