

US Immigration Service & State Department Yank Away Green Card Carrot

In one shocking and completely unexpected act, the U.S. Citizenship and Immigration Service (USCIS), and US Department of State (DOS) shut all of the doors to legal employment-based immigrant applicants, seeking to secure their lawful permanent resident status (“green card” status), until October 1, 2007 at the earliest.

Amazingly, as reported in my column for the past several weeks, USCIS and DOS announced that it would open the doors to all employment-based immigrant visa petitioners seeking lawful permanent residency (“green cards”) beginning July 1, 2007. In response to such news, many of us began preparing the necessary applications for our clients, to take advantage of the announced opportunity.

But only a few short weeks later on July 2, 2007 – for no legitimate reason – USCIS and DOS inexplicably announced that it would break its promise. In effect, they refused to open the door they promised to open on July 1st. Even worse, they also closed the doors to certain “green card” applicants, who for months – in some cases, years – had been permitted to file applications in other employment-based visa categories.

USCIS and DOS claim that they will reopen some – if not all – of these doors on October 1, 2007, when certain employment-based visa priority dates will again be declared “current,” allowing foreigners to file their “green card” applications. But, based upon the apparent “bait-and-switch” fiasco of these past few weeks, how can we trust what they say?

The American Immigration Lawyers Association (AILA), of which my law firm’s attorneys are active members, intends to bring a federal class-action lawsuit against the U.S. government based upon these horrific events. We, at The Guerrero Law Firm, and many of our colleagues, strongly support such litigation. We encourage all employers, U.S. citizens, U.S. lawful permanent residents, and others to contact your local U.S. Congressperson to voice your opinions. Hopefully such litigation will correct this injustice – or, at the very least, bring greater attention to our broken immigration system, and the immediate need for comprehensive immigration reform.

In response to these inexcusable actions, callously carried out by USCIS and DOS, AILA President Kathleen Campbell Walker correctly stated, “[p]eople ask why those who come to the United States illegally can’t just follow the rules. But here people followed the rules and did everything right, yet without warning or explanation the door was slammed in their faces. This hoax perpetrated by these two government agencies is unconscionable, and is an example of how badly our immigration system is broken.”

Understandably, many people are asking, “what do I do now?” We believe that all employment-based “green card” cases still should be filed as soon as possible. While USCIS warns all such applications will be returned without adjudication, there is precedent supporting the belief that if the contemplated AILA litigation is prosecuted and successful, USCIS may re-consider previously filed-but-rejected applications. Also, in

the case of immigrant visa petition applicants, you may – nevertheless – wish to secure the earliest priority date for your petition. For those individuals who were relying upon filing an adjustment of status application, because your current non-immigrant visa status will end soon – for example, foreigners nearing the end of their six-year H-1B visa eligibility – you may wish to seek an alternative non-immigrant or immigrant visa status as soon as possible.

If you are affected by these unfortunate events, we recommend that you contact a qualified immigration attorney, whose legal practice focuses upon employment-based immigration. The closing of these immigration doors forces many foreigners to re-think their overall immigration strategy. Be sure to carefully plan your next steps.

Attorney Rio M. Guerrero is the founding and managing partner of The Guerrero Law Firm. He is also an Adjunct Professor at The CUNY School of Professional Studies at The Graduate Center in Manhattan, where he teaches complex U.S. immigration law to other attorneys, paralegals and community leaders. He has also served as an immigration legal expert witness in the New Jersey State court system. During his many years of legal practice, Atty. Guerrero has successfully represented thousands of clients in a wide range of immigration and nationality matters. You may contact Atty. Guerrero directly at (212) 481-2744 or e-mail him at rio@guerrerolawfirm.com. The above information is not, nor intended to be, legal advice. Nothing within this publication creates an attorney-client relationship with the reader. Applicability of the legal principles discussed above differs upon individual facts and circumstances.