



GOING GLOBAL

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As businesses reach across
national borders,
immigration lawyers and legal
assistants become critical to their success



The growth of the global economy has triggered a boom in the practice of immigration law. The American Immigration Lawyers Association (AILA) has seen its membership increase from 2000 to 6,500 in just two years.¹ It appears, however, that this increase has yet to catch up to the demand for immigration practitioners. The September 2000 *Immigration Law Today* magazine published by AILA cites 113 job vacancies: 51 for Immigration Associates and 62 for Immigration Legal Assistants. Almost all of the job vacancies are for business immigration positions in sole practitioner offices, large law firms with immigration departments, and in-house legal departments in companies as diverse as the Mayo Clinic, Microsoft Corporation, Deloitte and Touche LLP, and Silicon Valley firms.² These positions are offered coast-to-coast and in some foreign countries. In contrast, just three years ago, the same AILA publication advertised 14 position openings; 5 for Associates and 9 for Legal Assistants.³

Throughout our history we have relied on the strength, expertise, and special skills of foreign workers and immigrants to build this country. Since the beginning, widely diverse ethnic, social, and cultural groups have come to America's shores seeking economic opportunity or to reunite with loved ones who preceded them to search for opportunity. These two concepts, family reunification and economic opportunity, are the basic philosophical foundations for the United States' immigration system.

This immigration system is divided between family and employment based immigration, and further sub-divided into two groups: individuals who come to live permanently in the U.S. (popularly known as green card status) and nonimmigrant workers who enter the U.S. on a temporary basis to work in the labor market. Our immigration laws allow employers to bring in skilled workers from overseas when there is a shortage of qualified Americans available to fill the job. This does not mean that as a nation we are shirking our responsibility to educate and train U.S. workers, it only means that the government and employers recognize the need to be able to attract talented and hardworking individuals from all over the world.

This article will focus on the growing area of business immigration law and the immigration practitioner's role in assisting corporations in managing its global workforce.

THE GLOBAL WORKFORCE

Just as many people from around the world wish to live and work in the U.S., many foreign corporations desire to establish operations in the U.S. to prosper in the healthy economy. Many of these corporations have existing relationships with U.S. companies and move here to be closer to their marketplace. Unlike the laws that govern H-1B visa status professionals, immigration laws do not impose numerical limitations on the number of L-1 intra-company transfers. The L-1 visa category consists of workers possessing managerial/executive skills (L-1A) and workers possessing

FAST FACTS:

- *The need for immigration lawyers is increasing rapidly.*
- *Oakland County, one of the most economically vital counties in the nation, received a federal grant in 2000 to establish global links and obtain foreign business.*
- *Immigration practitioners ensure that a corporation qualifies as a sponsoring entity and that an employee has the required credentials.*
- *In immigration law, the involvement of a legal assistant is key in providing high quality, cost-effective services to corporate clients.*

specialized knowledge/essential skills (L-1B). Newly formed U.S. entities require the essential skills and specialized knowledge of their foreign parent companies' employees who possess proprietary knowledge of its products and operations to duplicate the products and services that its customers have grown to expect.

It is imperative that skilled and essential skills workers are transferred to the U.S. to train U.S. workers in these methods and technologies. In addition, the foreign company must transfer key managerial employees to establish, direct, and expand the new operation and to ensure consistent operational quality. As with the H-1B professional category, immigration laws limit the amount of time that an L-1 visa holder can work for a U.S. employer, thus creating constant change in workforce, constant rotation of employees from abroad, and increased utilization of foreign professionals.⁴

Foreign corporations or individuals from 67 countries may use treaty traders (E-1) and/or treaty investors (E-2) visas. The treaties are in place to facilitate trade between the countries and investment with the United States. Germany, Canada, the United Kingdom, and Japan are among the countries who have invested heavily in the U.S. and therefore use large numbers of E visas. The E-visa holders must possess managerial/executive or specialized knowledge/essential skills. Although there is no time limit on the stay of these workers, treaty companies and employees must reestablish their eligibility for the visa on a regular basis.

Foreign based and U.S. corporations face challenges when seeking the services of professionals, particularly those in the high-tech industry and engineering professions. In today's tight labor market, many automotive, high tech, manufacturing, and health care employers are forced to fill specialized slots with foreign professionals. Because of the temporary nature of nonimmigrant work visas, it is impossible to keep these workers in the U.S. indefinitely.

Therefore, employers are required to seek green card status for these employees to continue to have access to their skills.

DETROIT IS STRATEGICALLY LOCATED

As home to General Motors, Ford Motor Company, and DaimlerChrysler headquarters,

IMMIGRATION LAW: A HISTORICAL PERSPECTIVE

During its first 100 years, from 1776 until 1875, America had an open door policy for immigration. In the mid-1800s, American manufacturers advertised in European newspapers offering free passage to any man willing to come to the United States and work. People from all over the world came to America to find their fortune in the land of opportunity. Times changed, however, and in response to growing concerns about competition from foreign workers, Congress passed the Chinese Exclusion Act of 1882 (22 Stat 58). This law suspended immigration of Chinese laborers for 10 years, removed their rights to be naturalized, and provided for the deportation of Chinese illegally in the United States. The law was repealed in 1943. This was the first of numerous immigration and labor laws enacted to protect U.S. workers.

Since 1882, immigration laws have become increasingly complex and continue to be governed by political agendas. Since 1986, five major pieces of immigration legislation have been enacted. The first of these acts was the

Immigration Reform and Control Act of 1986, which instituted employer sanctions for knowingly hiring illegal aliens and required most employers to complete a Form I-9, Employment Verification Eligibility Form, created le-



galization programs, and increased border enforcement.*

As a result of a shift in public sentiment, Congress passed the Immigration Act of 1990, which increased legal immigration ceilings by 40 percent, established categories of employment-based permanent immigration for skilled and professional workers in the belief that the U.S. economy would benefit from increased

the Metropolitan Detroit area has attracted numerous domestic and foreign based Original Equipment Manufacturers and second and third tier automotive suppliers. *Crain's Detroit Business*, December 1999, lists the leading Detroit area foreign-owned divisions, affiliates, and subsidiaries. The top 10 foreign-owned companies ranked by their 1998 revenues are DaimlerChrysler; Volkswagen of America, Inc.; Denso International America, Inc.; Siemens Automotive; Robert Bosch Corp.-Automotive; Thyssen Inc., North America; Yazaki North America Inc.; TI Group Automotive Systems; Valeo Inc., and the Budd Company.⁵

Many of the new companies fueling Metropolitan Detroit's economic growth are situated in an area of Oakland County referred to as "Automation Alley." The name Automation Alley loosely refers to the I-75 and M-59 business corridors along which many technology-intensive automotive suppliers and other businesses have clustered. A consortium of these businesses, also named Automation Alley, is trying to establish Oakland County as a pre-

mier technology location on par with Silicon Valley in California and Route 128 near Boston. The consortium was among seven businesses and organizations awarded grants in 2000 from a U.S. Department of Commerce program designed to promote export and trade. The \$400,000 federal grant will assist Automation Alley businesses to establish global links and obtain additional foreign business.⁶

Oakland County was one of the two top economically performing counties in the nation during the 1990s, compared with 26 similar counties studied by economists. One in four new jobs in the state created between 1990 and 1998 came from Oakland County. In recent years, Oakland County's unemployment rate has been as low as two percent.⁷ As a result, the demand for highly skilled individuals is obviously high.

Detroit's strategic location, its wealth of multi-national corporations, low unemployment, high demand for skilled workers, and its proximity to Canada, made immigration law one of the fastest growing practice areas in

immigration of skilled workers, created diversity admissions, and established temporary protected status for those in the U.S. jeopardized by armed conflict or natural disasters in their home countries (104 Stat 4978). While the law increased permanent immigration for skilled and professional workers, it also imposed a numerical limitation of 65,000 on the number of professional workers allowed into the country in H-1B visa status, the visa for degreed professionals. This paradox reflects the conflicting sentiments Americans have toward immigration.

After another shift in public opinion and in response to growing concerns regarding the lack of qualified U.S. workers to fill professional, degreed positions in the high tech industries, the American Competitiveness and Welfare Improvement Act of 1998 was passed.** This act temporally increased the cap on H-1B workers from 65,000 to 115,000 workers for the years 1999 and 2000. In 2001, the H-1B visas are scheduled to be reduced to 107,500 and in 2002 will return the original limitation of 65,000. However, on October 3, 2000, a consensus bill S.2045, the "American Compet-

itiveness in the Twenty-First Century Act of 2000" was passed, which, if signed by the President, will raise the cap to 195,000 for fiscal years, 2001, 2002, and 2003.

The North American Free Trade Agreement (NAFTA) became effective on January 1, 1994 (8 C.F.R. Sec 214.6). Chapter 16 of NAFTA facilitates nonimmigrant business travel between the U.S., Canada, and Mexico. NAFTA provisions regarding nonimmigrant business travel between the United States and Mexico are stricter than those between Canada and the United States and are due to expire in 2004. Mexico, however, is advocating to have the stricter provisions relaxed earlier.

On September 30, 1996 the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 was passed.*** This act contains many new provisions relating to inspection, apprehension, detention, and removal of inadmissible and deportable aliens.

* Pub. L. No. 99-603, Sec. 101, 100 Stat 3359, adding INA Sec. 274A, 8 USC 1324a.

** Title IV of Div. C of Pub. L. No. 105-277.

*** Pub L. No. 104-208, 110 Stat 3009.

Michigan. Membership in AILA's Michigan chapter has grown from approximately 120 to 176 immigration attorneys in just one year.⁸

THE EXPANDING ROLE OF THE IMMIGRATION PRACTITIONER

The continued growth of the global economy has dramatic implications for U.S. corporations and institutions. The shortage of qualified U.S. workers available to fill professional positions has forced companies who previ-

ously had no exposure to immigration issues to dip into the foreign labor market with increasing frequency. Today, employers must engage in long term planning to keep their workforce in legal immigration status and at full strength. As a result, the practice of immigration law has taken on a new level of importance as employers seek legal counsel to assist them in complying with the myriad laws and required procedures that govern the employment of nonimmigrants and immigrants. In

addition to obtaining the required work visas for foreign workers, an immigration practitioner assists employers in establishing strategies and solutions for managing their global workforce.

It is the role of the immigration practitioner to ensure that the corporation qualifies as a sponsoring entity and that the employee has the required credentials. Corporations establishing start-up companies would be wise to consult with an immigration practitioner to ensure that the ownership and type of entity they wish to establish will qualify them to transfer their workers to the United States. A review and analysis of the employee's qualifications is required to select the appropriate visa and to establish a timeframe for the employee's start date. At times, the employer's choice of entity or selected employee may not meet the qualifications for transfers as set forth by the Immigration and Naturalization Service (INS) regulations.

As the role of the immigration practitioner grows, so grows the importance of the legal assistant in assisting in the management of a global workforce. The spread of business operations across the globe creates a constant flow of immigration matters that companies delegate to their immigration counsel for analysis and processing. Most immigration practitioners deal with high volume caseloads and quick turn around times for filing applications, which require advance planning and compliance with all regulations as set forth by various government agencies including the INS, the Department of Labor, and the Department of State. As filing procedures vary between local INS districts, INS service centers, and embassies and consulates throughout the world, it is imperative to keep current on these procedures and policies.

The involvement and proper utilization of legal assistants is key in providing high quality and cost-effective legal services to corporate clients. An immigration legal assistant's responsibilities include gathering and analyzing information; evaluating facts; researching laws and current procedures and keeping abreast of same; preparing legal documents; translating or arranging for translation of documents; preparing documents for experience and education credential evaluations; drafting complex letters to support applications or

GERMAN BUSINESS BOOMS IN MICHIGAN

The formation of DaimlerChrysler has created a surge in German investment. Currently, 58 German companies operate plants, engineering offices, and sales offices in Michigan, employing nearly 54,000.* Just five years ago the German American Chamber of Commerce in Michigan had only 40 member companies. Today more than 180 companies have joined the chapter. It is expected that the Germans will surpass the 160 Canadian firms in the state making it the second largest foreign operator here. The foreign investment leader by far, though, is Japan, which has 345 facilities in the state.

*R. J. King and David Phillips, "Michigan Car Boom Attracts Germans," *The Detroit News* (December 5, 1999)

ECONOMIC LIFELINE

Michigan is the Midwest's doorway for trade with Canada. The U.S. and Canada are the world's largest trading partners generating \$1 billion (Canadian) a day in trade.* The Port of Detroit, which is comprised of the Ambassador Bridge, the Detroit Windsor Tunnel, and the Blue Water Bridge in Port Huron, functions as the economic lifeline joining these two great nations. The following statistics indicate that this trend will escalate and continue well into the 21st century:

- International commercial traffic on the Ambassador Bridge, the Blue Water Bridge, and the Detroit Windsor Tunnel is expected to double in the next 10 years.**
- In 1992, the Ambassador Bridge surpassed the Peace Bridge, which connects Fort Erie, Ontario and Buffalo, New York, as the busiest international border crossing in North America.***
- Of the \$1 billion (Canadian) per day trade between Canada and the U.S., 27 percent crosses at the Ambassador Bridge.
- In 1999, 9.5 million vehicles traveled through the Detroit Windsor Tunnel, making it the second busiest port of entry, according to Neil Belitsky of the Detroit and Canada Tunnel Corp.

* Daniel G. Fricker, "U.S.-Canada Border: Forcing Canadian to Show I.D. Will Jam Up Traffic, Critics Say," *The Detroit Free Press Online* (October 1997) www.freep.com/news/mich/qimmig7.htm

** Jeff Gerritt, More Truck Traffic Spurs Road Concerns, *The Detroit Free Press Online* (January 2000) www.freep.com/news/mich/truck11_20000111.htm

*** Ambassador Bridge Facts <http://216.117.149.71/ambassadorbridgecom/facts.html>



petitions; selecting, reviewing, and organizing exhibits to be submitted as supporting documentation; and submitting the final product with proper fees to the appropriate INS office for review and adjudication.

Once the documentation is filed with the INS, the legal

assistant is responsible for contacting consulates and embassies around the world to confirm current visa processing procedures and inquiring with the INS about the status of pending cases. Under the supervision of an immigration attorney, legal assistants participate in obtaining and evaluating client information and determining the appropriate visa type. Since an employee may be eligible for more than one type of visa, it is important to select the visa that best fits the individual's circumstances and long term needs.

Time is a precious commodity when processing immigration work. Many factors can slow the process of bringing a skilled worker to the U.S., but the most challenging hurdles to overcome are delays incurred by the government agencies that process the petitions and applications. Processing times for immigration petitions can take six weeks to three months under the best circumstances, but may take considerably longer.

The work of the immigration practitioner continues after the foreign worker arrives in the U.S. All immigration documents issued to the employee and any accompanying family members should be reviewed and tracked for accuracy. Also, it is imperative that the travel documents of all employees and dependents are kept current. This includes passports, visas, and I-94 Arrival/Departure Records. Without valid documents, travel in and out the U.S. is prohibited, curtailing the foreign worker's ability to perform the duties of his or her job. Employers rely on the immigration practitioner to keep track of these important dates and to file immigration matters in a timely fashion so that travel is not impeded. Often it is the responsibility of the



legal assistant to obtain copies of the travel documents and to maintain records of important deadlines to ensure that they are met. Deadlines for extensions and renewals of petitions and applications must be met or the employee and their family will have to leave the U.S., or

in more severe cases, be deported.

The role of the immigration practitioner is also critical in planning and facilitating the green card process so it is obtained before the nonimmigrant's authorized stay in the U.S. expires. Once the green card is obtained, the immigration practitioner advises the holder on the requirements for maintaining green card status, including paying taxes as a U.S. resident; maintaining a residence in the U.S.; obtaining a re-entry permit to re-enter if transferred out of the U.S.; registering for the Selective Service, if required; and filing applications to preserve residency for naturalization purposes. They may also assist the employee in petitioning for eligible family members to come to the U.S. or to become U.S. citizens, when eligible.

Immigration issues affect the day-to-day operation of businesses and the livelihood of the foreign worker. Business executives and human resource managers communicate frequently with the immigration practitioner to confirm timelines, policies and procedures, and to facilitate the immigration process for their employees. Getting a visa to work and live in the U.S. is often the single most important issue facing a foreign worker and they seek constant reassurance that it will happen. The ability to respond promptly and efficiently to a client's concerns is critical. The development and maintenance of these relationships and facilitating long term plans to assist corporations in managing their global workforce is a particularly rewarding aspect of the immigration practice. The legal assistant's role in communicating with clients and facilitating the process is key to maintaining these relationships. ♦



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in sociology, received her CLA from the ABA-approved Legal Assistant Program at Oakland Community College, and completed law school at Kliment Ohridski University in Sofia, Bulgaria.



Myra MacIsaac is a legal assistant employed at Butzel Long, Detroit. She holds a BS from Madonna University's ABA-approved Legal Assistant program and a BS in social work from Michigan State University. For the past nine years she has

focused on business immigration matters.



Michele Polito is a legal assistant at Butzel Long assigned to the Immigration Practice Group where she focuses on business immigration. She graduated from Wayne State University with a BA in French language and culture.

She attended the American Institute for Paralegal Studies. Polito has almost six years of experience in the field of immigration.

FOOTNOTES

1. Chris Mahoney, *Immigration Law Moves into the Limelight*, Boston Business Journal Online (August 21, 2000) www.bizjournals.com/boston
2. *Immigration Law Today*, Clearinghouse, September 2000 at D-17 to D-24
3. *American Immigration Lawyer's Monthly*, Clearinghouse, September 1997, Vol. 16, No. 8, 766-768.
4. 8 C.F.R. Sec. 214.2(1)(2)
5. *Crain's Detroit Business*, December 1999 at page 54.
6. Hugh McDiarmid Jr., *Grant To Help Global Links*, *The Detroit Free Press* (September 29, 2000), at Section B, 1.
7. Hugh McDiarmid Jr., "White Collar Job Rise Forecast," *The Detroit Free Press Online* (April 23, 1999), www.freep.com/news/locoak/njobs23.htm
8. Reginald A. Pacis, Esq., American Immigration Lawyers Association, Detroit Chapter Membership Committee Chairperson, 1999-2000.

MICHIGAN SUPREME COURT NOTICE OF PUBLIC ADMINISTRATIVE HEARING

Pursuant to Administrative Order 1997-11, the Michigan Supreme Court announces a public administrative hearing to be held on March 29, 2001, in the Supreme Courtroom in Lansing, beginning at 9:30 a.m. and adjourning no later than 11:30 a.m. Those wishing to address the Court about matters on the agenda should be advised that each speaker will be allotted no more than three minutes. The time limit will be enforced. Any questioning of the speakers by the Court will take place after the time for addressing the Court has expired. Those wishing to address the Court on administrative matters are requested to provide notification to the office of the clerk no later than March 27, 2001, in order to obtain a guaranteed place on the agenda. Notification can be made by mail to Office of the Clerk, Michigan Supreme Court, P.O. Box 30052, Lansing, Michigan 48909, by phone at (517) 373-0120, or by e-mail at msc_clerk@jud.state.mi.us

Administrative matters on the agenda for this hearing are:

1. 00-06 Proposed Amendment of Rule 2.625(F)(2) of the Michigan Court Rules. Published at 463 Mich 1212 (No. 3, 2000).
Whether to expand the categories of postjudgment motions that operate to extend the 28-day deadline for presenting a bill of costs.
2. 00-09 Proposed Amendment of Rule 7, Section 1 of the Supreme Court Rules Concerning the State Bar of Michigan. Published at 463 Mich 1209 (No. 2, 2000).
Whether to specify that the vice-president of the State Bar Board of Commissioners succeeds to the office of president-elect, and then to the office of president.
3. 00-10 Proposed Amendment of Rule 9.112(B) of the Michigan Court Rules. Published at 463 Mich 1208 (No. 2, 2000).
Whether to add a requirement that requests for investigation of lawyers be verified under oath or by declaration of the complainant.
4. 00-11 Proposed Amendment of Rule 1.201 of the Michigan Court Rules. Published at 463 Mich 1219 (No. 4, 2000).
Whether to establish uniform effective dates for court rule amendments.
5. 00-15 Proposed Amendments of Rules 3.210(C) and 2.119(E) of the Michigan Court Rules. Published at 463 Mich 1202 (No. 2, 2000).
Whether to require trial courts to determine, before directing an evidentiary hearing, whether there are contested factual issues that must be resolved in order for the court to make an informed decision.
6. 00-23 Proposed Amendments of Subchapter 3.700 of the Michigan Court Rules [Rules 3.702, 3.703, 3.704, 3.706, 3.707, and 3.708]. Published at 463 Mich 1203 (No. 2, 2000).
Whether to amend the court rules pertaining to personal protection proceedings in light of recent statutory changes and the experience of trial courts.
7. 00-28 Interim Amendment of Rule 3.208(C) of the Michigan Court Rules. Published at 463 Mich xlv (No. 3, 2000).
Whether to retain the new subrule concerning the allocation and distribution of payments on Friend of the Court accounts.
8. 00-31 Proposed Amendment of Rule 6.500 et seq. of the Michigan Court Rules. Published at 463 Mich 1220 (No. 4, 2000).
Whether to impose a general one-year time limit on motions for relief from judgment.

The agenda items will be posted on the Michigan Supreme Court's website in advance of the hearing. The website address is www.supremecourt.state.mi.us Notice of any additional matters for the agenda will follow as added.