Immigration Newsletter

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Attorney Alexander Cárdenas

Welcome Attorney Alexander Cárdenas Cruz

We are pleased to announce that attorney Alexander Cárdenas Cruz has joined Barten Lantz, P.C. Immigration Lawyers. Alex previously worked as a managing attorney with Justice for Our Neighbors. Alex focuses primarily in immigration litigation related to removal (deportation), asylum, family-based, as well as other types of immigration law.

Alex is a native Spanish speaker and fully fluent in English. He also speaks conversational Portuguese. Alex is available to visit ICE detention and jail facilities. He appears in front of the Immigration Courts in Omaha, Minnesota, Kansas City and Chicago. During February 2020, initial consultations held in-person at the Ames office with Alex will be no charge.

Temporary Protected Status (TPS) End for Most Countries January 4, 2021

DHS announced a Federal Register notice extending the validity of TPS-related documentation for beneficiaries under the Temporary Protected Status (TPS) designations for El Salvador, Haiti, Honduras, Nepal, Nicaragua and Sudan through January 4, 2021. The notice automatically extends the validity of the Employment Authorization Document (EADs); Forms I-797, Notice of Action; and Forms I-94, Arrival/Departure Record. In the event the Driver's License Station or your employer is requesting current documents, we are providing a link here of an announcement you can provide with your previous TPS approval and work permit to show you are currently eligible for a driver's license and work permission.

https://www.uscis.gov/humanitarian/temporary-protected-status.

TPS recipients need to quickly determine whether there are additional immigration options to apply for another status as this program is currently in peril. For TPS recipients, Barten Lantz, P.C. can provide an analysis of your case to determine if there is any path towards becoming a permanent resident.

Professional, Personalized Immigration Help

USCIS Announces Plan to Increase Government Filing Fees as Early as January 31, 2020

On November 14, 2019, U.S. Citizenship and Immigration Services (USCIS) announced plans to increase filing fees. It is predicted that the new fees could go into effect as early as January 31, 2020. The application to apply for U.S. citizenship through Naturalization is expected to increase from $640 to $1,255. The application to file for permanent residency in the United States, Form I-485 will increase from $1,225 to $2,250. For employment based immigration Form I-129 Petition for a Nonimmigrant worker: currently there is a single fee of $460. Instead, each case type that uses the Form I-129 will increase a different amount. H-1B and H-1B1 to $560, O-1 to $715, E and NAFTA TN to $705, H-3, P, Q, or R to $705, and L-1 to $815. This is coming at a time when nearly every request for a reduced fee or waiver of fee is denied by USCIS even by qualified indigent children and victims.

H-1B Lottery Registration – Employers Need to Register March 1 - 20th, 2020. U.S. Master's Degree Applications Receive Preference. If Selected USCIS Will Notify by March 31, 2020

On December 6, 2019 USCIS announced that it is implementing an electronic registration requirement for employers seeking to submit H-1B cap subject petitions. The registration period will run March 1 – 20, 2020. The registration fee will be $10 for each registration submitted. USCIS will select 85,000 registrants who will be notified at the same time. USCIS will first select petitions submitted on behalf of proposed employees with U.S. masters degrees or higher. Then USCIS will select from the remaining petitions. By changing the order, USCIS projects at least 16% increase in U.S. master's degree or higher H-1Bs. Successful registrants will have 90 days to complete and file their H-1B Petitions. For Barten Lantz, P.C. employer clients whose employees were not selected in previous years, if there are no changes, there will be a nominal charge for registration. For new Barten Law, P.C. employer clients, it will be important for the employer and employee to provide supporting evidence to our lawyers in advance of registration to make sure the evidence meets USCIS' requirements if the registration is successful. Pricing for the lottery will be bifurcated, with an initial minimum fee for the purpose of covering collection and review of evidence to confirm eligibility for the H-1B Lottery with the final fee for only successful registrants needing to file within the 90 day window. Barten Lantz, P.C. employer clients who are not selected will be registered for the next lottery for the nominal charge.

The House Passes the Farm Workforce Modernization Act – While Ag-Companies, Growers, Poultry, and Livestock Farmers Continue to Rely on the H-2A, TN, and Permanent Residency Programs

On December 11, 2019, a bi-partisan House passed The Farm Workforce Modernization Act which would create a merit-based visa program for agricultural workers to earn legal status through continued employment. The adverse effect wage rate (AEWR) would continue under the House bill. However Farm Bureau is lobbying for wages to be market-based in order to compete against imports. For the H-2A program, the House bill provides dairy farmers full year-round H-2A access. Even if the Senate stalls on the bill, the Trump Administration is planning to have its own merit-based immigration proposal early 2020 and is working with Guatemala and Mexico to pre-certify workers for the ag-industry.

Currently, Ag-companies, Growers, Poultry and Livestock Farmers are relying mainly upon the H-2A, TN, and permanent residency programs. The H-2A program requires the company plan out the season in advance. By way of example typically our lawyers are readying H-2A applications between late summer and Thanksgiving to turn in applications for the following March or April start date. The H-2A program is for seasonal, temporary work, for example for planting season only, for harvest season only, building a hog barn, or keeping snow and ice off. The TN program has a more flexible schedule allowing for year round work. The job must be from a list of approved TN occupations and the employee must have the required qualifications and be a Mexican or Canadian citizen. For example, a livestock farm may sponsor a veterinarian from Mexico to handle their animal nutrition and health. The TN program does not have an advertising or minimum wage requirement. For a complete list of TN occupations, see our website link here: **http://www.immigrationiowa.com/tn-occupations/**.

The Permanent Residency program allows the employee to work year round for the long term. The employer must show the occupation requires a minimum of 2 years experience, such as a Farm Manager or a Farm Mechanic or a minimum of a bachelor's degree. And despite advertising the position no U.S. worker applied, qualified, and accepted the job.

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Final Rule on Public Charge Ground of Inadmissibility

On August 14, 2019, U.S. Department of Homeland Security (USDHS) published the first of three new rules informing interviewing officers to deny U.S. residency based upon a finding that the non-citizen applicant is predicted to become a "public-charge" if allowed to enter the U.S. as an immigrant or non-immigrant. The rule creates a broader definition of "Public Charge and includes receipt of public benefits for more than 12 months within a 36-month period. The Public Charge rule depends upon whether the non-citizen's interview is located with U.S. Citizenship and Immigration Services (USCIS) in the United States or is located with U.S. Department of State (USDOS) at a U.S. Consulate abroad. For both USCIS and USDOS residency interviews, public benefits considered in Public Charge determinations are:

- Supplemental Security Income (SSI)
- Temporary Assistance to Needy Families (TANF)
- State or local cash benefit programs for income maintenance
- Programs (including Medicaid) for long-term nursing home or mental health institution care

Our attorneys are following the Public Charge determination rule carefully and we are working closely with clients to know what to expect and how to avoid a public charge determination. For the full article, including a full list of programs reviewed for Public Charge determinations, please use this link to our website: **http://www.immigrationiowa.com/final-rule-on-public-charge/**

Supreme Court Expected to End DACA Summer 2020

On June 15, 2012, the Secretary of Homeland Security announced that certain people who came to the United States as children and meet several guidelines may request consideration of deferred action for a period of two years, subject to renewal. They are also eligible for work authorization. Deferred action is a use of prosecutorial discretion to defer removal action against an individual for a certain period of time. Deferred action does not provide lawful status. On November 12, 2019 the Supreme Court heard oral arguments regarding the future of the Deferred Action for Childhood Arrivals (DACA) program. The Supreme Court's conservative majority signaled a willingness to side with the Trump Administration in the legal battle. However, the DACA program will continue to be in effect until a decision has been made by the Supreme Court. The Supreme Court will deliver their opinion Summer 2020.
DACA recipients are encouraged to determine if there is any path towards becoming a permanent resident through employment, family sponsorship or other route.

U.S. Attorney General Overturns Long-held Immigration Cases Related to Criminal Sentencing and New Immigration Consequence for Operating While Intoxicated

On October 25, 2019, the U.S. Attorney General William Barr held in Matter of Thomas and Thompson, 27 I&N Dec. 674 (A.G. 2019) that a "term of imprisonment or a sentence" refers to the non-citizen's original criminal sentence even if later the sentencing court reduces or cancels the original sentence because of a youthful offender program, rehabilitation program, or deferred judgment. Most significantly, Attorney General Barr's decision single-handedly overturned and changed a line of cases which has been relied upon by non-citizens and immigration lawyers in providing legal advice for nearly two decades. See Matter of Song, I&N Dec. 173 (BIA 2001); Matter of Cota-Vargas, 26 I&N Dec. 849 (BIA 2005).

On the same day, Attorney General Barr held in Matter of Castillo-Perez, 27 I&N Dec. 664 (A.G. 2019) that evidence of two or more convictions of driving while under the influence during the relevant statutory period of 10 years creates a rebuttable presumption of a lack of Good Moral Character when a non-citizen applies for residency in Immigration Court through the Cancellation of Removal program. In a footnote, The Attorney General establishes that other convictions such as "negligent driving" may be taken into account to deny relief from removal causing deportation.

Call today to set up an Initial Consultation (515) 233-4388

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Immigration Customs Enforcement (ICE) Uses Facebook to Target and Arrest

"Everywhere immigrants have enriched and strengthened the fabric of American life."

-John F. Kennedy

According to an article in The Intercept, dated December 22, 2019, federal court filings show Immigration Customs Enforcement (ICE) is contracting with private company Thompson Reuters's to use their database named "CLEAR" that tracks and collects information on all people through their social media. In the court case, ICE searched, targeted, and monitored the non-citizen's Facebook posts. Later the non-citizen "checked-in" at Home Depot and it showed up on Facebook. ICE found this on the CLEAR database went to Home Depot and arrested him. While the U.S. government is often prevented from collecting information on private citizens, it is getting around this obstacle by using information that is collected by corporations like Thompson Reuters. This monitoring goes hand-in-hand with the government's the new requirement that non-citizens provide all of their social media accounts on their immigration forms. All people need to be aware their social media and location information is available to the government for surveillance and to anyone else who contracts for the CLEAR database.

Deadline for Liberians in the U.S. to File for Permanent Residency is December 20, 2020

Under the recently passed Section 7611 of the National Defense Authorization Act, the Liberian Refugee Immigration Fairness (LRIF) program was included. This program provides U.S. Permanent Residency to Liberians in the U.S. The requirements of the program are as follows: (1) You are a citizen or national of Liberia, (2) You have been in the U.S. since November 20, 2014, (3) You do not have a criminal conviction for an aggravated felony, (4) You do not have a conviction for more than 1 crime involving moral turpitude, and (5) You have never assisted or participated in persecution of others.

Even Liberians who overstayed their entry visas or are in the U.S. on valid visas or TPS qualify for this program. Spouses and unmarried children under the age of 21 of qualifying Liberians are also eligible to apply even if they are not from Liberia or were not in the U.S. themselves by November 20, 2014 . The deadline to file is coming soon, December 20, 2020. Barten Lantz, P.C. is already providing our Liberian clients help filing these applications.