

IMMIGRATION INSIDER

Fall 2017



Kate McCarroll, Member

Kate has extensive experience in employment-related immigration law, including inbound/outbound immigration, Department of Labor/ Department of Homeland Security audits and I-9 compliance training. Kate has also handled matters involving criminal and inadmissibility issues, family-based immigration, and asylum proceedings. [Email Kate.](#)

Expansion of In-Person Interviews for Adjustment of Status Applications

U.S. Citizenship and Immigration Service recently announced that it will expand the requirement of an in-person interview for additional categories of adjustment of status applicants (I-485 / green card). Previously, interviews were conducted for all adjustment of status applications based on marriage, but for other types of green card processes, only on a case-by-case basis. Effective October 1, USCIS will phase in the in-person interview requirement for I-485 applications based on employment. USCIS explained that the purpose of this expansion is to give the agency an opportunity to assess the applicant's credibility and eligibility for green card approval. Given the already extended processing times for employment-based adjustment of status applications, and the additional resources needed to hire and train officers to conduct these interviews, it is foreseeable that this additional step will only further delay the green card process.

Attorney Representation at the U.S. – Canada Border

While there has never been a right to attorney representation at a U.S. Port of Entry, U.S. Customs and Border Protection (CBP) has historically extended this privilege to members of the bar. We have



**Miroslava Orduño
Rincón, Member**

Miroslava has extensive employment-related experience concerning U.S. non-immigrant and immigrant petitions for large international clients. She also processes outbound visitor and work visas, family-based petitions, and naturalization. [Email Miroslava.](#)



**Robert Anderson,
Of Counsel**

Robert counsels and represents clients in the full spectrum of immigration legal issues as applied to their workforces and staff, including all aspects of the international movement of personnel for local, national, and international companies. [Email Robert.](#)

unfortunately received notification that effective October 1st, 2017 a nationwide policy will be in effect enforcing existing regulations found at 8 C.F.R. §292.5, which indicate that an “applicant for admission in either primary or secondary inspection” does not possess “the right to representation, unless the applicant for admission has become the focus of a criminal investigation and has been taken into custody.” Thus, effective this date, attorneys can no longer accompany clients at CBP secondary inspection, which is where Canadian citizens apply for L-1 intracompany transferee as well as TN status under NAFTA. In response to this change, Kerr Russell will expand its standard written and verbal processing instructions to detail what an individual can expect at the time of application. Employers should expect an increase in the amount of supporting documentation requested by Kerr Russell for inclusion on these petitions in order to fill the attorney presence void as well as observed processing trends given new CBP personnel at our ports of entry.

Denial of Advanced Parole Due to International Travel

We have received reports that USCIS is now denying Advance Parole applications if an applicant has traveled internationally after submission of the application, but before its approval. Advance Parole is permission given for an adjustment of status applicant to travel while his/her green card process is pending. Many green card applicants maintain their non-immigrant status which allows them to travel (H-1B, L-1), and additionally apply for Advance Parole as a back-up measure. USCIS has clarified that its policy is to deny Advance Parole if the applicant departed while the application is pending, even if he/she traveled with valid non-immigrant status. Therefore, it is critical that adjustment of status applicants either remain in the United States until their Advance Parole application is approved, or maintain non-immigrant visas to allow them to return from international travel.

President Trump Rescinds Deferred Action for Childhood Arrivals (DACA)

On September 5, Attorney General Sessions announced that the Administration was ending the DACA program. Established in 2012 by President Obama, DACA allowed certain undocumented immigrants who were brought to the United States as children to remain in the U.S. and obtain employment authorization. DACA was announced by President Obama after Congress for years failed to pass a legislative measure to address the issue.

The Administration's plan ends grants of DACA benefits as of March 5, 2018, with the purpose of providing Congress a six-month period to act to permanently address the issue of these childhood arrivals, many of whom entered the U.S. with their parents as infants or young children. It is important to note that this announcement does not automatically end DACA for anyone, and employees who hold DACA status should be permitted to continue working until the expiration of their employment authorization. The specific provisions of the rescission plan include:

- Anyone with a pending DACA application or renewal will be approved for a two-year, non-renewable period.
- Individuals who currently have DACA which expires between September 5, 2017 and March 5, 2018 can apply for one, final extension, as long as the application is submitted before October 5, 2017.
- Those who currently have DACA that does not expire until after March 5, 2018 cannot renew.

Given the severity of the consequences to these approximately 800,000 DACA beneficiaries, most of whom know no other country but the United States, we are hopeful that Congress will act swiftly to pass

legislation to provide permanent immigration status to these young people.



500 Woodward Avenue • Suite 2500
Detroit, Michigan 48226
(313) 961-0200
kerr-russell.com

Learn more about Kerr Russell

Required Disclaimer Under IRS Circular 230: Internal Revenue Service regulations require us to notify the recipient that any U.S. federal tax advice provided in this communication is not intended to be used, and it cannot be used, by the recipient or any other taxpayer for the purpose of avoiding tax penalties that may be imposed upon the recipient or any other taxpayer, or in promoting, marketing or recommending to another party, a partnership or other entity, investment plan, arrangement or other transaction addressed herein. The information contained in this publication has been prepared by Kerr, Russell and Weber, PLC for informational purposes only. It is not legal advice, is not intended to be legal advice, nor does it create an attorney-client relationship with Kerr, Russell and Weber, PLC. You should consult an attorney for advice regarding your individual situation. We invite you to contact us, and we welcome your calls, letters and electronic mail.

Copyright © 2017. All Rights Reserved.