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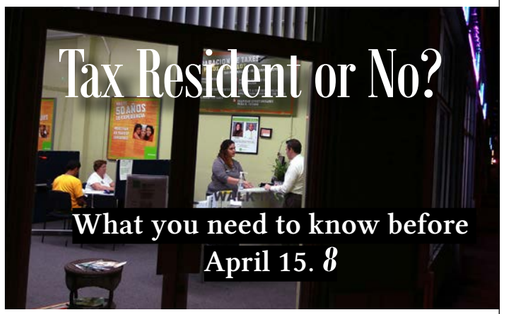

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For the Newbies: How to Hit the Ground Running

by Cletus M. Weber

Starting your first job as an immigration lawyer, paralegal, or legal assistant is exciting. Immigration law is a life of never-ending mystery and discovery. The work you do can profoundly improve the lives of your clients, and the vast majority will be deeply grateful for your help. Here are a few tips for getting off to a great start:

Learn by Doing, Not by Milking

Work is not school. Yes, you need to learn, but you also need to get something done. You learn most by doing more cases, not by trying to milk each cow to death. (An example: my partner gave an assistant a simple marriage petition to photocopy one morning and when asked later that afternoon where it was, the assistant said, "I'm not done reading it. It's just so fascinating.")

Take the Ethical Route

You have an ethical responsibility to help your clients as much as you reasonably can. But that doesn't give you the legal right to lie, cheat, and steal to protect their interests. Fight like hell, but fight fair.

Accuracy Is Speed

In immigration law, you are always one signature, one checkbox, one deadline, one critical (and recurring) government-address-change away from severely harming your client's interests—and getting sued for malpractice. Any speed you might have gained by skipping a step or not double-checking can easily become a ten-fold increase in time and effort to resolve.

Never Hope

At least don't *blindly* hope. In law, you either know or you don't know. There is no middle ground. Of course, you cannot predict *outcomes* in every case, but going in, you have to know exactly what the law and facts are. What you don't know *can* hurt you … and your client.

Each Case Is a New Day

No matter how carefully or how long you have been practicing, you inevitably will make a mistake. Always strive to avoid them, especially the big ones. But if you do make one, never hide it from your boss. Ever!

See Something, Say Something

Your boss and your clients worry a lot, so strive to keep them informed always. By the way, one of the most irritating things for a supervisor is to review a petition, brief, etc., from a subordinate, suggest a different strategy or ask what about XYZ, and then have the subordinate say something like, "Oh yeah, I thought about that, too." Take ownership of your case from the beginning and resolve these issues ahead of time—unless your supervisor tells you otherwise.

These tips will add traction to your first steps into immigration law.

Live

You are embarking on a fascinating, wonderful career. Enjoy it. Always know that happiness is possible, then do what it takes to make it happen. Seek out colleagues or get professional guidance—whatever it takes to get back on track. Best of luck!

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How Bad Can It Get? Penalties for Noncompliance

by Christine D. Mehfoud

Compliance-minded companies always want to know, "What's the risk of non-compliance?" Or, put another way, "How much will it hurt if we don't get it right?" For those companies still wondering whether spending a little now to implement a solid immigration compliance program is a sound investment, some of the recent immigration-related penalties provide compelling reasons to invest in training and compliance.

REMEMBER: All employers have immigration-related compliance obligations regardless of whether they employ any foreign nationals. Some of the companies suffering significant penalties identified below never even had any unauthorized workers in their workforce, but merely fell short on their obligation to verify employment eligibility (the Form I-9 process) or discriminated against certain individuals during the Form I-9 process.

Penalties imposed in any given case are always fact-dependent, and, of course, the employer's response to the investigation can significantly impact the outcome of any investigation. But these penalties are both civil and criminal in nature, with restitution in the high five to six-figure range.

To put these penalties in real terms, here are examples from recent investigations:

MONETARY PENALTIES	PRISON TIME	CHARGE	COMPANY	DATE
$34 million	N/A	Visa fraud (misuse of B-1 visa)	Infosys Limited	October 2013
$275,000	N/A	Discrimination in employment eligibility verification process	Macy's	June 2013
$400,000	N/A	One count of knowingly accepting a false document	McDonald's (Wichita-based franchisee)	December 2012
$2 million	N/A	Failing to comply with employment eligibility verification requirements (Form I-9 Process); Failing to act on SSA No-Match Letters	ABC Professional Tree Services, Inc.	July 2012
$625,000	N/A	Failing to comply with employment eligibility verification requirements (Form I-9 Process)	Infinite Visions LLC	July 2012
More than $2.7 million	Three years' probation (owners), five years' probation (company)	Knowingly hiring and aiding and abetting (owner); Harboring (company)	Aguila Farms, LLC	November 2011

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Fundamentals of Employer Sanctions: I-9s for Beginners
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Generally, immigration-related violations risk the following potential penalties:

- **Prison Time**
  From up to six months for knowingly hiring an illegal worker to 10 years for harboring
- **Civil Fines**
  Up to $16,000 per worker
- **Asset Forfeiture**
- **Debarment**
- **Loss of Business License**
- **Lost Productivity**
  For example, after a Form I-9 inspection in 2009 that resulted in the loss of 2,500 employees, American Apparel lost more than $86 million in 2010, bringing it to the brink of closing.
- **Attorneys' Fees**
- **Negative Publicity**
- **Other crimes,** such as tax fraud, Social Security fraud, money laundering, identity theft, bank fraud, and false statements are uncovered during what begins as an immigration-related investigation.

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MONETARY PENALTIES	PRISON TIME	CHARGE	COMPANY	DATE
More than $3.5 million	15 years' probation (owner), five years' probation (company)	Conspiracy to smuggle, transport and/or harbor, money laundering and tax fraud (owner); Conspiracy to smuggle and harbor (company)	YCL Inc. (The Gateway Hotel)	October 2011
$290,400	N/A	Discrimination in employment eligibility verification process	Farmland Foods Inc.	August 2011
More than $1 million	N/A	Failing to comply with employment eligibility verification requirements (non-compliant electronic Form I-9 system) (no unauthorized workers and employer had used E-Verify for years)	Abercrombie & Fitch	September 2010
$4.5 million	N/A	Knowingly hiring and continuing to employ	Pilgrim's Pride Corp.	December 2009
More than $26 million in restitution	27 years in prison and five years' supervised release (former CEO); 23 months (supervisor); one year and one day in prison and two years' supervised release (manager); two years' probation (former human resources assistant)	Aiding and abetting in harboring (supervisor); Bank fraud, false statements, money laundering (company)	Agriprocessors Inc.	June 2010, March 2009

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Pre-Suit Letters: An Alternative Option?

by Bradley B. Banias

Pre-suit letters—letters giving notice of possible legal action to potential defendants and their attorneys—are ubiquitous in civil practice, yet they are foreign to immigration practice. Like private civil litigators, the attorneys that defend the relevant agencies in federal court immigration litigation have incentive to avoid litigation if it is in the best interest of their client agency. Thus, immigration practitioners should consider using pre-suit letters as an alternative tool to address an agency denial or delay.

Pros of Pre-Suit Letters

First, a pre-suit letter is an opportunity to make your case to the attorney—an Office of Immigration Litigation (OIL) attorney, an Assistant U.S. Attorney (AUSA), or both—who is charged with advising his or her agency clients about the litigation risks associated with a particular denial. Because litigation risks may be specific to a particular district or relate to ongoing litigation, agency adjudicators are likely unaware of such risks. Therefore, a pre-suit letter addressed to OIL and the local U.S. Attorney's office may be the first time a decision is reviewed to determine whether it is defensible in a particular jurisdiction, whether it could affect ongoing litigation elsewhere, or whether the agency is even willing to defend its reliance on a sensitive policy.

Second, a pre-suit letter has significant practical advantages. It is inexpensive to draft and send. You control the timing by setting a deadline for the government to respond. You can even send a pre-suit letter while you seek other avenues of relief. Most importantly, you waive no other avenue of relief by sending a pre-suit letter. And you control who gets the letter.

Third, any response will help you advise your client. Ideally, an OIL attorney or an AUSA will see your letter, agree with your argument, contact agency counsel, and advise them to "make this go away." But lesser responses can be helpful, too. For example, let's say that the government attorney indicates that, regardless of the merits of the decision, the agency's position is that the court lacks jurisdiction to review the decision. This could indicate that the government recognizes the merits of the decision as weak, and that an administrative appeal could be your best course of action. Of course, other inferences could be drawn from such a response, but in a real case, you will have the advantage of actually communicating with the government's attorney and reading between the lines for yourself.

"You control the timing by setting a deadline for the government to respond. You can even send a pre-suit letter while you seek other avenues of relief. Most importantly, you waive no other avenue of relief by sending a pre-suit letter."

Cons of Pre-Suit Letters

First, you may get no response, and attempting to read the agency's silence can be dangerous. Second, the agency may use your pre-suit letter to reopen

TOOLBOX

Immigration Litigation Toolbox

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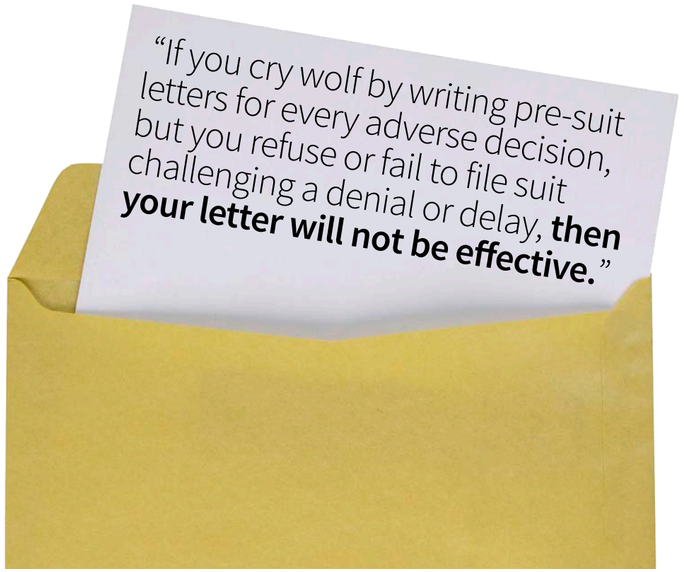
its previous denial and strengthen it. However, this risk attaches to all appeals or challenges. Third, you may upset your local agency contacts by threatening litigation. However, if you have a good relationship with your local officers, then such relationship has likely already weathered the tribulations of disagreement.

The "Cry Wolf" Principle

Regardless of the pros and cons of pre-suit letters, their effectiveness is controlled by the "cry wolf" principle. If you cry wolf by writing pre-suit letters for every adverse decision, but you refuse or fail to file suit challenging a denial or delay, then your letter will not be effective. This does not mean you have to file suit every time you send a pre-suit letter, but it does mean that, if the right case presents itself and a pre-suit letter goes ignored, you should be prepared to file suit. And in the right case, you will have a good chance of success, regardless of any inexperience in federal litigation.



Thus, the secret to effective pre-suit letters is case selection. Absurd denials—such as where the agency denies for failure to respond to a Request for Evidence (RFE), but you have a receipt that shows the agency received your client's RFE response—are good candidates for pre-suit letters. In contrast, a 37-page denial for failure to demonstrate entitlement to EB-1 status may not be the best candidate for a pre-suit letter. Whether or not a pre-suit letter is effective is, ultimately, up to you, but before you can make a pre-suit letter effective, you must consider it as an option.

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Tax Resident or Tax Nonresident? Know Before April 15

by Clayton E. Cartwright, Jr.

An immigration attorney often is asked by a noncitizen client about the filing and payment deadlines for his or her U.S. income tax obligations. The status of that person's U.S. tax residency primarily determines income tax filing and payment deadlines.

Is the Noncitizen "Tax Resident"?

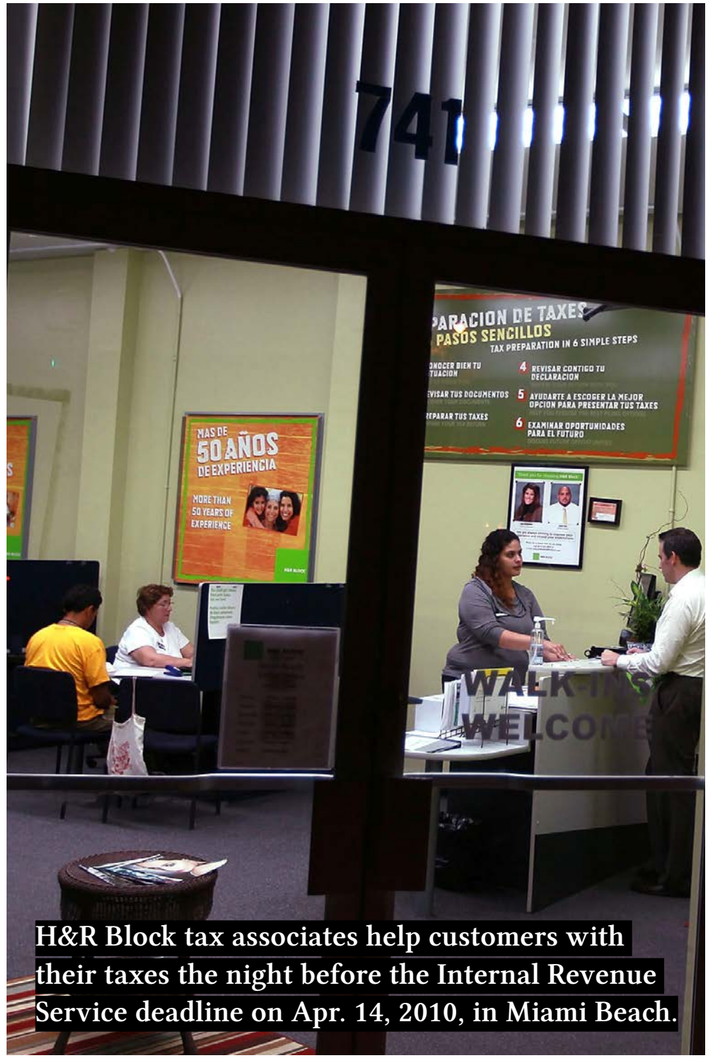
If the noncitizen is a lawful permanent resident (LPR), then he or she likely will be tax resident. A U.S. tax resident is subject to U.S. taxation on his or her worldwide income. *See* IRC §§1, 61, and 7701(b)(1)(A)(i). If the noncitizen is not an LPR, then the most likely way to show that he or she is tax resident is through the "substantial presence" test. Under that test, he or she is tax resident for 2013 if two requirements are met. First, the noncitizen must be present in the United States for at least 31 days during the year. Second, the sum of (a) his or her days of presence in the United States for 2013; (b) 1/3 of his or her days of presence in the United States for 2012; and (c) 1/6 of his or her days of presence in the United States for 2011, must be at least 183 days. *See* IRC §7701(b)(1)(A)(ii) and (b)(3)(A).

However, it is still possible that the noncitizen who is tax resident under the substantial presence test can claim tax nonresidency under an income tax treaty to which the United States is a party. *See* Treasury Regulations §301.7701(b)–7(a)(1).

The Noncitizen Tax Resident

The noncitizen who is tax resident must file a 2013 income tax return on IRS Form 1040, U.S. Individual Income Tax Return, by Apr. 15, 2014, and pay any tax due by that date. He or she may file for an automatic six-month extension to Oct. 15, 2014, by filing IRS Form 4868, Application for Automatic Extension of Time to File U.S. Individual Income Tax Return; but this extension is not an extension to pay any tax due for 2013. Consult IRS Publication 519, U.S. Tax Guide for Aliens, (2013), at 34. A noncitizen, or his or her tax preparer, should estimate any U.S. tax due for 2013 and pay such tax when filing IRS Form 4868.

The noncitizen tax resident, who lives and has a main place of business outside the United States and Puerto Rico has a deadline of June 16, 2014, to file his or her 2013 Form 1040 and pay any tax due. He or she can request an automatic four-month extension



H&R Block tax associates help customers with their taxes the night before the Internal Revenue Service deadline on Apr. 14, 2010, in Miami Beach.

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Need to Know Taxation Issues for Noncitizens

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on Form 4868 to Oct. 15, 2014, to file the 2013 Form 1040, but, again, that extension is not an extension to pay any tax due for 2013. Such an individual also can request a discretionary extension of an additional two months to Dec. 15, 2014, to file the 2013 Form 1040 by sending the IRS a letter explaining the need for it by Oct. 15, 2014. *Id.* at 34.

The noncitizen tax resident also is required to file Department of the Treasury FinCEN Report 114 (formerly "Form TD F 90-22.1"), Report of Foreign Bank and Financial Accounts (a.k.a. the FBAR) if the individual has an interest in or signatory authority over one or more foreign financial accounts, and the aggregate value of those accounts exceeds $10,000 at any time during the calendar year. The FBAR, though not an income tax return but enforced by the IRS, must be received by the Department of the Treasury on or before June 30 of the following year. *See* 31 CFR §§1010.306(c), 1010.350(a).

The Noncitizen Tax Nonresident

The noncitizen who is tax nonresident generally must file IRS Form 1040NR, U.S. Nonresident Alien Income Tax Return, for 2013 if he or she was engaged in a trade or business in the United States during the year, which normally is the case if the tax nonresident performs any personal services in the United States.

"[T]his 'other' category of noncitizen tax nonresidents is required to file Form 1040NR because while they are not engaged in a U.S. trade or business during the year, their tax liability on U.S.-source income **is not satisfied by U.S. income-tax withholding at the source of payment**."

A tax nonresident is subject to income tax on his or her U.S.-source income only. *See* IRC §871(a)(1) and (2). Such a person who was an employee receiving wages subject to U.S. income-tax withholding during 2013 generally must file the 2013 Form 1040NR and pay any tax due by Apr. 15, 2014. But he or she can request an automatic six-month extension to Oct.15, 2014, to file the 2013 Form 1040NR by filing Form 4868 by Apr. 15, 2014. Additionally, he or she can request a discretionary extension of an additional two months to Dec.15, 2014, by sending the IRS a letter by Oct.15, 2014, explaining the need for said extension.

Any other noncitizen who is tax nonresident and required to file a 2013 Form 1040NR must file the return and pay any tax due by June 16, 2014. According to Publication 519, at 34–35, he or she can request an automatic six-month extension to Dec. 15, 2014, to file his or her 2013 Form 1040NR only by filing Form 4868 by June 16, 2014. Normally, this "other" category of noncitizen tax nonresidents is required to file Form 1040NR because while they are not engaged in a U.S. trade or business during the year, their tax liability on U.S.-source income is not satisfied by U.S. income-tax withholding at the source of payment. *See* Publication 519, at 34.

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RENDERING 1-A U.S. HEADQUARTERS FOR NEW ENTERPRISE INC.

Start-up Companies Still Fight for H-1Bs

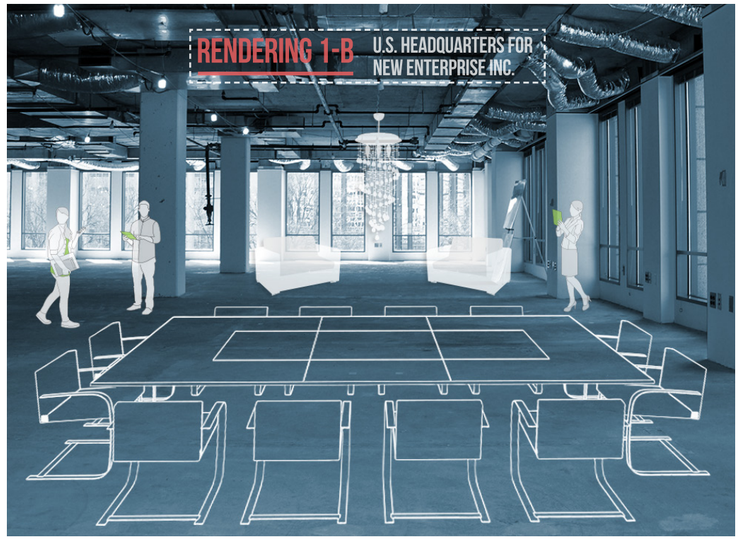
by Ekaterina Powell

In January 2011, President Barack Obama called on both the federal government and the private sector to increase the dominance and success of entrepreneurs across the country. More than two years later, despite the government's efforts, there are still a number of barriers to obtaining H-1B approvals for start-up companies.

U.S. Citizenship and Immigration Services (USCIS) announced more than two years ago its initiative to optimize existing visa options for entrepreneurs and start-up businesses. In a statement released Aug. 2, 2011, USCIS Director Alejandro Mayorkas said, "Current immigration laws support foreign talent who will invest their capital, create new jobs for American workers, and dedicate their exceptional talent to the growth of our nation's economy. USCIS is dedicated to ensuring that the potential of our immigration laws is fully realized, and the initiatives we announce today are an important step forward." Department of Homeland Security Secretary Janet Napolitano aided in outlining DHS's outreach efforts, saying, "The United States must continue to attract the best and brightest from around the world to invest their talents, skills, and ideas to grow our economy and create American jobs."

The USCIS announcement marked the six-month anniversary of the Obama administration's Startup America Initiative. In January 2011, President Barack Obama called on both the federal government and the private sector to increase the dominance and success of entrepreneurs across the country.

More than two years later, despite the government's efforts, there are still a number of barriers to obtaining H-1B approvals for start-up companies. Below are some specific points for immigration practitioners to keep in mind when preparing H-1B petitions for start-ups.



Bona Fide Job Offer

With respect to start-ups, USCIS questions a petition if the petitioner has a truly independent existence apart from the beneficiary, and to ensure that the petitioner will comply with the terms of the H-1B petition. The beneficiary also must have a bona fide job offer from the petitioner; it should not be a mere accommodation for a friend.

If the financial condition of the petitioner calls into question whether the business really intends to employ the beneficiary, USCIS officers will request evidence of the petitioner's financial condition to determine whether there is a bona fide job offer. *Adjudicator's Field Manual* (AFM) ch. 31.3(g)(5).

> **Practice Pointer:** In order to address USCIS's concerns upfront, be prepared to provide documentation, such as tax returns, bank statements from the last several months, or other evidence of initial capitalization of the start-up. Also, have documentation pertaining to the business itself, such as a company profile and website printouts.

Employer Needs and Work Sufficiency

Another point of contention with USCIS in the start-up context is whether the petitioner actually needs the H-1B position. AFM ch. 31.3(g)(4). The agency wants to see that there is enough specialty-occupation work available for the beneficiary throughout the petition's validity period, and wants to be assured that the beneficiary will not perform nonspecialty occupation tasks. With respect to the latter, USCIS is concerned that H-1B employees in a start-up business will occupy positions with duties that do not require someone with a specialized background, *e.g.*, administrative, sales,

clerical, or other routine work, such that the position does not qualify for H-1B status.

> **Practice Pointer:** Explain why the business requires the services of the H-1B employee, and include supporting documentation showing the proposed projects the H-1B employee is expected to handle. It is a good idea to include an organizational chart of the proposed structure of the company listing the positions for which the business is planning to recruit, and documentation showing who will be responsible for nonspecialty occupation functions. Even if the company has no other employees on the payroll, evidence can be presented to show, for example, that independent contractors are used for bookkeeping, advertising, or secretarial services.

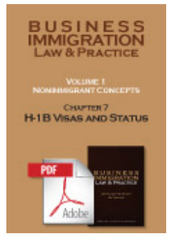
Oftentimes, it makes sense for a start-up company to first sponsor a part-time H-1B position rather than a full-time position because it may be easier to show the need for a part-time position, especially if there are few or no other employees in the business.

Facilities to Accommodate Work

Another question that USCIS often asks is whether the petitioning business has the facilities to accommodate the work of the beneficiary. If the beneficiary is going to work from an office, consider including a lease agreement with a floor plan and photographs of the facilities to show enough production space. If there is no office yet, it is important to explain alternative working arrangements.

Despite USCIS's initiatives to bolster the U.S. economy by encouraging start-up businesses, lots of unpredictability exists in USCIS adjudications. Until new regulations are implemented to address the shortcomings in existing visa options, practitioners should be prepared to supplement H-1B petitions for start-ups with as much documentation as possible.

E-TIPS



H-1B Visas and Status (.PDF)

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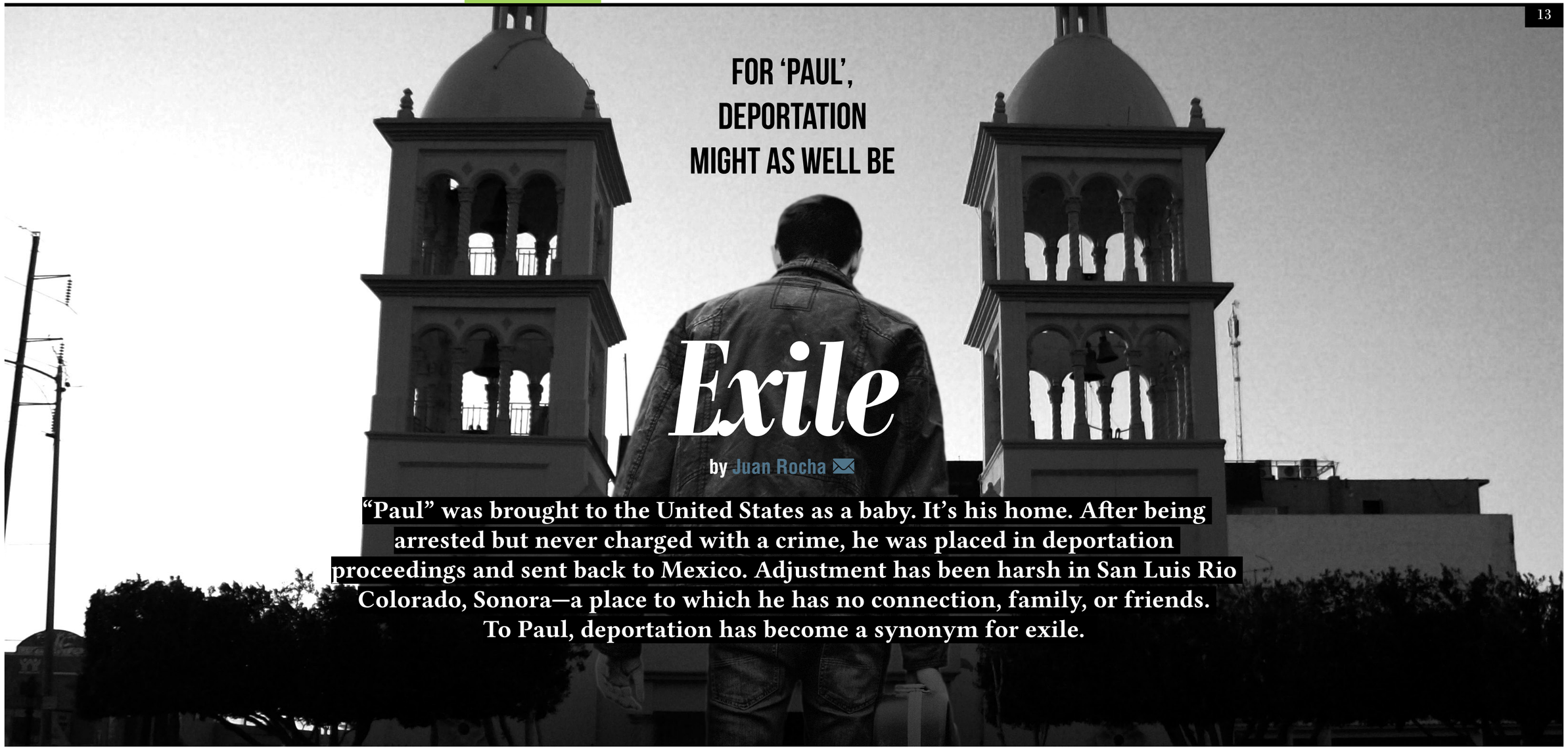

FOR 'PAUL', DEPORTATION MIGHT AS WELL BE

Exile

by Juan Rocha

"Paul" was brought to the United States as a baby. It's his home. After being arrested but never charged with a crime, he was placed in deportation proceedings and sent back to Mexico. Adjustment has been harsh in San Luis Rio Colorado, Sonora—a place to which he has no connection, family, or friends. To Paul, deportation has become a synonym for exile.

DRAMATIZATION: PARROQUIA LA INMACULADA CONCEPCIÓN IN SAN LUIS RIO COLORADO, SONORA. SUBJECT'S NAME HAS BEEN CHANGED TO PROTECT HIS IDENTITY.

AILA InfoNet Doc. No. 14032609. (Posted 3/26/14)

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In Fiscal Year (FY) 2012, U.S. Immigration and Customs Enforcement's (ICE) Office of Enforcement and Removal Operations removed just over 400,000 individuals. According to an ICE news release dated Dec. 21, 2012, approximately 55 percent (or 225,390) of the people removed were convicted of felonies or misdemeanors. This includes 1,215 homicide convictions; 5,557 sexual offense convictions; 40,448 drug-related convictions; and 36,166 DUIs. While each of the 400,000-plus cases involved its own unique circumstances leading up to deportation, many of these people arrived as children and knew only life in the United States, while others assimilated and adopted the United States as their own country. One such deportee who originally entered the United States as a baby (whose name has been changed to protect his identity) is a client of mine. His name is "Paul."

In 2011, Paul was attending a rock concert with his younger brother in Phoenix. During the show, Paul's brother became embroiled in a shouting match with another man, which escalated to a brawl. Rushing to restrain his brother, security guards obstructed Paul before he could reach him. Though his involvement was on the periphery of the mêlée, event security turned Paul over to police, who placed him under arrest, despite never charging him with committing a crime. A few days later, the police transferred custody of Paul to immigration officials, who placed him in deportation proceedings. Paul was indigent, but he had no right to court-appointed counsel to help him investigate his immigration case and prevent his removal from the United States. As a result, he represented himself. Less than six months after the fracas, Paul found himself in Mexico, a country he had left behind when he was just a baby.

"Banishment severs all connections to the harmony of home; indeed, many of this author's current and former clients, who have been deported and later return to the United States, say that they would **rather be incarcerated in the United States than live on foreign soil.**"

A Man Without a Country

For Paul, deportation has become a synonym for exile. Exile is the state or a period of forced absence from one's country or home. Throughout history, people have been banished or exiled to distant lands as a form of punishment. For example, for his political activities, Dante Alighieri was forced into exile by Florentine authorities. Crushed with grief and indignation at his lifetime sentence, Dante's The Divine Comedy reflects on his experiences in exile as wandering through hell. Immigrants who have lived in the United States almost their entire lives endure a similar hardship when they find themselves in a foreign country with no resources and unable to speak the native language. Banishment severs all connections to the harmony of home; indeed, many of this author's current and former clients, who have been deported and later return to the United States, say that they would rather be incarcerated in the United States than live on foreign soil. Their anti-exile sentiments also express their desperation to cling to some semblance of home.

In exile, Paul made efforts to integrate and conform to the local customs and mores, but the only thing he had in common with the foreign country was his Spanish surname. The locals referred to him by the derogatory word *pocho*, an Americanized Mexican who had lost his Mexican identity, mother tongue, and culture. Distraught by his inability to adapt to his new environment, Paul returned to the United States, and, within minutes of planting his feet in this country, he was caught by U.S. Customs and Border Protection agents and charged with illegally entering the United States. At his sentencing hearing, where this author represented him, Paul told the judge that America was "my country." As tears streamed down his cheeks, he pleaded, "I don't speak the language.

I tried to live there, but life is different there. I don't know anyone there." Before deporting him again, the federal judge sentenced him to seven days in jail.

No Right to Counsel

In the landmark case, Gideon v. Wainright, 372 U.S. 335 (1963), the U.S. Supreme Court ruled that indigent defendants have a right to court-appointed counsel in criminal proceedings. But in INS v. Lopez-Mendoza, 468 U.S. 1032 (1984), the Court declined to hold the same for indigent defendants in deportation proceedings because deportation, according to the Supreme Court, is not punishment, but rather as Justice O'Connor put it: "a purely civil action to determine eligibility to remain in this country, not to punish an unlawful entry…." Her reasoning, however, lacks intellectual muscle because there is no functional difference between a civil and a criminal proceeding; each carries a penalty for violating the law. Whereas the penalty for violating a criminal law can vary (*i.e.*, fine, home confinement, probation), there is no such variation for violating immigration laws; there is only one penalty: deportation.

By small degrees, the Supreme Court is beginning to acknowledge that deportation is a penalty. In Padilla v. Kentucky, 559 U.S. 356 (2010), Justice John Paul Stevens carried out a drive-by verbal assault on Supreme Court precedent when he wrote that "deportation is an integral part—indeed, sometimes the most important part—of the penalty that may be imposed on noncitizen defendants," adding that deportation is "intimately related to the criminal process." Because a right to counsel exists as part of the criminal process, so should it be in the deportation process. An attorney can determine which immigration remedies are viable alternatives to deportation.

In Delgadillo v. Carmichael, 332 U.S. 388 (1947), Justice William O. Douglas wrote, "Deportation can be the equivalent of banishment or exile." This author believes that deportation is banishment or exile—and it is potentially life-long punishment. If Paul had been afforded the assistance of court-appointed counsel at his deportation proceedings, then that attorney could have researched potential forms of relief available to avoid deportation. But Paul wasn't afforded such counsel because the Supreme Court considers his deportation hearing a civil matter. Indeed, not assigning counsel to indigent defendants in deportation proceedings reveals to the world America without her makeup.

JUAN ROCHA is an attorney in Phoenix and a former assistant federal public defender for the District of Arizona, representing indigent defendants in the district court and the U.S. Court of Appeals for the Ninth Circuit. The author's views do not necessarily represent the views of AILA nor do they constitute legal advice or representation.

SEMINAR

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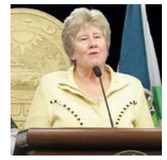

Miami-Dade's Detainer Policy

A Match Made in London

by Sheeba Raj

Dinesh Verma and Sonal Mehta Verma lived about 50 miles apart in Washington, D.C., and Baltimore, respectively, but it took a summer law program across the pond to bring them together in 1996.

"A few days after we met, a bunch of us were headed out for a tour of London, and Dinesh and I got separated from [them]," Sonal explained. "Since he knew the city inside and out [from a one-year stint as an undergraduate student], Dinesh took me to all the places that he went when he was living there." Within a few days, they started dating; four years later, the couple married in Baltimore.

Their relationship not only produced two children, but a law practice, Nankin & Verma PLLC. Dinesh and Sonal created the firm with Kenneth Nankin in October 2000.

"We practiced together for nine years in our own firm," Dinesh said, regarding their partnership with Nankin. "I started out doing mainly business litigation and corporate law, focusing on those areas. Sonal's focus was always on immigration because she had worked for Maggio & Kattar while she was in law school as a law clerk."

Sonal explained that despite sharing the same office suite and commute, she and Dinesh managed to get along well with each other "because, at that time, we weren't really overlapping in what our work was, [so] we still had a lot to talk about." And whatever they talked about, they learned to express themselves openly to improve business and family decisions.

Sonal, however, left the family business in July 2009 to join Duane Morris LLP. After working at Duane Morris for two years, Sonal joined Fragomen in 2011 and has worked there since. Dinesh remains with Nankin & Verma.

Dinesh and Sonal celebrated their wedding at the Greater Baltimore Hindu-Jain Temple, November 2000.

Dinesh and Sonal encourage couples to work together, but also to guard and cherish their personal time. "I think it has the tendency to actually bring you closer together," Sonal said. "You can share the challenges and you can also share the joys more acutely."

SHEEBA RAJ is the staff legal editor and reporter for VOICE.

Making a Difference: Walking the Halls of Congress with AILA

by Neil S. Dornbaum

Having attended National Day of Action (NDA) for the last decade, last year had a different feel. Whether it was the blooming of the cherry blossoms—which signifies renewal—or the 400-plus AILA members volunteering their time and energy, the morning breakfast briefing was abuzz.

The New Jersey delegation was double the number of past years. This allowed the group to divide evenly to cover all of our congressional districts, which was seen as critical, given the split of six Republican and six Democratic congressional districts. We had arranged for our entire delegation to attend an afternoon briefing with our senators, one of whom was Sen. Robert Menendez, a member of the "Gang of Eight" responsible for drafting S. 744: Border Security, Economic Opportunity, and Immigration Modernization Act).

Our contingent included a DACA recipient who was enrolled in a master's program at American University. She

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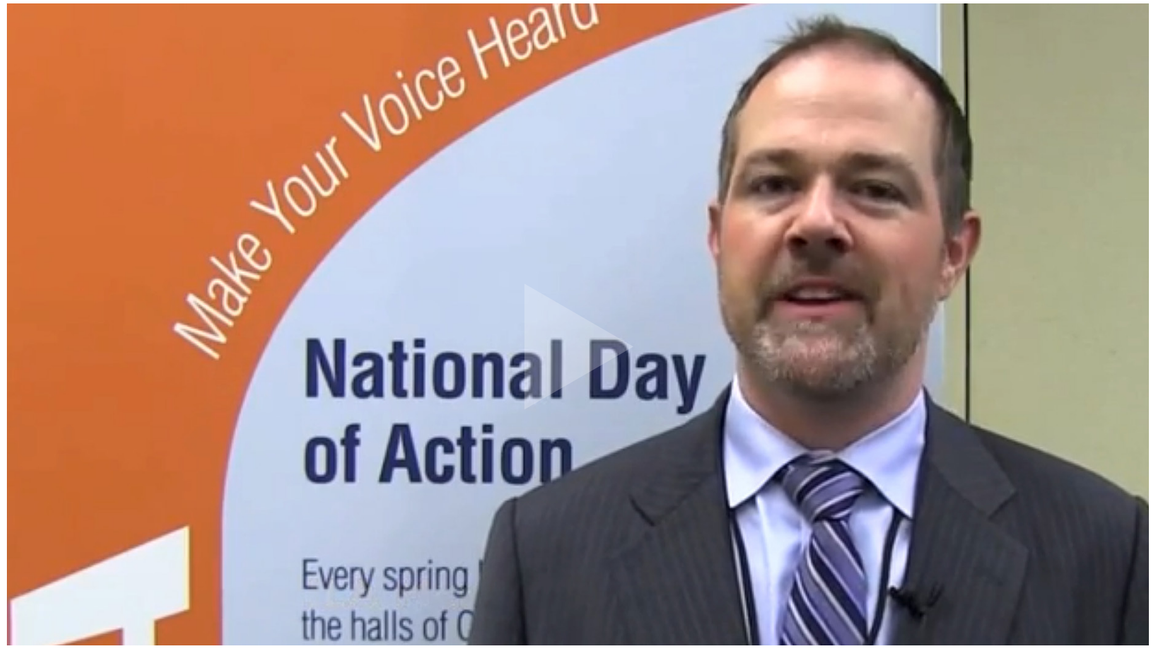

immigration quicktake
an AILA news production

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WHY PARTICIPATE IN NDA?

Listen to some of the reasons why nearly 400 AILA members participated in last year's National Day of Action. Don't miss out in 2014: Stand with AILA to fight for immigration solutions! Join hundreds of AILA members from around the country for our 2014 National Day of Action. Registration is free!

became out of status in the United States after the Department of State (DOS) revoked her U.S. passport, which was issued to her mistakenly, despite the fact she was born in the United States to Haitian diplomats. Her unusual story highlighted the complexity of the U.S. immigration system and the need for reform for her fellow students and others caught in a maze of laws that fail to protect the future generations who will contribute significantly to this country.

NDA was not without its normal frustrations, however. It sharpened the lens through which we view how laws are enacted and reminded us how broad messaging obscures the important details. Also, while many of us live and breathe immigration law, many, including our legislators, have only a general sense of the intricacies of the system and the laws to which they may make sweeping changes. One congressman with whom we met had no concept of the distinction between legal permanent residence and citizenship, as well as the benefits conferred by each status. This indicated that the messaging around a pathway to citizenship as opposed to a pathway to legal permanent residence might not have been effective.

On the other hand, it was beneficial to be able to dispel another myth, which was raised in a meeting with another congressman. He told our delegation that he had recently met a businessman from Silicon Valley and was advised that employers were undercutting U.S. wages and working conditions because they could hire two H-1B workers for the price of one American. He failed to understand the role of the Department of Labor in the H-1B process and the labor condition attestations, and the requirements to pay prevailing and actual wages, which in many instances is not only at, but above, the rate of pay that many companies would be offering to a U.S. worker. He also was unaware of the Fraud Detection and National Security program, which spot-checks H-1B employers for compliance.

NDA is quite a special experience. It is truly a must for all AILA members because no matter how many times one has walked the halls and visited congressional offices, the novelty and sense of purpose never wears off. Also, the inspiring stories of immigrants thriving in and contributing to the United States reinforces our commitment to comprehensive immigration reform.

NEIL S. DORNBAUM is a member of Dornbaum & Peregoy, LLC. Newark, NJ. His practice is limited to immigration and nationality law, with special emphasis on corporate and employment-based immigration matters.

Falling Back Instead of Springing Forward?

by Danielle Polen

While the clock in your smart phone may have recently jumped forward an hour in observance of daylight saving time, your body's internal rhythms didn't necessarily adjust along with the time change. Recent studies suggest that this annual "reset," practiced by an estimated quarter of the human population, may have some unintended effects on human physiology. One study found that "springing forward" into daylight saving time appears to compromise the process of sleep by decreasing both sleep duration and sleep efficiency.

Time tinkering aside, many of us are out of synch with our natural circadian rhythms simply as a result of our fast-paced lifestyles and increased engagement with social media and technology. If you find yourself "checking in," "liking," "following," and "tweeting," even after climbing into bed, you're not alone.

Yoga can be a wonderful practice for bringing balance to our body, mind, and spirit. However, if we approach our yoga practice as simply another way to "get ripped," "sweat 'til we drop," or "get our workout on" (all descriptions posted by Facebook "friends" within the last 72 hours of penning this article), we might be overlooking much of what the practice has to offer.

Judith Hanson Lasater, a physical therapist and yoga teacher since 1971, sees restorative yoga as a way to "fill a … gap in the national psyche—an inability to rest." Americans, she says, mistake resting for vegging out in front of the TV: "That's not restful; that's dull." Restorative yoga, which emphasizes supported poses, allows the body to enter a deeply restful state. "When you stop agitating it, the body starts to repair itself," Lasater says. Her book, Relax and Renew: Restful Yoga for Stressful Times, is considered to be one of the top resources on the practice.

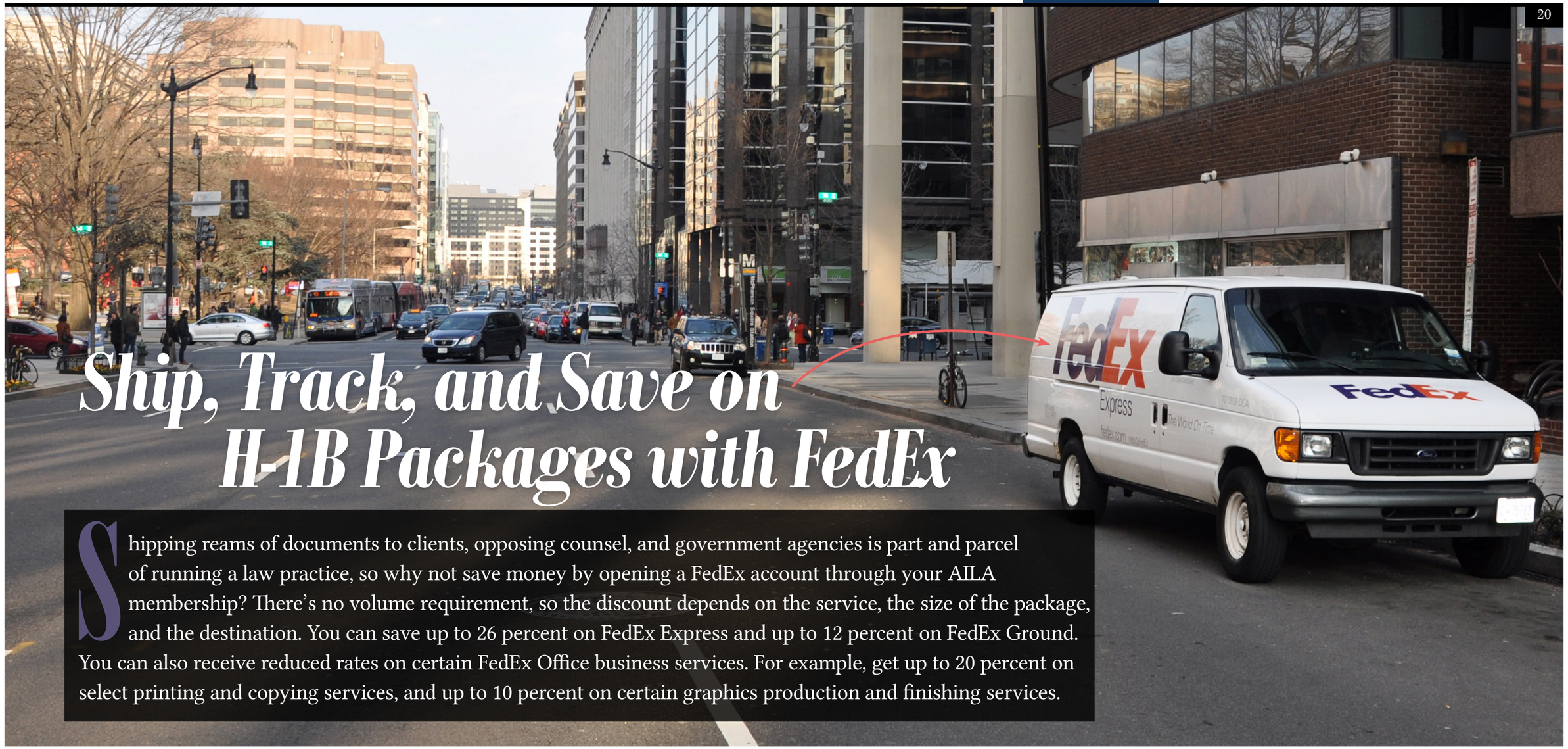
If the recent leap forward into spring still has you feeling groggy, why not power down your digital devices, pass on the caffeine, and try out a few of these restorative poses. And if, like many of us, you feel you're too busy to slow down, remember that taking time to just "stop and be" could actually make you more productive at the end of the day. That's something you probably can't say about checking your Facebook feed before bed.

DANIELLE POLEN is AILA's associate director of publications. She practices and teaches yoga in Washington, D.C., and leads workshops and retreats throughout the United States, Puerto Rico, and Mexico.

WHAT'S HAPPENING!

Washington, D.C. Chapter member **DONUSIA LIPINSKI**, the founder of Blue Ridge Immigration Law Center in Warrenton, VA, penned an editorial in The Fauquier Times about the staggering "cost of doing nothing" to revamp U.S. immigration laws.

Philadelphia Chapter member **ELISE A. FIALKOWSKI**, a partner at Klasko, Rulon, Stock & Seltzer, LLP, chaired a panel presentation entitled "Guess Who is Coming to Campus—Government Site Visits, Audits and Inspections" at the NAFSA Region VIII conference in Pittsburgh on Nov. 14, 2013.



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Shipping reams of documents to clients, opposing counsel, and government agencies is part and parcel of running a law practice, so why not save money by opening a FedEx account through your AILA membership? There's no volume requirement, so the discount depends on the service, the size of the package, and the destination. You can save up to 26 percent on FedEx Express and up to 12 percent on FedEx Ground. You can also receive reduced rates on certain FedEx Office business services. For example, get up to 20 percent on select printing and copying services, and up to 10 percent on certain graphics production and finishing services.

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Testimony

from Bernie Wolfsdorf, AILA Past President

"I know many AILA members are not fully using their affinity benefits ... negotiated on behalf of AILA, because I was one. [M]ake a New Year's resolution (even if late)—don't waste money. We have received huge benefits from using AILA's affinity member benefits, such as our massive savings with FedEx. I encourage you all to use this program because the savings are enormous."

◁◀ *previous*

THE AILA INFONET MESSAGE CENTER

by Diane R. Chappell-Daly

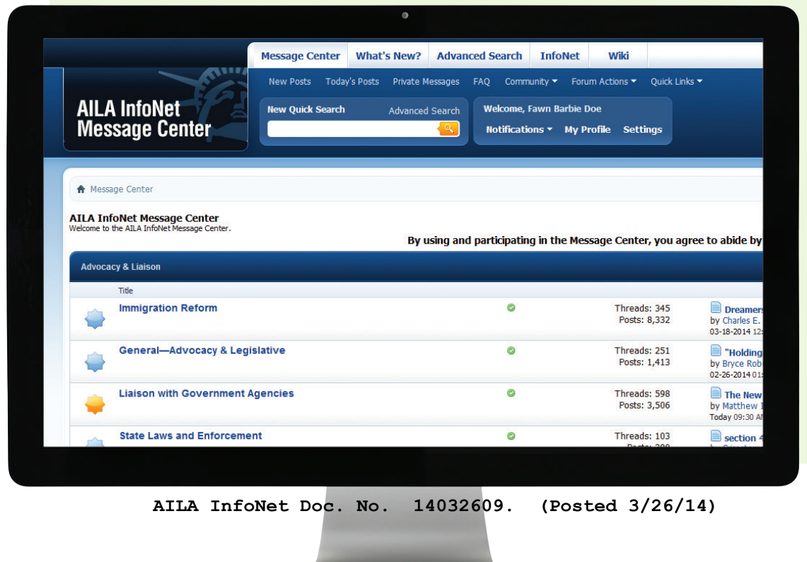
The Message Center provides AILA members with invaluable wisdom offered by experienced immigration lawyers nationwide. The variety of anecdotes and opinions helps practitioners obtain a bird's eye view of how the law is applied in districts around the country, allowing them to advise clients more confidently about their options. In addition, it has fostered a culture of collegiality that has advanced our profession.

For those new to AILA, bear in mind the following tips as you post queries and sift through the discussion threads:

1. Read Posting Tips & Etiquette and Message Center Rules under the AILA InfoNet Message Center FAQ.
2. Research your topic before posting a question on the Message Center. The resources on InfoNet, as well as the previous discussion threads on the Message Center, may already provide answers.
3. Distill your question into its essential legal elements. While facts are important, it is unlikely that your colleagues will wade through a detailed narrative to get to your question. If possible, state your question in two to three sentences.
4. If you do not receive a response to your posting, try again in a different forum, or go through AILA's Mentor Program.
5. Share the outcome of your case, so that we may all benefit from your experience.

Use the Message Center as a learning tool, even when you don't have a dilemma. Get updates on hot topics by browsing the recent postings and discussion threads.

Log-on to the Message Center, read the new terms of use, and use it regularly; see how the insight shared by your colleagues can be a boon to your own practice!



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