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I. USCIS Redesigns Green Card and Issues Revised EAD

On May 11, 2010, U.S. Citizenship and Immigration Services (“USCIS”) announced that it had redesigned the Permanent Resident Card (“Green Card”) in keeping with its ongoing efforts to deter immigration fraud. The redesign incorporates several major new security features that USCIS believes will prevent counterfeiting, obstruct tampering and facilitate quick and accurate authentication. The redesign also bows to convention in that the new Green Cards will be, once again, green. USCIS began issuing the new Green Cards on May 11, 2010. Current permanent residents need not make a special application for these new Green Cards, as they will receive the new version the next time they apply for a renewal or replacement. For more information, please visit: <http://www.uscis.gov/>.

On May 25, 2010, USCIS also announced its revision to the Employment Authorization Document (“EAD” or “Form I-766”). The back of the revised EAD will contain a machine-readable zone, making it compliant with International Civil Aviation Organization standards. Other changes include eliminating the two-dimensional bar code (which had been on the back

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of previous EAD versions), and moving the informational box of text to just beneath the magnetic stripe. USCIS started issuing the revised EADs on May 11, 2010. For more information, please visit: <http://www.uscis.gov/>.

II. DOS Increases Nonimmigrant Visa Application Fees

On May 20, 2010, the U.S. Department of State (“DOS”) published an interim final rule (“Rule”) in the Federal Register that increased the Machine-Readable Visa (“MRV”) fee, also known as nonimmigrant visa application processing fees, as well as the fees for Border Crossing Cards (“BCC”). The Rule also established a tiered structure with separate fees for different nonimmigrant visa categories. Information about these fee increases can be found at <http://travel.state.gov>. The new fees went into effect on June 4, 2010.

III. DHS Eliminates Paper I-94W Arrival/Departure Record for Visa Waiver

On May 20, 2010, the U.S. Department of Homeland Security (“DHS”) announced the elimination of the paper Form I-94W for authorized travelers using the Visa Waiver Program. This move will automatically provide DHS with passenger information prior to departure, serving to enhance security while also streamlining and consolidating the collection of traveler information. DHS now believes that it obtains sufficient information under the Electronic System for Travel Authorization (“ESTA”) to enable authorized ESTA travelers to go paperless.

However, DHS also suggests that the new emphasis placed on ESTA may lead to backlogs in processing the initial application system online. For this reason, we recommend that all potential travelers submit their ESTA applications as soon as they contemplate any travel plans. Once approved, ESTA authorization remains valid for two years or until the applicant’s passport expires. For more information about ESTA, please visit: <http://www.cbp.gov>.

IV. May 21, 2010, H-1B Cap Count

As of May 21, 2010, USCIS has confirmed the filing of approximately 19,600 H-1B cap-subject petitions for fiscal year 2011. USCIS also reported the filing of approximately 8,200 of the additional 20,000 H-1B cases reserved for holders of advanced U.S. degrees. This leaves room for approximately 45,400 new H-1B approvals under the 2011 “Regular” Cap quota and 11,800 H-1B approvals under the 2011 “Masters” Cap quota. USCIS will continue to accept all eligible H-1B cases until a sufficient number of H-1B and H-1B1 petitions have been received to reach the statutory limits.

V. DOL Unveils Online ‘Advisor’ Tool to Help Employers Comply with H-1B Visa Program Requirements

The U.S. Department of Labor (“DOL”) announced the development of an online advisor tool that explains the H-1B program standards and clarifies the rights and responsibilities of employers and workers under that program. This “advisor” became operational on May 13,

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2010, and can be accessed at the following website: <http://www.dol.gov/elaws/h1b.htm>.

In a May 13, 2010, news release, Labor Secretary Hilda Solis was quoted as saying that the DOL seeks “to provide employers and the public with user-friendly information regarding both rights and responsibilities under the H-1B program. ... The new online advisor harnesses technology to help take the mystery out of the new rules, and it offers an important resource to workers and employers alike.”

Nevertheless, DOL did caution that the online advisor tool would focus “solely on compliance with the requirements enforced by the Wage and Hour Division,” and should be considered as “one of a series of Employment Laws Assistance for Workers and Small Businesses, or ‘elaws,’ advisors.”

VI. Class Action Lawsuit Challenges New Arizona Immigration Law

On May 17, 2010, a coalition of civil rights groups filed a class action lawsuit in the U.S. District Court for the District of Arizona challenging the Arizona immigration law (“SB 1070”) that aims to crack down on day laborers and make it a state criminal offense to fail to carry proper immigration documents. *Friendly House v. Whiting*, No. 2:10-cv-01061-MEA (D.Ariz. May 17, 2010).

The civil rights groups argue that the new Arizona law unlawfully interferes with federal power and authority over immigration matters in violation of the Supremacy Clause of the U.S. Constitution, invites racial profiling in violation of the Constitution’s equal protection guarantee, results in unreasonable seizures prohibited by the Fourth and Fourteenth Amendments, and infringes on the First Amendment free speech rights of day laborers.

Two other lawsuits challenging the Arizona immigration law are pending in the U.S. District Court for the District of Arizona: *National Coalition of Latino Clergy & Christian Leaders v. Arizona*, CIV 100943-PHX (D. Ariz. April 29, 2010), and *Escobar v. Brewer*, No. 4:10-cv-00249-DCB (D.Ariz. April 29, 2010). On a related note, the Obama administration filed a brief with the U.S. Supreme Court on May 28, 2010, that urged the Court to review the recent decision by the U.S. Court of Appeals for the Ninth Circuit that rejected a challenge to the Arizona law that requires employers to use E-Verify. See *Chamber of Commerce v. Candelaria*, No. 09-115. The Obama administration’s position in the *Candelaria* case—that the Arizona law is pre-empted by federal immigration laws—may foreshadow its position on SB 1070.

VII. Poll Finds that Voters Want Congress to Move Forward with Immigration Overhaul

On May 17, 2010, ImmigrationWorks USA released a poll that found that most respondents want elected leaders to overhaul the nation's immigration system, including increasing penalties for employers that knowingly hire illegal aliens. The poll, conducted by Public Opinion Strategies, surveyed 800 likely voters between May 3, 2010, and May 5, 2010. When asked whether the current immigration system needs to be “reformed,” a majority responded that change was needed—69 percent called for major reform and 21 percent called for minor

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reform. Moreover, 52 percent felt that immigration hurts the United States more than it helps.

ImmigrationWorks USA also reports that, while 79 percent favored an overhaul of the nation's immigration system, 17 percent preferred no change because an immigration overhaul is "too controversial to deal with right now." The poll also found that voters agreed with the statement, "the current immigration system is broken and that something must be done to fix it," and 87 percent wanted their member of Congress "to work toward an immigration overhaul."

VIII. DOS Issues June 2010 Visa Bulletin

The DOS recently issued its Visa Bulletin for June 2010. This Bulletin determines who can apply for permanent residence and when. The cutoff dates for the Employment-Based Third Preference are as follows: June 22, 2003, for all charge-ability, including the Philippines, China and the Dominican Republic; Unavailable, for Mexico; and October 22, 2001, for India. The cut-off dates for the Employment-Based Second Preference are as follows: Current for all chargeability; February 1, 2005, for India; and November 22, 2005, for China. The monthly Visa Bulletin is available at http://www.travel.state.gov/visa/bulletin/bulletin_4879.html.

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