



B E A C H - O S W A L D
Immigration Law Associates, PC

Beach-Oswald Immigration Law Associates Newsletter

Issue 31

Washington, DC
January, 2010

Beach-Oswald is a full-service law firm, concentrating on immigration law. We have special expertise in work visas, family based visas, visa waivers, green cards through family and employment and asylum. We have staff members who speak many different languages to assist you. Our firm is A-V rated, and we have 27 years of experience.

We succeed when others don't!

In This Issue ...

NEW IMMIGRATION BILL CIR ASAP

H-1B STATUTORY CAP

BOILA WINS ASYLUM FOR FORCED MARRIAGE CASE

WIDOW PENALTY ELIMINATED AND HUMANITARIAN REINSTATEMENT

ZERO TOLERANCE POLICY

TERRA COTTA WARRIORS FROM 200 B.C. - NOW IN WASHINGTON D.C.

NEW HIV LAW

NEW IMMIGRANT JUDGE COMING TO ARLINGTON

NEW EOIR OFFICE

WILD CATS

PREVAILING WAGE CHANGES FOR JANUARY 1, 2010

Quick Links

[Our Website](#)

[Attorney Consultation](#)

[Immigration Services](#)



January 2010



New Immigration Bill CIR ASAP



The Comprehensive Immigration Reform ASAP Act of 2009 was introduced to the House of Representatives on December 15, 2009 by Congressman Gutierrez. This bill is meant to ease the immigration process for aliens by doing the following:

- Illegal aliens will have to prove that they are employed, fluent in English, and will have to undergo a criminal background check and pay a fine of \$500.00 USD before they will be able to apply for a 6-year visa. Aliens will be able to apply for permanent residence at the time their 6-year visas will expire.
- Preference systems for employment and family-based immigrants will be improved. The process will also be handled in a speedier manner.

President Obama wants Congress to pass a bipartisan bill sometime in 2010. The bill is intended to incorporate the following principles:

- Illegal immigration must be stopped.
- Border security needs to be enhanced through technology and an increased number of border patrol agents.
- Illegal immigration must be reduced, but immigrant families should still be able to remain together and not be separated due to immigration status.
- Talented individuals from all over the world must be encouraged to come to work in the US to create companies that will create thousands of jobs for Americans.
- A new system is to incorporate unskilled illegal aliens into our economy.

Join Our Mailing List!



New HIV Law Removes Inadmissibility

As of January 4, 2010, Human Immunodeficiency Virus (HIV) will no longer make an alien inadmissible under INA 212(a)(1)(A)(i). A motion to reopen or reconsider for cases prior to this date can be filed within 30 days if USCIS denied the case based solely on HIV infection on or after July 2, 2009.

This means, that, as of 2010, HIV infection will no longer be defined as a communicable disease of public health significance, according to HHS regulations.

H-1B Statutory Cap

On December 21, 2009, USCIS reached the maximum statutory cap limit of H-1B petitions that will be processed for the fiscal year 2010. All H-1B applications that were submitted after that date will be subject to a random selection for processing.

However, H-1B petitions that are exempt from the statutory cap, such as change of employment, extension of status, concurrent employment, etc., can be submitted at any time.



New Immigration Judge Coming To Arlington, VA

Judge Laurence Burman will be replacing Honorable Immigratino Judge O'Leary, who is now the Chief Judge of the BIA, in the Arlington Immigration Court in February, 2010. Judge Roxanne Hladylowycz, who was a substitute judge for Judge O'Leary, will be leaving the Arlington Court upon Judge Burman's arrival.

BOILA Wins Asylum For Forced Marriage Case



In 2006, the Court of Appeals recognized forced marriage as a social group basis for asylum for the first time in *Gao v. Gonzales*. Now the 8th Circuit has found eligibility for asylum on this basis in

Ngengwe v. Mukasey. Thereby, asylum has been granted in totem by the BIA. Gender based asylum lacks "bright line" rules and creates complexities for asylum adjudicators.

On December 1, 2009, the BIA determined that the respondent was a member of a cognizable social group of "Cameroonian widows." It also found substantial evidence that the authorities did not protect the Respondent from her in-laws. Furthermore, the BIA found that the harm suffered cumulatively arose to the level of past persecution. Harm nexus was established on account of the particular social group.

Ngengwe v. Mukasey is just one of the many forced marriage cases that we've won at BOILA PC. If you have a friend that is in a forced marriage, you can rest assured that they will be in good hands at BOILA, with our experienced lawyers working on their cases.



NEW EOIR OFFICE

EOIR is opening a new office in the Immigration Court in Saipan, Northern Mariana Island. The court began conducting hearings there on November 30, 2009.

Widow Penalty Eliminated And Humanitarian Reinstatement

On October 28, 2009, new changes were made to the requirements for the self-petition of a widow so that the couple no longer had to be married for 2 years before the citizen died. Now the widower provision under 204(a)(1)(A) requires that the petition be filed within two years of citizen spouse's death, and that the petitioner remain married.



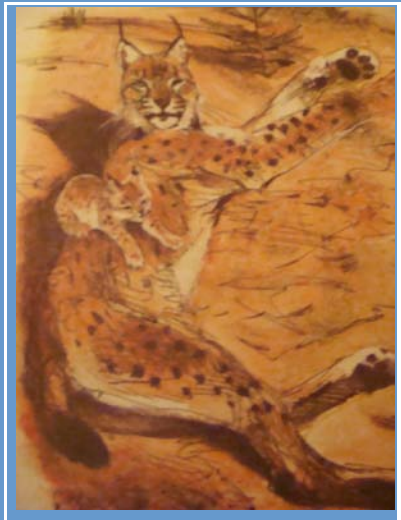
Secondly, if already pending, an I-130 filed on behalf of alien spouse will automatically convert to I-360 petition upon the petitioner's death.

The widower's children who are under 21 at time the petition was filed can be included in the petition and can preserve their "child status" after turning 21 (CSPA). They will be considered as derivative immediate relatives.

If residing abroad, the widow should file an I-360 with the nearest consulate or USCIS office overseas.

If deceased spouse is a lawful permanent resident and not a citizen, then this "widow" self petition provision does not apply. However if an I-130 had been filed and approved prior to the death of the petitioner, and if the beneficiary can obtain a substitute sponsor, then he could move to reinstate the I-130 petition (previously automatically revoked on petitioner's death) based on humanitarian grounds, according to 8CFR§205.1(a)(3)(i)(c)(2). An Affidavit of Support may substitute a USC or LPR domiciled in the US.

Beneficiaries outside of the US would need to reinstate revoked petitions only if the petitioner died after the petition had been approved. The exception would be if DHS determines approval as "not in the public interest". Also, the stationary amendment does not waive or excuse grounds of inadmissibility or removability at this time, such as pending I-601 waivers.



WILD CATS - National
Geographic Statistics

Did you know that the estimated population of wild cats has gone down from 450,000 to 20,000 in only 50 years? According to the National Geographic, wild cats currently have low populations: Cheetahs - 7,500; Snow Leopards - 6,000; Tigers - 4,000. Exotic restaurants sell their meat, wealthy collectors display their heads, and in some parts of China bones are used for tiger wine.

PREVAILING WAGE CHANGES FOR JANUARY 1, 2010

Prevailing Wages for PERM applications and non-immigrant petitions must now be sent to the National Prevailing Wage and Helpdesk Center (NPWHC) in Washington, DC. The Department of Labor has announced that electronic submission of prevailing wage requests will be available on DOL's iCert online portal beginning January 20, 2010.

Zero Tolerance Policy



The TVPA Trafficking Victims Protection Act was passed in 2000. In 2003, the law was updated to the TVPRA - Trafficking Victims Protection Reauthorization Act. Now, it has been modified again and called the FARCIP - Federal Acquisitions Regulation on Combating Trafficking in Persons.

The FARCIP created a zero tolerance policy to punish contractors and subordinators, and their employees who engage in severe forms of trafficking in persons. The persons being trafficked are those who have engaged in commercial sex acts or are being forced into such labor. Employers must protect themselves with vigilant supervision and monitoring of employees.

Terra Cotta Warriors From 200 B.C. - Now In Washington, DC



*BOILA employees
enjoying cultural
moment.*

Recently, our law firm members enjoyed the National Geographic exhibit of magnificently life-sized warriors and artifacts from the Bronze Age of China.

China's first Emperor Qin Shi Huang conquered six warring states, built a vast network of roads, and established the common use of measurements and coins. He worked to develop the Great Wall of China, which stretches over 2400 kilometers and also built over 250 palaces.

The first Emperor sought immortality by creating an army of life sized painted terra cotta soldiers, chariots, and horses of 7,000, most of which is still being unearthed.

The mercury pills he took to achieve immortality, when he was approximately 50 years old, resulted in his death. His predicted dynasty of 10,000 years fell around 30 years after his death. Yet this wonder of the world, buried for over 2,000 years, has ironically given him the immortality he sought.

The information contained on this email is for informational purposes only and does not constitute legal advice. The transmission of information to or from this email does not create an attorney-client relationship between the sender and receiver. We take our privacy policy seriously and will never sell, rent or share our email list. View our [Privacy Policy here](#). To schedule a consultation with one of our immigration lawyers, please [click here](#).