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**Business NIV Solutions - Practical Timing
Considerations to Maintain/ Extend Status and
Consular Processing**

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This presentation will discuss strategic timing of processing issues related to premium processing; dependent EAD extensions; the process to develop strategies for successful consular outcomes; and how to manage client expectations.

Previously as part of this presentation we also had intended to discuss National Interest Exceptions and related travel restrictions. On September 20, 2021, the White House announced that it plans to ease travel restrictions on all international travelers coming into the United States beginning in early November 2021. The White House will rescind the current geographic COVID-19 related travel bans implemented for individuals from China, Iran, the Schengen Area, U.K., Ireland, Brazil, South Africa, and India and will instead move forward with solutions to deter the spread of COVID-19 based on individuals, rather than restrictions placed on entire countries or regions. This marks a reversal from the travel bans previously imposed under the Trump and Biden Administrations. To date, the Biden administration has not released any guidance concerning this policy change.¹ It is very important to monitor the status of this issue as the situation continues to evolve, and the changes will impact client's ability to travel to the U.S.

The following provides an overview of four key considerations to develop business nonimmigrant visa solutions with a focus on practical timing considerations to maintain/ extend nonimmigrant status and consular processing as well as resources to guide and develop nonimmigrant visa solution.

I. TOPICS COVERED

1. Employment authorization document (EAD) extensions and Expedite Requests.
2. Premium Processing
3. Practical considerations to develop a strategy and process to achieve successful consular outcomes.
4. How do you manage client expectations?
5. Legal research
6. Useful websites for law firm newsletters

II. EAD AND EXPEDITE REQUESTS

The law provides for three categories of people who are eligible for employment authorization. Those include persons authorized for employment incident to status; persons authorized to work for a specific employer incident to lawful immigration status; and persons who must apply to USCIS for permission to work. Most people who are authorized for employment incident to status, with some exceptions, must file for an Employment Authorization Document (EAD). 8 CFR §274a.12 (a). The

¹ See AILA Practice Alert: Biden Administration Plans to Rescind COVID-19 Travel Bans and Instead Required Proof of Vaccination AILA Doc. No. 21092014 See also <https://www.rollcall.com/2021/09/20/biden-administration-eases-covid-19-ban-on-international-travel/> ; and https://www.wsj.com/articles/u-s-to-require-foreign-nationals-seeking-entry-to-show-proof-of-covid-19-vaccination-11632147264?mod=searchresults_pos11&page=1

same applies for persons who must apply to USCIS and are subject to 8 CFR §274a.12(c). Those persons who are authorized to work for a specific employer incident to lawful immigration status are not required to file for the EAD. 8 CFR §274a.12(b).

Where a person requires an EAD to work, they must first file the Form I-765 with USCIS and at the appropriate Service Center with the appropriate fees and supporting documentation. Application for Employment Authorization | USCIS. The processing times for USCIS to adjudicate EADs vary greatly. As an example, the current processing times range from three (3) months to sixteen (16) months at the Texas Service Center (TSC). These elongated processing times are exceptionally frustrating. The American Immigration Lawyers Association (AILA) recently issued a handout (that can be customized) to best help clients understand the processing delay issues. AILA - Why Is Your Case Taking So Long? USCIS Processing Delays Have Now Hit Crisis Levels.

Managing expectations and maintaining lines of communication with our clients is part of our daily routine. To best assist with any EAD applicants, and especially the dependent (E-3D, H-4, and L-2) spouses, it may be a best practice to check the monthly-updated USCIS Case Processing webpage [Processing Times (uscis.gov)] at the time of filing. The practitioner can notify the applicant in writing of the current processing times and, for transparency, provide the hyperlink to the Case Processing webpage to the applicant. Another best practice to employ if possible is to set periodic internal reminders to check the status online and preemptively send periodic “no update” -update emails to the client until USCIS approves the matter. These practices do not in any way resolve the issue, but they can assist with alleviating client concerns, as the client will have the knowledge that this is not happening to just them and that their legal team is staying current on their case.

EXPEDITE REQUESTS

With USCIS case processing times elongated and likely to remain so for the foreseeable future, there will be times where a client may want to try to accelerate the normal processing. USCIS does provide for Expedited Processing of I-765 (EAD) cases. The agency will consider each expedite request on the documentation submitted and the corresponding merits. USCIS has sole discretion in this determination, and the decision whether to expedite is not appealable.

On June 9, 2021, the USCIS updated the criteria of the expedite request to include the following:

1. Severe financial loss to a company or person, provided that the need for urgent action is not the result of the petitioner’s or applicant’s failure to:
 - A. Timely file the benefit request, or

- B. Timely respond to any requests for additional evidence;
2. Emergencies and urgent humanitarian reasons;
3. Nonprofit organization (as designated by the Internal Revenue Service (IRS)) whose request is in furtherance of the cultural and social interests of the United States;
4. U.S. government interests (such as urgent cases for federal agencies such as the U.S. Department of Defense, U.S. Department of Labor, DHS, or other public safety or national security interests); or
5. Clear USCIS error.

In practice, these requests are granted when the facts are overwhelmingly sympathetic, though even then, there is no guarantee. In other words, the worst real-life scenario generally provides for the best factual premise for obtaining an approval on an expedite case request, but USCIS is the decision maker and their decision is not subject to review. This author, when strategizing and preparing the case with a client, uses a numerical scale of one to ten to help the client visualize where their circumstances likely stand in the eyes of a USCIS adjudicator.

USCIS recommends making the request via phone call to the USCIS customer service line, so being prepared with the reasons on-hand is vital. During the call, the USCIS representative will take notes regarding the need for the expedite request. Within the next week or so, the USCIS will reach out to the applicant and/or attorney's office for supporting documentation via email. It is important to have these documents ready beforehand – as the USCIS officer typically provides a tight deadline to respond back to their email request. Given the discretionary review of the expedite request, it is best to advise clients to be well-prepared to document and clearly and quickly explain the reason for the request. In practice, it is critically important to set this expectation with the client at inception. It is also important to set the expectation that additional inquiries may be necessary to reach a resolution on the request.

E-GOV REQUESTS AND ASK EMMA

There will be times when USCIS denies the expedite request or the client chooses not to attempt that path. Whenever USCIS is processing a case outside of their normal posted processing time, the applicant or attorney can submit an E-Request in hopes of receiving a response within the designated time period indicated on the automated response. However, in practice, USCIS E-Requests are not always answered in a timely manner or even within the timeframe designated by USCIS. Sometimes, multiple requests may be needed to obtain a fruitful response. This usually results in the client's frustration and that frustration is transferred onto the attorney. For this reason, it is a best practice to keep copies of all attempts to nudge the case along and notify the client after

submitting any request. This helps set the expectations with clients regarding USCIS E-Requests in general.

USCIS introduced the “Ask Emma” feature on the USCIS website in 2018. “Emma” is, according to USCIS, a computer-generated virtual assistant who can help individuals answer their questions regarding their cases. You can find the Ask Emma link on the upper right corner of the page. Anecdotally, the “Ask Emma” function can be much more helpful than submitting E-requests or calling the USCIS Contact Center Live Assistance.² In fact, during the adjustment of status rush of October 2020, many attorneys and applicants were able to obtain receipt numbers for their respective cases via the “Ask Emma” feature when chasing cashed checks for the stamped receipt notice on the back of the check and calling the USCIS Contact Center Live Assistance were not fruitful.

It is important to note that *both* USCIS tools above *require* either the applicant/petitioner or the attorney to be the party making the request.

NON-DELIVERY OF THE EAD CARD

Once USCIS grants the authorization, the agency mails the card to the address of the individual or the entity filing the I-765 depending on how the form was completed. If the filed Form I-765 directs USCIS to mail the card to the individual’s address, then it is critical that the individual submit an AR-11 Change of Address if they move while the case remains pending. This provides for the best chance of the card being properly delivered. Even doing so does not guarantee that the new address connects to the pending case so some post-approval chasing may become necessary.

It is a best practice to discuss with your client, at the inception of the case, whether a change of address is on the horizon and if so, plan accordingly. While not all changes of address are planned, this pragmatic step can help avoid some kerfuffle’s. If USCIS approves the case but the card is not delivered, the attorney or the applicant can chase the card by using the USCIS Non-Delivery of Card E-Request. [See Above regarding use of the E-Request tool and the USCIS Contact Center Live Assistance as alternatives.]

EXPIRIES, DATA MAINTENANCE AND EXTENSIONS

USCIS maintains discretion on the validity periods of the work authorization. Some categories of work authorization are valid for two years at a time, while others are dependent on the primary visa

² AILA provides a Practice Pointer at AILA - Practice Pointer: Navigating the USCIS Contact Center AILA Doc. No. 19101631.

holder's status validity. Therefore, it is best practice to check the expiry date on both the I-797 and the card to ensure it aligns with the current paradigm for the selected category of work authorization, the underlying request and any USCIS errors.

To do so, have the client submit a copy of the back and front of the card to your firm's case management system. Then review it against the I-797 Approval Notice, enter the appropriate expiry dates into the firm's case management system, and set reminders for preparing and filing any requested extension(s). If there are issues with the validity period (or other typographical matters), the best course of action is to file an E-Request for Typographic Error or call the USCIS Contact Center Live Assistance (see above for hyperlinks). Be forewarned, this can be super stressful for individuals where there are bad data points on the EAD, and their employer will not sign off on an I-9 revalidation. This is another reason to start the extension process as early on as possible so that errors can hopefully be corrected prior to the expiration of the old EAD card before the new one is needed.

Assuming the expiry dates are accurate, or modifications are made, and accuracy achieved, a natural tension point then arises as to who holds the responsibility for the timely filing the extension; counsel or the individual (which could also be a primary employee's dependent). The author would love to argue there is a level of personal responsibility that attaches to an individual for extending one's status and authorization to work like a driver's license and car insurance. In practice, this ball is many times kicked back to the practitioner and unfortunately many times at the last moment. With lengthy processing times and automatic extensions (see below) not available for all categories, this can cause increased stress and escalatory communications.

For dependent status EAD's (H-4, L-2, E-3D), a best practice is to establish a protocol with HR or General Counsel (at inception with a new onboard of a corporate client or during a year-end review) as to who holds the responsibility to track, pay for, and file that extension. For example, if an attorney represents a corporation that is going to extend their employee's H-1B status, whose responsibility is it to monitor the spouse's H-4 and H-4 EAD (assuming eligibility) expiries and prepare and file the extension; counsel or that individual? Some corporations will support the primary case only, while others will support the dependent filings too. Understanding who holds the responsibility is critical so that the filings are timely and the least number of gaps in employment authorization arise.

USCIS will only accept EAD extension applications filed within 180 days of the expiry date. It is a best practice to maintain the expiration date (using whatever case management system your firm employs) and notify the client *approximately seven months (210 days) in advance of the expiration* to begin the

process of preparing and filing the extension. Doing so allows counsel to use the thirty (30) days leading up to the opening of the filing window for notifying the individual, obtaining authorization to move forward (from whomever is ultimately financing the matter), and preparing and timely filing the extension application.

For those persons who are on L-2 status and where the primary's employer prefers L-1 consular renewals rather than filing USCIS extensions, the author recommends using a 240-day or even a 270-day reminder. This extra thirty (30) plus days helps coordinate the international travel, the visa appointment, and return all before the 180-day Extension of Status and EAD extension filing windows open. This is obviously very challenging during Covid-times and all must be mindful of the traveling "too soon" in the eyes of the consular officer adjudicating the primary's renewal.

AUTOMATIC EXTENSIONS

There are some categories of EADs that, by nature of a timely filing (before the expiry date), USCIS automatically extends the person's work authorization for 180 days. Automatic Employment Authorization Document (EAD) Extension | USCIS. The list is short and does not currently include dependent EAD's. At present, L-2, H-4 and E-3D spouses must file for EAD's incident to their status and await the completion of USCIS's processing of their applications before continuing their employment. With the constant elongated processing times and lack of automatic extension of work authorization, it makes timing of the filing critical to avoid any gaps.

Some help may be on the horizon. On September 23, 2021, AILA and a partner law firm filed a class action lawsuit in the Western District of Washington on behalf of H-4 and L-2 spouses. *Sbergill, et al. v. Mayorkas*, Case 2:21-cv-01296, 9/23/21. The suit argues USCIS has unlawfully withheld these classes from the automatic extension of employment authorization provisions. The suit argues for USCIS to provide L-2 spouses with evidence of employment incident to status, or, in the alternative, provide L-2 EAD holders with documentation establishing an automatic extension of work authorization with the filing of an EAD renewal application. The suit also argues for USCIS to provide H-4 EAD holders with documentation establishing an automatic extension of work authorization with the filing of an EAD renewal application. These would be welcomed results.

However, until *Sbergill* is resolved, the best recommendation is to follow the above-outlined protocols for timely initiating EAD extensions to avoid lapses and escalations.

III. PREMIUM PROCESSING

Premium processing provides accelerated processing for Form I-129, Petition for Nonimmigrant Worker, and Form I-140, Immigrant Petition for Alien Worker (for EB-1A and EB-1B filings but not yet EB-1C). Specifically, USCIS guarantees issuing either a Request for Evidence (RFE) or an approval within 15 calendar days.³ Assuming USCIS does issue an RFE, the fifteen calendar day processing begins anew upon receipt of the response. USCIS also indicates the agency will refund the premium processing service fee if it does not meet the stated timeframe and will continue with expedited processing.

At present, USCIS will not accept a request for premium processing for I-765 Applications for Employment Authorization. However, on September 30, 2020, the President signed H.R. 8337 the Continuing Appropriations Act, 2021 and Other Extensions Act. This law requires USCIS to implement (by regulation) a premium processing fee for additional case types, including all employment-based nonimmigrant petitions (all I-129s), most employment-based immigrant petitions (all I-140s), all applications to change nonimmigrant status or extend stay (all I-539s), *and all employment authorization applications* (all I-765s).

At the time of this writing, USCIS implemented premium processing for E-3 I-129 cases but *has not* yet extended it to I-539's or I-765's. One should think of this as implementing an entire new product line and this will involve installing systems and staff to handle the existing caseload and new filings. At present, USCIS remains self-funded and at about 19,000 employees. With the avalanche of adjustment of status cases filed last year and an expected similar situation this fiscal year, it's likely that the implementation of premium processing for I-539's and I-765's is not on the front burner.

Once the agency implements regulations for such premium processing, much of the above consternation should go by the wayside. Dependent's I-539's will be premium processed and correspondingly their I-765's will too. The author would suggest implementing the above best practices and protocols, or versions of the above thereof. Only upon USCIS implementing the legally mandated premium processing would it then be appropriate to consider relaxing the internal notification and filing protocols. It's easier to decelerate after acceleration than vice versa.

³ USCIS had planned to modify the adjudicatory time to fifteen (15) business days on October 2, 2020. However, the agency reverted to fifteen (15) calendar days.

IV. PRACTICAL CONSIDERATIONS TO DEVELOP A STRATEGY AND PROCESS TO ACHIEVE SUCCESSFUL CONSULAR OUTCOMES.

1. What is the scope of representation?
 - A. File a change of status or extension of current nonimmigrant status with USCIS.
 - B. Apply for a nonimmigrant visa at a U.S. consulate or embassy?
 - C. Application for Admission at USCBP Port of Entry.

Practice Pointers:

The scope of representation of a particular client may involve multiple separate and/or related pieces of work. The process to prepare and file a nonimmigrant petition with the USCIS is separate from the process to apply for a nonimmigrant visa at a U.S. consulate or embassy which is separate from the process to apply for admission and inspection with USCBP at a port of entry.

Educate the client(s) concerning the difference between a visa and status.

2. Initial Interview / key questions - At the outset of the contemplated representation of the client or clients, the following are important questions.
 - A. Who is the client or clients?
 - B. What is the scope of representation?
 - C. Does the attorney have a signed engagement letter?
 - D. Undertake a comprehensive and thorough client intake and review of the client's or clients' U.S. immigration history and documents to determine if (i) there are any current or prior status violations; and/ or (ii) any inadmissibility issues.
 - E. Are there any age out issues concerning the principal's children?
 - F. Duty of Competence and Diligent Representation – Does the attorney have the competence to handle the particular matter under the Texas Rules of Disciplinary Procedure?⁴
3. What is “Visa stamping”
 - A. Often clients view the process to apply for the initial issuance or renewal of a nonimmigrant visa at a U.S. consulate or embassy (commonly known as “visa stamping”) as a foregone conclusion that results automatically in the timely issuance or reissuance of the nonimmigrant visa.

⁴ See Texas Rules of Disciplinary Procedure, Rule 1.01. Competent and Diligent Representation at <https://www.texasbar.com/AM/Template.cfm?Section=Home&ContentID=25766&Template=/CM/ContentDisplay.cfm>

- B. A visa, or visa stamp, is a physical stamp in the nonimmigrant's passport that is issued by a U.S. embassy or consulate outside of the U.S. The issuance of a nonimmigrant visa indicates the individual is eligible to apply for admission and inspection to the U.S. in a specific immigration category, but this does not guarantee the person will be admitted to the U.S.
 - C. In most circumstances, Canadian citizens do not require visitor, business, transit or other visas to enter the U.S., either from Canada or from other countries. There are some exceptions to this situation.⁵
4. The Client has a nonimmigrant visa. Does this guarantee admission to the U.S.?
- A. An applicant for admission to the U.S. does not guarantee entry to the U.S. A visa simply indicates that a U.S. consular officer at U.S. consulate or embassy has reviewed the individual's application and the consular officer has determined the person is eligible to apply for admission to the U.S. for a specific purpose.
 - B. The USCBP officer at the port-of-entry will inspect the arriving nonimmigrant to determine if the individual is eligible for admission under U.S. immigration law.
5. Strategic Planning Issues
- A. Prior immigration history
 - (i) Submit a FOIA to the appropriate government agency – USCIS, USCBP and/or USDOS
 - (ii) Assist the client(s) to request a copy of the file from prior legal counsel.
 - B. Extension of Stay (EOS) or Change of Status (COS)
 - (i) Assuming the client is currently in the U.S., is there an opportunity to file an EOS or COS with USCIS?
 - (ii) Is the client/ clients eligible to file an EOS or COS?
 - (iii) Explain to the client the risks and benefits of EOS and COS versus consular processing including related timing issues, professional fees and expenses.
 - (iv) Discuss with the client the possibility and/or likelihood of receipt of a request for evidence.
 - (v) In terms of timing, check the client's current I-94 to determine when to file the EOS or COS?
 - (vi) Is the client or clients eligible to apply using premium processing?
 - (vii) Who will pay the professional fees and expenses, i.e. the employer or the employee?
 - C. Travel - Is the client subject to any current travel restrictions in terms of travel to and/or from the U.S.?

⁵ See <https://ca.usembassy.gov/visas/do-i-need-a-visa/> concerning exceptions that require Canadian citizens to apply for a nonimmigrant visa.

- (i) Current Ability to travel, i.e. vaccination issues;

Practice Pointer - Monitor the situation- *The situation during Covid has been fluid and subject to constant change. It is very important to monitor the status of travel developments as there can be changes on a daily basis.*

- (ii) Does the client have a passport valid for the duration of the contemplated admission to the U.S.?
- (iii) Does the client have more than one passport which makes opens the possibility to apply at multiple consular posts?
- (iv) Is there a consular appointment currently available?

Practice Pointer – It is advisable to check the U.S. Department of State website at <https://travel.state.gov/content/travel/en/News/visas-news.html> on a daily basis, AILA Infonet, AILA list serves (Rome District Chapter and AILA Latin American and Caribbean Chapter) and the website for the particular consulate or embassy in the country or countries where the client desires to apply for his/ her visa.

- (v) Is there any basis to schedule an emergency / expedited appointment?

Use a 1 to 10 scale, and have a realistic / frank conversation with the client in terms of timing and professional fees.

Is the request legitimate/ ethical?

- (vi) Does the post require the client also attend a biometrics appointment?
- (vii) What happens if the client is stranded overseas for an extended period of time? Are there any issues with the employer, children going to school in the U.S., and timing attending school in the U.S.?
- (viii) Is there any likelihood the client may be subject to administrative processing?
- (ix) Are there any past issues in the client's immigration history that may cause processing delays, administrative processing and/or inadmissibility issues, for example prior administrative processing, visa denial, unauthorized employment or other status violation(s)?
- (x) What/ how to prepare for the visa application and expedite request?
 - 1) DS-160
Who prepares the DS160 and supporting documents?
Does the attorney review prior to submission?
 - 2) Discuss with the client what supporting documents to provide?

Practice Pointer

Review the consulate or embassy website where the client will apply for the visa *prior to filing any petition with the USCIS, prior to submitting the DS160 and prior to advising the client concerning how to apply for the visa.*

- 3) Does the client want to request expedited processing?
- 4) What is the expedite procedure at the particular post?
- 5) Check the website for the particular consulate or embassy. For example see <https://www.ustraveldocs.com/in/en/work-visa> for the U.S. Embassy in India and <https://www.ustraveldocs.com/ru/ru-niv-typework.asp#supportingdocs> for the U.S. Embassy in Moscow.
- 6) What is the basis for the expedite?
- 7) Is there any basis to schedule an emergency / expedited appointment? See discussion above.
- 8) Check the website for the consulate or embassy where you will apply.
- 9) Check the website for the consulate or embassy for the client's home country for country specific requirements. For example, in Russia there is a requirement to provide a workbook – see
- 10) Does the consulate have a procedure for an interview waiver?
- 11) Does the consulate have a checklist for what documents to provide?
- 12) Does the consulate have a procedure for expedited delivery of the passport after a visa has been issued?
- 13) DS 5535 – see <https://tr.usembassy.gov/wp-content/uploads/sites/91/DS-5535-Supplemental-Questions-For-Visa-Applicants.pdf>

Occasionally a consular officer may request a visa applicant complete this form concerning the travel, address history and employment during the last 15 years.

- (xi) The Visa Interview and U.S. Entry issues.
 - 1) Prepare and send an instruction letter to the client describing the visa interview process and U.S. entry process.
 - 2) Schedule a zoom or FaceTime call with the employer and client to review the visa application procedures and interview, and if necessary have an interpreter participate with you on the call.

- (xii) After the Visa Interview/ Admission to the U.S.
 - 1) Prepare and send an close out email/ letter concerning the importance to retain and monitor I-94 expiration dates, passport expiration dates and issues related to future extensions, travel outside the U.S., etc.
 - 2) Calendar to follow up and request the client provide a copy of the new visa and I-94.

V. HOW TO MANAGE CLIENT EXPECTATIONS?

- 1. Who is the law firm / attorney’s principal contact? HR manager, the employee, both
- 2. How to communicate with the client – phone, email, text, what’s app?
- 3. Spend time to educate the client(s) concerning the process, potential issues and risks, timing and outcomes.
- 4. Document your communication with the client(s) in writing by letter or email to minimize the possibility of any misunderstanding.
- 5. Be proactive and communicate with the client(s) before an issue becomes a problem.

VI. LEGAL RESEARCH AND SELECTED BIBLIOGRAPHY OF PRACTICE RESOURCES

- 1. Statutes and Regulations - *See Kurzban Immigration Law Sourcebook Seventeenth Edition, page 2385*
 - A. Federal Statutes
 - B. Federal Regulations
 - C. Federal Agency Rules, Manuals, and Guidance
 - D. State Statutes
- 2. Practice Pointers- useful nuggets and insights
 - A. Check AILA Infonet concerning recent developments
 - B. Check AILA Infonet Practice Alerts
 - C. Check AILA Infonet Practice Pointers
 - D. Check AILA Infonet Resource Center: 2019 Novel Coronavirus (COVID-19) – See https://www.aila.org/advo-media/issues/all/covid-19?utm_source=aila.org&utm_medium=FeaturedSearch
 - E. Check AILA Resources Related to Presidential Proclamations Temporarily Suspending Entry of Certain Immigrants and Nonimmigrants into the United States AILA Doc. No. 20042111 | Dated April 1, 2021 <https://www.aila.org/advo-media/issues/all/covid-19/eo-temporary-suspension-immigration>
 - F. AILA Practice Pointers– See <https://www.aila.org/advo-media/aila-practice-pointers-and-alerts>
 - G. AILA DOS Liaison Committee – See <https://www.aila.org/about/leadership/national-committees/agency-liaison/dos-liaison-committee>
 - H. American Immigration Counsel Practice Advisories - <https://www.americanimmigrationcouncil.org/search/site/practice%20advisories>

- I. US Visa news from the U.S. Department of State - <https://travel.state.gov/content/travel/en/News/visas-news.html> (tip from Ken Harder)
 - J. Review the literature on AILALink – see <https://ailalink.aila.org/login.html> (there is an annual fee, but this is a comprehensive immigration library on the web).
3. Theory of the Case
- A. At the outset of a case, stop and spend time to create a macro and micro vision of the case. Align your case facts with the regulatory requirements for the benefit requested.
 - B. Given the complexities of the pandemic, we often recommend the attorney prepare a strategy memo to discuss the potential issues and scenarios which may play out, and to consider the multiple remedies/ options available to present to the client(s), including the potential risks and consequences. This is important because if you skip over this step, it is possible to overlook a significant obstacle that should be addressed and brought to the client's attention at the outset of the representation.
 - C. In terms of the end result, by focusing on the theory of the case, you will focus on the case's weaknesses, strengths, and plan for the uncertain. For example, look at the passport and I-94 expiration dates, and what are the current procedures at the post where the employee will apply for his/ her visa issuance/ renewal.
 - D. Conduct a thorough initial client interview and be sure to request a complete copy of the paper and digital file from the client and his/ her prior employer(s). Consider submitting a FOIA.

VII. USEFUL WEBSITES FOR LAW FIRM NEWSLETTERS

- 1. Klasko Immigration Law Partners LLP – <https://www.klaskolaw.com/contact-us/subscribe-updates/> ; <https://www.klaskolaw.com/news-category/client-alerts/> ; <https://www.klaskolaw.com/blog/> ; and <https://www.klaskolaw.com/site-map/>
- 2. Dickinson-Wright (Kathleen Walker) - <http://immigration.dickinson-wright.com/>
- 3. Fragomen- <https://www.fragomen.com/insights/alerts> and <https://www.fragomen.com/insights/podcasts>
- 4. Greenberg Traurig- <https://www.gtlaw.com/en/insights?keyword=immigration>
- 5. Immigration Daily - <https://www.ilw.com/immigrationdaily/>
- 6. Murthy Law Firm - <https://www.murthy.com/about-us/online-services/enewsletter/>
- 7. Maggio Kattar – <https://maggio-kattar.com/sign-up-for-news-alerts/>

8. Miller Mayer LLP (Steven Yale-Loehr practice here) – <https://millermayer.com/news-and-insights/> - go to sign up for our newsletter
9. Mintz - <https://www.mintz.com/subscribe>
10. Seyfarth (Angelo Paparelli) – <https://www.bigimmigrationlawblog.com/>
11. Shusterman - <https://www.shusterman.com/>
12. Siskind's Immigration Law Bulletin - <https://www.visalaw.com/immigration-resources/bulletin/>
13. Wolfsdorf – https://wolfsdorf.com/client_alert/ ; <https://wolfsdorf.com/blog/> ; [Wolfsdorf Rosenthal LLP - YouTube](#)
14. U.S. Embassy London - <https://uk.usembassy.gov/news-events/>
15. The Insightful Immigration Blog: <http://blog.cyrusmehta.com/>

Practice Pointer – Be thorough and cautious concerning your dependence upon that which is found on internet postings, blogs, newsletters, etc. Treat all information as a means to an end. Carefully review information as published and made available on the public domain alongside the relevant statute and regulations and utilize in the best manner that will support your claim(s). Where there is negative information that can be distinguished from your particular fact pattern, indicate the distinction as needed and lay out the manner in which your case facts are unique and should prevail.

VIII. SETTING UP A CASE

1. Prepare an organized index with accompanying supporting documents that is easy to read and provide clear citations to the applicable law and regulations.
2. Optics and Appearance - A case that is organized, clear, easy to follow and appealing to the reader will have a greater likelihood of approval. Present your documents in a manner that invites the officer's review.

This outline of strategy and resources is certainly not an exhaustive list, but rather an outline to explore and to become familiar with (if not already). Understanding the landscape associated with strategic timing of nonimmigrant processing issues and strategies for successful consular outcomes; and how to manage client expectations can facilitate the process to achieve successful business NIV solutions.

