

Immigration Spotlight

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All of us at J&H wish you a Happy Thanksgiving. The following is our holiday schedule through the end of the year and into the beginning of January.

November 27-28;

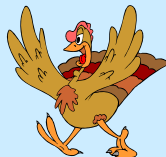
December 24 at 1:00 pm,

December 25-26;

December 31 at 1:00 pm,

January 1-2, 2009;

and January 19, 2009



An **emergency phone line** will be open for our clients on the days we are closed, **415-848-5555.**

Looking forward to 2009:

The political landscape

Many clients have asked for our opinion on what the new administration will mean for immigration laws. While Senator McCain was often thought of as a pro-immigration candidate, President-Elect Obama also has pro-immigration credentials. In a prior interview, he advocated a temporary increase in H-1B visa numbers, and a temporary increase in employment-based immigrant visa numbers. The following is an excerpt from the Obama for President website:

• **Improve our immigration system:**

Obama and Biden believe we must fix the dysfunctional immigration bureaucracy and increase the number of legal immigrants to keep families together and meet the demand for jobs that employers cannot fill.

• **Bring people out of the shadows:**

Obama and Biden support a system that requires undocumented immigrants who are in good standing to pay a fine, learn English, and go to the back of the line for the opportunity to become citizens.

Will we see rapid change in immigration reform? Probably not. Given the global financial crisis, the new administration will work first on shoring up the financial markets and the economy. However, the President-Elect Obama Administration has expressed an interest in revisiting comprehensive immigration reform. According to a recent interview with Senator Harry Reid, Obama has already reached out to congressional Republicans, including his former rival Senator John McCain, with the idea of attempting to reintroduce immigration reform as soon as is expedient. Furthermore, congressional Republicans are not expected to fight immigration reform with the same vehemence as they did in 2007, partially because: (a) such behavior proved to alienate significant voting blocks in the 2008 elections, (b) there are fewer Republicans in Congress after the 2008 elections, and (c) the significantly weakened Republicans are expected to conserve their strength for the upcoming fight on health care reform.

The argument for an expansion of work-authorized visas is always more difficult during a recession. How-

ever, major fixes to the immigration system may be at hand. For example, bills have already been introduced in Congress which would add unused immigrant visa numbers from prior years back to the annual numerical quotas for immigrant visas. Other pending bills under consideration may change how visas are allocated so as to ameliorate some of the impact of visa retrogression for high-demand countries such as India and China. One issue that provides leverage to pro-immigration legislators is the upcoming expiration of the controversial E-Verify program. Any attempt to re-authorize E-Verify's mandate in Congress is unlikely to come without some concomitant expansion in immigration benefits, whether in the form of increased immigrant visa numbers or something else.

USCIS News

H-1B cap season—it's coming!

The filing window for the 2009 H-1B cap season will be the first five government business days of April 2009. This means that employers wishing to sponsor individuals for one of the coveted H-1B cap visa numbers must file their petitions so that the petition is received by the USCIS on April 1, 2, 3, 6, or 7. It is time to start reviewing current employees to determine if any should be sponsored for an H-1B visa. Particular attention should be paid to your employees who are in F-1 and J-1 status. These individuals will likely need to be changed to a new classification in order to continue working for your company as their current authorizations expire. While some F-1 nonimmigrants will be able to extend work authorization for an additional 17 month period, not all F-1 employees will be eligible to do so. Consideration should also be given to employees who may be in TN, L-1B, E-3, O-1 and H-1B1 nonimmigrant work categories. While they have employment authorization, there may be strategic reasons to attempt to switch them into the H-1B category.



J&H will shortly be sending out detailed e-mails to our corporate clients which include a list of employees that should be considered for possible H-1B sponsorship. We will also provide detailed analysis points to assist you and we stand ready to discuss your employee rolls. We also suggest that you work with your hiring managers to ensure that they understand H-1B cap considerations as they interview candidates. Items to make sure that your hiring managers understand:

1. The filing window is April 1, 2, 3, 6, and 7, 2009. Any petition received after the final date will not be included in the lottery;
2. The H-1B visa petitions filed during April, 2009, that are accepted and processed, will have validity start dates of 10/1/2009. Therefore, even if an indi-

vidual is the beneficiary of an approved H-1B cap petition, unless s/he has other work authorization, s/he may not be able to work for your company until after 10/1/2009. Furthermore, if the individual is outside the United States and is not visa exempt, s/he would have to apply for and be issued an H-1B visa based on the petition approval before s/he could enter the US in October 2009. Given the typically large number of visa applications at that time of year, managers should be prepared for Consular delays;

3. The H-1B cap filings are lotteries. There is a U.S. master's cap lottery where the first 20,000 visas are awarded. After that, those not selected under the master's cap are added to the regular cap pool and the next lottery is run. This means that individuals eligible under the "master's cap" have an extra chance at being selected;
4. To be eligible under the master's cap, the individual must hold an advanced degree from a U.S. university. The degree must have been completed (all credits and thesis defended) as of the date the petition is submitted. If a candidate has not completed all requirements for the degree, s/he is not eligible under the Master's cap and would have to be filed only under the regular cap;
5. Premium processing does not elevate one's chances of being selected. But it does provide the employer and the foreign national with the ability to plan. What you might want to consider is upgrading cases to premium processing after a case is received;
6. If an F-1 employee is sponsored and his/her petition is accepted for processing, s/he will have "cap-gap" relief and will be able to continue working. This is an important change that was implemented last year and addresses the situation where an F-1 non-immigrant's work authorization expires before the 10/1 start date that the H-1B visa petition would have.

Jackson & Hertogs will host a webinar on H-1B basics and the H-1B cap in January 2009. Please see our list of webinars on page 8 for details.

Changes to third country national visa processing in Mexico

With no advance notice, U.S. consulates in Mexico are imposing significant restrictions on the services available to so-called third-country nationals (TCNs) applying for nonimmigrant visas. In particular, the following TCNs *cannot* apply for nonimmigrant visas in Mexico (http://mexico.usembassy.gov/eng/evisas_third_country.html):

- Applicants who entered the U.S. with a visa issued in their home country and changed status with Department of Homeland Security in the U.S., who now seek a new visa in the new visa category.
- Applicants who entered the United States in one visa category and seek to re-enter the U.S. in a different visa category.
- Applicants who obtained their current visa in a country other than that of their legal residence.

In the past, individuals who were lawfully admitted to the U.S. in one visa category (such as an F-1 student) would often apply for a new visa stamp in Mexico after they were approved for H-1B or other nonimmigrant status.

Please note that the following TCNs may continue to apply for nonimmigrant visas in Mexico:

- Applicants seeking to renew their C1/D, D, F, H, I, J, L, M, O, P and R visas, if the initial visa was issued in the applicant's home country or at one of the border posts in the past few years.

In response to an inquiry from Jackson & Hertogs, the Chief of the Nonimmigrant Visa Unit at Mexico City has advised that the new TCN policy applies to all ten consular posts in Mexico, based on a determination that “the applicant's home country can best determine the applicant's eligibility under U.S. immigration laws when an applicant has changed from one visa status to another.” The Chief also advised that the “policy was enacted to create a homogeneous policy throughout Mission Mexico.”

It is important to note that certain individuals may be required to apply for a visa in their home country, either due to regulatory or security requirements. In addition, U.S. consulates have always retained discretion to refuse applications from - or issue visas to - TCNs. Please see our [Travel Issues](#) for detailed information on visa processing and helpful links for travel while in nonimmigrant status.

Jackson & Hertogs recommends that all visa applicants ensure that they check with the consulate and/or the consulate's website prior to appearing for a scheduled visa appointment. As evidenced by the shift in Mexico, policies can change with little or no notice.

DHS News

DHS publishes “no match” rule

*Editor's Note: Employers should note that due to ongoing litigation, the Rule described in this article is **not** yet in effect. However, DHS has petitioned the court to*

lift the current injunction blocking the Rule's enforcement, and the Rule may go into effect in the near future.

On October 28, 2008, the DHS published its final rule providing guidance on how employers must respond to a “no-match letter” from the Social Security Administration or a “notice of suspect document” from DHS casting doubt on the employment eligibility of named employees. Receipt of either letter will require the employer to take certain actions to resolve the discrepancy. This may include the employer correcting its own records to fix clerical errors, or the employee contacting SSA and/or DHS to obtain proof that s/he is authorized to work in the United States. If an employer continues to employ an individual who is the subject of a no-match letter, and the employee provides no evidence that the discrepancy has been resolved, DHS may find that the employer has “constructive knowledge” that the worker is not authorized to work in the United States.

The so-called “no match” rule was first published in August 2007, with an intended effective date of September 19, 2007. However, enforcement of the regulations was enjoined by lawsuit, and an injunction against DHS on implementing the regulations is still in effect. The Final Rule now addresses several points challenged in the lawsuit. With the exception of minor technical corrections, this final version of the “no match” rule is essentially unchanged from the originally published draft rule DHS published in August 2007.



As published by DHS, the Rule requires that, within a maximum of 93 days after receipt of an SSA or DHS notification, employers take steps that involve checking their own records, requesting impacted employees to confirm employment records, and ultimately repeating the I-9 employment eligibility verification process to resolve discrepancies. If an employee's identity and work authorization cannot be verified using these procedures, the employer must terminate the individual's employment or risk a DHS finding that the employer knowingly hired or continued to employ an unauthorized worker in violation of law. Note that these procedures do not safeguard against liability when an employer has actual knowledge that an employee is not authorized to work.

We would note that employers often receive “no match” letters due to clerical errors, or failure to register a change of name after marriage; the person who is the subject of a no-match letter is often, in fact, authorized to work in the United States.

Jackson & Hertogs continues to monitor the status of the no match rule, and will provide updates as information becomes available.

E-Verify for federal contractors: Final rule published

On November 14, 2008, a final rule amending the Federal Acquisition Regulation (FAR) was published in the Federal Register, which will require most federal contractors to enroll in the E-Verify program as a condition of all federal contracts. The proposed rule was published in June 2008 for notice and comment. The final rule has moved on a fast track, as it cleared review at the Office of Management and Budget (OMB) just two weeks after submission. The rule is based on an Executive Order which requires all employers who are federal contractors to enroll in and use the E-Verify system. The rule appears to be one of many final regulatory changes the Bush Administration is moving to complete prior to its departure from the White House in January 2009. The E-Verify rule for federal contractors will be in effect on January 15, 2009.



E-Verify is a controversial Internet-based system operated by DHS in partnership with the SSA. E-Verify allows participating employers to electronically verify the employment eligibility of their newly hired employees after completion of a Form I-9. E-Verify is free and is voluntary for most employers, though it requires employers to adopt certain new technologies and waive a large number of rights with respect to review of its I-9 records. Information about E-Verify, including how to enroll is available from USCIS at www.uscis.gov/E-Verify.

As published, the Federal contractor regulations would greatly expand the use of E-Verify. The present E-Verify program is expressly limited for the employment verification of new hires. In fact, employers are specifically barred from using E-Verify to “re-verify” the employment authorization or identity documents of existing employees. Under the final rule, federal contractors will be required to use E-Verify to verify employment authorization for all new hires under a specified federal contract, and to re-verify the employment authorization for all existing employees working under the same federal contract. Only federal contractors would be required to re-verify existing employees through E-Verify. Employers who do not contract with the federal government would not be permitted to enter existing employees into the E-Verify database. This bears repeating: E-Verify cannot be used to re-verify any employee’s ability to work even if the I-9 requirements dictate that a re-verification is mandated. With the specific exception of federal contractors, E-Verify is only to be used for new hires.

While federal contractors are not required to immediately enroll in the E-Verify program, employers subject to this requirement should begin planning for E-Verify, and in particular how to identify employees subject to

this new requirement. Care will be required, as employers will need to apply E-Verify for all new hires, regardless of whether the hire will work under a specified federal contract. However, only certain existing employees will be subject to the re-verification requirement for E-Verify. Also, please note that while the rule will be in effect on January 15, whether a specific contract or contractor is subject to E-Verify depends upon the terms of the contract, and certain short-term contracts and contracts with a small dollar value are not subject to E-Verify. USCIS has published an FAQ for E-Verify for federal contractors that summarizes which types of contracts are subject to the rule, which is available at www.uscis.gov/e-verify.

Jackson & Hertogs is available to assist employers with E-Verify enrollment, as well as provide guidance and counseling on how employers may use E-Verify as well as overall I-9 compliance issues. Please contact your Jackson & Hertogs attorney if you have questions or need assistance with E-Verify.

CBP News

Visa Waiver Program expanded

On November 17, 2008, seven countries were added to the list of countries authorized to participate in the Visa Waiver Program (VWP) increasing the number of participating countries from 27 to 34. The seven countries are the **Czech Republic, Estonia, Hungary, the Republic of Korea, Latvia, Lithuania, and Slovakia.**

Citizens of countries eligible to travel to the United States under the VWP prior to November 17, 2008 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.

The VWP enables eligible citizens or nationals of certain countries to travel to the U.S. for tourism or business for stays of 90 days or less without obtaining a visa. The program is administered by the DHS. To be admitted to the VWP, a country must meet various security requirements, such as enhanced law enforcement and security-related data sharing with the United States and timely reporting of both blank and issued lost and stolen passports. VWP members are also required to maintain high counterterrorism, law enforcement, border control, and document security standards. For more information on the VWP see the CBP website at http://www.cbp.gov/xp/cgov/travel/id_visa/business_pleasure/vwp/

ESTA: Mandatory registration has begun

ESTA, the Electronic System for Travel Authorization, requires all travelers to the U.S. under the VWP to obtain pre-registration *prior to* their travel to the U.S. Mandatory ESTA registration has begun on **November 17, 2008** for VWP travelers from the **Czech Republic, Estonia, Hungary, Republic of Korea, Latvia, Lithuania and Slovakia**. All other eligible citizens or nationals from VWP countries must register for ESTA for travel beginning January 12, 2009. Once ESTA is mandatory, any national from a VWP authorized country must carry both an e-Passport and approved ESTA authorization.

ESTA registration is done through an online fully automated, electronic system. The program screens passengers before they begin travel to the U.S. and registration is free. Voluntary ESTA applications may be submitted at any time prior to travel to the U.S., and VWP travelers are encouraged to apply for authorization as soon as they begin to plan a trip to the United States.

There are three types of responses to an ESTA application: Authorization Approved, Authorization Pending, and Travel Not Authorized. Those applicants who receive an approval are authorized to travel to the United States under the VWP. Applicants who receive an Authorization Pending response will need to check the Web site for updates within 72 hours to receive a final response. Applicants whose ESTA applications are denied will be referred to <http://www.travel.state.gov> for information on how to apply for a visa to travel to the United States.

ESTA authorization is generally valid for two years, or until the traveler's passport expires, whichever comes first. Please note that ESTA registration is required even if a traveler is planning to transit through the U.S. en route to another country. ESTA authorization does not guarantee admissibility to the U.S. If the ESTA authorization is denied, the traveler must apply for a visa at the appropriate U.S. Embassy/Consulate. Those travelers already in possession of a B1/B2 visa or other classification of visa are not required to register with ESTA.

To access ESTA registration, visit <https://esta.cbp.dhs.gov>. For more information about the ESTA program, its implementation and requirements, including an FAQ published by CBP on November 17, 2008, please visit http://www.cbp.gov/xp/cgov/travel/id_visa/esta/about_esta.

Visa Waiver Program passport requirements

There have been important changes in passport and e-Passport requirements for travelers from VWP countries applying for admission to the U.S.



Please note that those countries requiring ESTA registration as of November 17, 2008 must also possess an e-Passport. All other VWP countries will require an e-Passport once ESTA registration becomes mandatory on January 12, 2009. If your passport does not meet the appropriate e-Passport requirement, you will be unable to register with ESTA and must obtain a visa for entry to the U.S. For detailed description and photographs of the required VWP passport requirements, see the press release at http://www.dhs.gov/xtrvlsec/programs/content_multi_image_0021.shtm

Passports issued on or after October 26, 2006: e-Passports required

New passports issued by VWP countries must be e-Passports, which include an integrated computer chip capable of storing biographic information from the data page, as well as other biometric information. If you were issued a passport on or after October 26, 2006, and it is not an e-Passport, you will need to obtain a visa.

Passports issued October 26, 2005 - October 25, 2006: Digital Photographs

Older, but still valid passports issued or renewed/extended by VWP countries between October 26, 2005, and October 25, 2006, must include a digital photo printed on the data page. A digital photo is one that is printed on the page, not a photo that is glued or laminated into the passport. If your passport was issued between October 26, 2005 and October 25, 2006 and is not an e-Passport or does not include a digital photo, you must obtain a visa to travel to the U.S.

Passports issued before October 26, 2005: Machine-Readable Zones

Passports issued by VWP countries before October 26, 2005, must have a machine-readable zone. A machine-readable passport has two lines of text as letters, numbers and chevrons (<<<) at the bottom of the personal information page, along with the bearer's picture. If your passport does not have this feature, you must get a new e-Passport or you must obtain a visa for travel to the United States.

DOL News

Labor certifications in a declining economy

In the past few months, the American economy has been struggling. The unemployment rate has increased nationally, and several economic sectors have experienced significant layoffs, notably in financial services, construction and the automotive industry. Most economic indicators suggest that the economy will not rebound soon, and it is expected that unemployment will increase next year. In light of the state of the economy, employers need to be more cautious when sponsoring employees for PERM labor certification. PERM applications can continue to be filed with DOL, but employers should be prepared for the possibility that some PERM applications might simply not be viable, should a large number of resumes be received during the recruitment period. Further, we anticipate that there will be additional scrutiny at DOL after a PERM case is filed.

Why do we expect additional DOL scrutiny? In a nutshell, every PERM case is a test of the labor market for available US workers. By filing a PERM case, an employer is attesting that US workers could not be found for the sponsored job opportunity. When unemployment goes up, there are more US workers available, and DOL has greater concerns that employers may be ignoring or overlooking available US workers in favor of the sponsored foreign worker.

DOL addressed some of these concerns in their October 2008 liaison meeting with stakeholders, stating:

In light of the current state of the economy and financial difficulties facing companies, DOL will be focusing its attention on companies in certain industries that are negatively impacted by the economic downturn, including those hit by the “domino effect.” DOL will review all reports available to them, including WARN notices, reports in the media, trade notices, etc. DOL data created by other DOL entities is also available to the Office of Foreign Labor Certification (OFLC). If DOL finds that a company that is filing PERM applications has been laying off employees or downsizing, DOL will look at U.S. worker availability, especially if the position is for a “roving” employee who is not locally based. These cases will be reviewed with extra scrutiny. DOL may require supervised recruitment as a result. DOL urged employers to exercise diligence with regard to the recruitment report and to demonstrate clearly good faith in its recruitment efforts. DOL must document that a decision to certify a PERM application is justifiable, especially if the company has had layoffs in the occupation or generally. DOL will also look at the existence of industry layoffs, which can affect U.S. worker availability generally, in scrutinizing whether recruitment reports are credible.

What are some of the consequences for employers who want to file PERM applications for employees? Will availability of US workers mean that a PERM case is denied? Will a DOL finding of availability mean that all PERM applications from an employer or industry will be summarily denied? Will DOL order an employer to complete DOL-supervised recruitment to prove that US workers are not available? If ordered to undergo DOL-supervised recruitment, must an employer complete supervised recruitment? Let's consider each of these questions:

Will increased availability of U.S. workers mean that a PERM case is denied?

Potentially yes. If DOL reviews the recruitment for an individual PERM case, as well as other available labor market data, and concludes that qualified US workers are/were available, DOL can deny the PERM application. DOL also has the option to order the employer to complete DOL-supervised recruitment for up to two years, not just on a single PERM case, but on all PERM applications filed by that employer.

Will a DOL finding of availability mean that all PERM applications from an employer or an industry will be summarily denied?

This is possible, but not likely. DOL has always had the authority to look at the broader labor market in considering the availability of US workers. However, DOL has been reluctant to issue blanket denials without clear evidence that workers are available. This could occur in industries undergoing significant layoffs, such as financial services. Most employers and industries that have undergone significant layoffs are not filing PERM applications for those occupations that have borne the brunt of the layoffs. If your industry has undergone significant layoffs in a particular occupation group, we recommend that a PERM case only be filed for positions in those occupations if they are difficult to fill, and that you can provide evidence that qualified US workers are unavailable. The DOL has indicated that it may look to industry-wide layoffs when determining the credibility of recruitment reports.

Will DOL order an employer to complete DOL-supervised recruitment to prove that US workers are not available?

DOL has the authority to order supervised recruitment, but it is unlikely that DOL will order supervised recruitment on every case where DOL finds likely availability of qualified US workers. DOL-supervised recruitment is extremely resource-intensive, and DOL may simply deny applications where DOL finds availability of US workers. DOL may limit supervised re-

recruitment orders to employers who appear to have egregiously overlooked potentially qualified US workers, or to employers who display a pattern of filing PERM applications where qualified US workers are available.

If DOL orders supervised recruitment, must an employer complete the supervised recruitment?

No. If ordered to complete supervised recruitment on a case, the employer may decline and choose to withdraw the case. However, a new PERM case cannot be filed for that same employee until the supervised recruitment order has expired. DOL may order supervised recruitment for up to two years, so if an employer is ordered to undergo supervised recruitment, each case must be considered separately in determining whether to proceed under DOL supervision or to withdraw and wait to file again.

Our goal is not to discourage employers from filing PERM applications, but to inform employers of the additional care that should be taken in authorizing the commencement of a PERM application and in preparing PERM applications. Depending on labor market conditions and the results of recruitment, it may be necessary to postpone filing certain PERM applications. Employers should keep the following points in mind when planning a PERM case:

Be aware of layoffs in your industry and area of employment.

Even if you have not laid off any employees, if many other employers in your area have had layoffs, DOL may assume that there are available US workers for the job opportunity. Are you hiring for a unique or hard to find skill set? Are you still hiring, even though other employers are not? Can you document why your hiring requirements are different than other companies?

Be aware of “layoffs” at your company.

For purposes of the PERM regulations, DOL considers any termination “not for cause” to be a layoff, so even a small reduction in force is a layoff in the eyes of DOL. Often, this type of termination information is not widely distributed within a company – make sure that you are kept informed about any layoffs, as this may need to be addressed on your PERM applications.

Be able to distinguish terminations for cause and voluntary resignations from layoffs.

If employees are terminated for cause, or voluntarily leave (i.e., they accept a voluntary severance package in return for resignation), these can and should be distinguished from layoffs, and should not impact a PERM application.

Most importantly, be aware of labor availability and recognize its impact on PERM applications.

If PERM recruitment identifies a qualified, willing and available U.S. worker, **the PERM application cannot be filed.** Filing a PERM application that suggests high availability of workers may result in the case being denied, or the case being directed to undergo DOL-supervised recruitment. In these circumstances, it may be more prudent to wait and file a PERM case that has a better likelihood of success than to file a case that results in denial or in DOL-supervised recruitment being imposed on the employer.

What options do employers have, if PERM sponsorship of employees is not an option? Employers should explore green card routes that do not require DOL approval. These can include multinational managers, outstanding researchers, extraordinary ability workers, and employees eligible for a national interest waiver. Not all employees will be eligible for these options, but it is important for employers to consider these routes, and Jackson & Hertogs will suggest these options to clients where they appear to have a likelihood of success.

DOS News

December visa bulletin – no changes

DOS has released the December visa bulletin (http://travel.state.gov/visa/frvi/bulletin/bulletin_4384.html). There were no changes to any of the employment-based categories from the November visa bulletin.



It is important to note that “nationality” is not the same as citizenship. Generally, DOS looks at the country of birth in determining whether a person is a national of a given country. As a result, persons who become citizens of other countries (i.e., Indians who become Canadian citizens) are still considered nationals of their birth country for immigrant visa purposes.

For general information on visa retrogression, please see the FAQ on our website (<http://www.jackson-hertogs.com/JH/faq/3051.pdf>) on this subject.

For more information on the Visa Bulletin and country quota movements, including information about movement in the Family-Based Quotas, please see our DOS Visa Bulletin and Quota Movement page (<http://www.jackson-hertogs.com/quota/0quota.htm>), which includes detailed nationality-specific charts of quota movement for the past decade.

J&H News

J&H welcomes Ella and Devon!

J&H is excited to welcome two new additions to our extended family.



Ella Rose Drummond-Dulberg was born on October 21, 2008. Ella Rose weighed 8 lbs 5 oz and was 20 inches.

Devon Thai was born on October 14, 2008 to Case Manager Megan Thai and her husband. Devon weighed 8 lbs. 2 oz and was 20.67 inches.



J&H congratulates Norman and Atesa!

Partner **Norman Plotkin** and Senior Associate **Atessa Chehrazi** were recently awarded AV Peer Review Ratings by Martindale-Hubbell. Senior Associate Grace Hoppin was recently awarded a BV Peer Review Rating by Martindale-Hubbell. With these awards, five of Jackson & Hertogs' attorneys are now Peer Review rated by Martindale-Hubbell, as Partner Ilana Drummond and Senior Associate Daniel Horne also hold AV Peer Review Ratings.

The Martindale-Hubbell Peer Review Ratings system is based on the confidential opinions of members of the Bar and the Judiciary, including both those who are rated and those who are not. Martindale-Hubbell representatives conduct personal interviews to discuss lawyers under review with other members of the Bar. A compilation of these opinions from various sources is necessary to form a consensus, and lawyers under review are sometimes asked to provide professional references to assist with the process. In addition, confidential questionnaires are sent to lawyers and judges in the same geographic location and/or area of practice as the lawyer being rated. Members of the Bar are instructed to assess their colleague's legal ability and general ethical standards. Additional information on Peer Review Ratings is available at www.martindale.com.

J&H complimentary webinars

To sign up for a webinars, send an e-mail to: webinar@jackson-hertogs.com



January 28, 2009 —

H-1B Basics and Preparing for the H Cap Season

Jackson & Hertogs will provide an in-depth webinar, which will focus on the basics of petitions for H-1B non-immigrant temporary workers from the point of view of the sponsoring employer. We will explain such terms of art as "specialty occupation" and "prevailing wage" as

they relate to H-1B eligibility. We will examine the Labor Condition Application process, including requirements for the DOL Access File and Personal Immigration File. We will also discuss the implications of the H-1B quota cap, the five day filing window and strategies for extensions beyond the maximum six year limit under the American Competitiveness in the 21st Century Act.

February 18, 2009 —

LCA Recordkeeping and Compliance

On-going news reports of ICE raids of employers on I-9 issues illustrate the need for employers to keep current, up-to-date paperwork for their foreign national employees. While not as dramatically publicized, employers of H-1Bs are required to maintain paperwork on file and available to the public or DOL for their H-1B employees. Do you know where your LCAs are maintained? Do you know what an LCA is? This webinar will present an overview on employer requirements for labor condition application (LCA) recordkeeping, including public and DOL access file guidance, location of records, how to update LCAs, and when LCAs may be destroyed. We will also discuss some of the immigration consequences for employers related to corporate mergers, acquisitions, and restructuring.

March 18, 2009 —

Corporate Best Practices: I-9 Compliance Issues

One of the fundamental duties of most HR departments is to complete and maintain I-9 Forms for all new hires. Completing the I-9 Form has often been viewed as a simple HR function, but there are significant liability issues that attach to this form. Robust I-9 practices are the foundation of an effective corporate compliance strategy for immigration issues. This webinar will focus upon the procedures and requirements employers must follow when completing and maintaining their USCIS I-9 Forms. Covered subjects will include how to best prepare the I-9 Form, when and whether to ask for documents to verify the I-9, when I-9 "reverification" is required, and when reverification is inappropriate. We will also discuss record retention requirements for I-9 Forms, including electronic storage options. We will also review recent changes to the I-9 Form, and trends in I-9 Enforcement, including compliance issues with contractors and creating best practices.

Immigration Trivia

Which countries were recently added to the Visa Waiver Program?

Answer: On November 17, 2008, seven countries were added to the list of countries authorized to participate in the Visa Waiver Program increasing the number of participating countries from 27 to 34. The seven countries are the Czech Republic, Estonia, Hungary, the Republic of Korea, Latvia, Lithuania, and Slovakia.