

Hogan and Vandenberg LLC

Immigration News

By **W. John Yahya Vandenberg, Esq.**

Happy 2010! We hope this newsletter finds you and your families healthy and prosperous. The coming New Year looks to be full of challenge and hope.



For employers, the year appears to hold opportunities to hire more qualified immigrant workers, yet doing so will come at a price: more attention to detail and documentation will be necessary. In 2009, H-1B professional worker visas were available until Mid-December, as predicted in our previous newsletter. We expect the same next year, and applications for Fiscal Year 2011 can be submitted as early as April 1, 2010. The challenge is that, due to the recession, the U.S. Citizenship & Immigration Service ("USCIS") is scrutinizing applications for new workers and investors.

Employers themselves are also coming under scrutiny. On November 14, 2009, Immigration and Customs Enforcement ("ICE") announced the issuance of 1,000 Notices of Inspection to employers across the country, essentially auditing their employment records to ensure both documentation and wage compliance. While employers can and should benefit from skilled and motivated immigrant workers, in 2010 it will be more important than ever to ensure that all documentation complies with the law.

Immigrants who may be out of status or undocumented hope for a new

law and are waiting to see how such a law would be applied to them. Since the Obama administration is poised to finish health care reform, the next legislative task at hand will likely be immigration reform. A comprehensive bill has already been introduced in Congress and we have great hope that reform will be completed soon.

On the ground, we are also seeing small yet significant changes in detention policies. ICE has announced that it will now generally release asylum seekers if they have a credible fear of return. And it appears that ICE, at least in Philadelphia and Delaware, is also relaxing its detention standards. This month several Hogan & Vandenberg clients were offered a bond instead of immediate detention, allowing the immigrants to return to their families the same day they were detained.

We are extremely pleased to share some of our successes in 2009 that not only provided relief and brighter futures for our clients but also received extensive media coverage. Gisell Torres and the Fathi family are both clients of ours who were threatened with deportation this year. We successfully, with the help of NJ Senator Menendez and Philadelphia Inquirer Reporters Monica Yant Kinney & Michael Matza, won them both a reprieve.

Finally, one of our own hopes has been realized. We are very pleased to announce the opening of a new office in Allentown. H&V is now the only immigration-focused firm in Allentown. If you live in or near the Lehigh Valley, come visit us! This month, there will be no initial consultation fee and we are accepting walk-in appointments on Wednesdays.

Dedicated to serving the immigrant community

Hogan & Vandenberg LLC is a medium-sized immigration firm with three locations, one serving Philadelphia in Bala Cynwyd, PA, one in Wilmington, DE and a new office in Allentown, PA. The firm consists of four attorneys and a team of paralegals and is led by two partners, John Yahya Vandenberg (Philadelphia & Allentown) and Rick Hogan (Wilmington). Our legal team has helped thousands of individuals, institutions and businesses strategize, address and resolve issues regarding immigration as well as other areas of law, including commercial, criminal, discrimination, and landlord-tenant. The consultation fees are reasonable and will be credited to the client if the firm is hired. The firm's diverse and highly qualified legal team is dedicated to serving our clients and earning their trust.

We speak: Spanish, Urdu, Arabic, Farsi, Creole, French, Bosnian/Serbian/Croatian

NEW OFFICE IN ALLENTOWN

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For the entire month of January at the new Allentown office, there will be no consultation fees charged to the client and no appointments will be necessary on "Walk-In Wednesdays" between 9am and 6pm.

How to Help the Haitian Community

All Haitian nationals who have resided in the United States since the date of the tragic earthquake, January 12, 2010, will soon be eligible for Temporary Protected Status ("TPS").

- ◆ TPS allows for eligible Haitian nationals in the United States to continue living and working in this country for the next 18 months;
- ◆ Haitians in the U.S. will now receive favorable consideration for extensions of stay, student work cards, and expedited petitions for parents, spouses and children still in Haiti.
- ◆ The registration process will last for 180 days and will begin approximately the week of January 25, 2010.

If you or anyone you know is eligible for TPS, please contact the office to begin the application process as soon as possible.

To make a humanitarian donation to Haiti, please visit :

doctorswithoutborders.org/donate

NOU PALE KREYOL

Dealing with Our "Illegal" Immigrant Problem



**By Umar
Abdur-Rahman,
Esq.**

A few times a month, we try to meet with different immigrant communities in the Delaware Valley to learn first hand about their problems. It is hard to forget the day we went to the African business district on Baltimore Avenue and entered a quiet little mini-market. A middle aged woman from West Africa was the store's namesake and owner.

After greeting us and telling us about her business, this affable woman changed to a more serious tone and gave an impassioned speech. She told us how many of her customers were in a state of despair, thinking they may never be more than "untouchables" in this country,

subject to arrest and possible deportation for the slightest encounter with law enforcement. She implored us to reach out to lawmakers and encourage them to find a way for these people to get legal status instead of watching them live in a state of perpetual fear. We were deeply touched by her eloquent case for immigration reform.

Opponents of immigration reform ignore our country's historical discrimination against the migration of certain races. These naysayers also fail to see the circumstances of immigrants without status that caused them to seek refuge in this country. Before we cast stones at those who have come here illegally, we must understand the conditions that they faced in their home countries. It is important to understand the background of people instead of creating subjective categories that simply denigrate the human spirit. It is much easier to deport and tear up a family of "aliens" and "illegals" than it is to do such an act to your fellow "human."

At the end of the day, regardless of how people have come to this country, there are anywhere between 12-20 million people in this country with no status. Many of the people that are placed in this category have been here since they were infants. Many are at the top of their class but are unable to attend the best colleges in this country because of their status. Many are scared to go to hospitals or report crimes committed against them due to fear of being removed from this country. No person with a sense of justice should tolerate such inequality.

While no sensible person can advocate open borders, we must find an equitable solution for people living in our midst without lawful status. Preventing decent people from becoming full fledged members of society serves no one's interest. There are certainly divergent opinions on immigration reform but little controversy would exist if we thought and reflected on our shared humanity.

The Basics of Federal Employment Discrimination Law

By Antonio J. Gil, Esq.

Most employees in the United States are protected by Title VII of the Civil Rights Act of 1964 and the Age Discrimination in Employment Act of 1967 (ADEA). Title VII prohibits employers from discriminating against current or prospective employees on the basis of race, color, sex, national origin or religion. The ADEA prohibits employers from discriminating against prospective or current employees who are over 40 years of age.

In order to successfully initiate a case of discrimination under Title VII or ADEA, an employee must show the following: a) that they are a member of one of the protected classes, b) that they suffered an



adverse employment action (or were not hired for employment), and c) the adverse action was based on their membership in the protected class. Alternatively, an employee may demonstrate that the employer uses hiring or performance tests that adversely affect people in that employee's protected class, and that there are alternative tests that would not create the same result.

In most cases, the most difficult part of the employee/plaintiff's case will come in proving the motive of the employer. It is not enough to simply claim that the employer treated the employee differently. The employee must show that they were treated differently because of their membership in the protected class. Most employers today are savvy enough to avoid voicing their prejudices, so the employee must find other evidence. Often, that evidence comes from the employee showing that the employer's actions can not be ex-

plained by any reason other than discrimination.

In order for employees to protect their rights under Title VII and the ADEA, they must initiate their suit in a timely fashion. In most other types of legal cases, plaintiffs often have two years or longer to file suit; in employment discrimination suits, the time frame is much smaller. Sometimes, the time frame for completing the initial steps in an employee's case must happen within 180 days from the date of discrimination. This means that quick recognition and prompt action are necessary.

If an employee believes they have been the victim of discrimination based on their membership in one of the protected classes, they need to act promptly. Although employment discrimination cases are often large and complex, the cost of an employee waiving their rights through inaction is significantly greater.

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