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**Immigration Update – June 21, 2005**

Trow & Rahal, P.C. is pleased to provide this Immigration Update as a service to our clients and friends.

**Immigrant visa numbers will be unavailable for the EB3 and Other Worker categories from July 1, 2005 until September 30, 2005:** For green card applications based on employment, final approval is governed by the total number of visas available each fiscal year for the applicant's employment preference category. The Employment-Based Third Preference (EB3) category is for skilled workers whose jobs require a bachelor's degree or two or more years of experience. The Other Worker category is for unskilled workers whose jobs require less than two years of experience.

U.S. Citizenship and Immigration Services (USCIS) has been processing green card applications at a faster pace as it attempts to reduce its backlog, which has depleted the supply of employment-based visa numbers. As a result, the EB3 and Other Worker categories have reached their annual limits and will be unavailable from July 1 through September 30, 2005.

This visa unavailability affects applicants who have an approved labor certification in the EB3 or Other Worker category and have not yet filed an Application to Adjust Status (Form I-485). These applicants should try to file an adjustment application by June 30, 2005, especially if they will need an Employment Authorization Document (EAD) before December 31, 2005. Otherwise they will need to wait until October 1, 2005 to file the adjustment application, and wait two to three months longer to receive an EAD. Applicants who are unable to file adjustment applications by June 30 should plan to file as soon as possible after October 1 because this unavailability could resurface in 2006. EB3 and Other Worker applicants generally must have an approved labor certification from the U.S. Department of Labor before they are eligible to file an adjustment application with USCIS.

This problem also affects EB3 and Other Worker applicants who have already filed an adjustment application, or who are seeking an immigrant visa at a U.S. consulate abroad. USCIS and the Department of State will suspend processing of these applications while visa numbers are unavailable. The problem does not affect family-based green card applications, and does not affect employment-based categories other than EB3 and Other Worker.

**Machine-readable passports required as of June 26, 2005:** As of June 26, 2005, any person who seeks to enter the United States under the visa waiver program (VWP) must have a "machine-readable" passport. These passports have two lines of block printing on the identification page that can be read by optical scanning machines. Some older foreign passports do not satisfy this requirement.

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The U.S. government has been granting one-time waivers of this requirement at no charge for VWP travelers who do not have a machine-readable passport. VWP travelers arriving in the U.S. on or after June 26, 2005, without a machine-readable passport will no longer be granted this waiver, and will only be allowed to enter if they have a visa issued by a U.S. consulate or embassy abroad.

The 27 countries participating in the VWP are: Andorra, Australia, Austria, Belgium, Brunei, Denmark, Finland, France, Germany, Iceland, Ireland, Italy, Japan, Liechtenstein, Luxembourg, Monaco, the Netherlands, New Zealand, Norway, Portugal, San Marino, Singapore, Slovenia, Spain, Sweden, Switzerland, and the United Kingdom.

If you have any questions about these changes, please contact one of the Trow & Rahal attorneys listed below.

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