

Getting Ready for the Post Pandemic: *Travel and Adjudication Trends For 2021*

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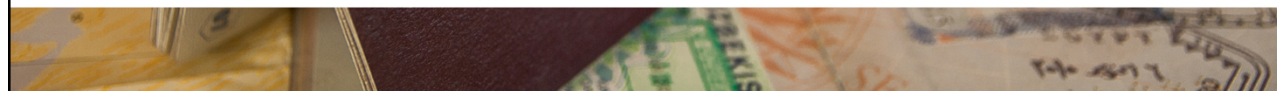


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Spring Webinar Series

- Today! -- *Travel and Adjudications Trends*
- Tuesday April 13 -- *Legislation, Litigation, Regulations, and New Policies*
- Thursday April 15 -- *Green Card Strategies*
- ***Register for Sessions 2 & 3 on [KlaskoLaw.com](https://www.klaskolaw.com)***



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William A. Stock
Partner

Bill Stock is a founding partner of Klasko Immigration Law Partners, LLP and has been providing immigration assistance and solutions to leading multinational corporations, universities, research institutions, hospitals, and individuals for over 25 years.

He is a Past President of the American Immigration Lawyers Association and has addressed national conferences organized by AILA, NAFSA, SHRM, and other professional organizations. He is a member of the Board of Directors of the American Immigration Council, a national foundation working to strengthen America by honoring our immigrant history and shaping how America thinks about and acts towards immigrants and immigration.

A graduate of the University of Minnesota Law School, Bill is featured in *The Best Lawyers in America*, *The Chambers Global Guide*, *Human Resources Executive* magazine, *Pennsylvania Super Lawyers*, *Who's Who in America*, and other guides to prominent lawyers. In 2017, he was elected a Fellow of the American Bar Foundation.

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Michele G. Madera
Partner

Michele G. Madera's practice is focused on employment-based non-immigrant and immigrant matters for large corporations with a high volume of immigration matters.


Michele has extensive experience advising clients throughout the labor certification process, including the recruitment process, filing the Form ETA 9089, and responding to Audit Requests by the Department of Labor.

She also has worked with clients in the preparation of B-1 Business Visitor applications, the following petitions: H-1B, E-3, H-3, L-1A, I-140s for EB-1, EB-2 and EB-3 classifications, adjustment of status applications, Re-entry Permit applications, and Motions to Reopen.

Michele has also advised her clients and assisted in responses to Requests for Evidence. She works with employers in assessing new job opportunities for employees to determine the effect of the change on non-immigrant and immigrant matters. Michele has represented clients before U.S. Citizenship and Immigration Services, U.S. Department of Labor, and U.S. Customs and Border Protection.

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Andrew J. Zeltner
Senior Counsel

Andrew J. Zeltner is based in the firm's Philadelphia office. Mr. Zeltner handles a wide array of corporate immigration matters including those involving the processing of permanent resident applications (green cards) on behalf of multinational corporate and individual clients, including labor certification applications, immigrant visa petitions and adjustment of status applications.

He has significant experience providing employment-based U.S. immigration services for large corporate clients, including applications for B-1 OCS, E-1/E-2, H-1B, H-3, J-1, L-1, O-1, TN, labor certifications, multinational manager and executive immigrant petitions, outstanding researchers, extraordinary ability aliens, and national interest waivers. He has provided extensive advice to human resources professionals and corporate counsel regarding immigration compliance matters including I-9 and LCA compliance issues.

Mr. Zeltner received a Bachelor of Arts degree in Politics (cum laude) from The Catholic University of America. He earned his J.D. (cum laude) from Quinnipiac University School of Law. While in law school, Mr. Zeltner served as Opinions Editor of the Quinnipiac Probate Law Journal.



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Agenda

- Travel Bans
- Embassy Closures & Practical Problems
- Latest on NIE Exceptions
- Current Adjudication Trends
- Legislative Update
- Questions

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Status of Travel Bans Nonimmigrant Visas

- H-1B/L-1/J-1 visa ban lapsed on March 31
- Hope for spring -- Is travel now ready to takeoff?
- Latest challenges as we (hopefully) turn the corner on COVID



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Status of Travel Bans Geographic

- Schengen Area
- UK
- Ireland
- Brazil
- China
- South Africa
- Iran



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Embassy Closures & Practical Problems

- Most embassies remain closed for routine visa applications/some booking for Fall 2021
- Drop box vs. new visa applicants
- Fool's gold—cancelled/rescheduled appointments
- Can urgent travel be accommodated?



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National Interest Exception

- Prior Trump DOS guidance overturned
- Biden Administration's March guidance — more restrictive?
- Providing “vital support for critical infrastructure sectors.”
- Our experience — Are NIE's really attainable?



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National Interest Exception-Preparing a Successful Request

- Procedures vary but usually required to book first available appointment and then request expedite
- Initial expedite request must be brief and embassy website often limits text to make request
- Communicate the “headline” in your request—make your point! Benefits/harm of not approving
- Draw the link to the critical infrastructure standard



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What to Know About Travel—Before You Go

- Testing and vaccination requirements
- Is ESTA travel still possible/travel with existing visas?
- Assess the options:
 - Third-countries to avoid geographic bans (14 days)
 - Travel ban vs. quarantine requirements
 - Does travel ban apply if flight has a stop in a country subject to the travel ban?



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Poll Question

Compared to the 2020 H-1B lottery, how many H-1B registrations did you submit in 2021?

- More than 2020
- Less than 2020
- Same as 2020

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H-1B Update

- Over 300K applications
- Odds of selection appear to be lower/potential for second round of selection?
- Overall H-1B denial rate (21%) remained high through end of Trump Admin/but was trending lower
- What does the future hold for H-1B adjudications?

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Adjudication Trends

L-1As / L-1Bs

- L-1A/L-1B cases filed at USCIS continue to remain challenging
- RFEs consistently requesting extensive corroborating documentation such as job descriptions, resumes, org charts, e-mails etc. to evidence managerial capacity
- Post COVID — preference remains to utilize L-1 Blanket petitions

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Adjudication Trends

EB-1s / O-1s

- EB-1/NIW processing times have increased to up to 1.5 years
- RFEs rates have remained relatively stable
- Premium Processing appears to lead to increased case scrutiny
- **Tune next Thursday (4/15) for Session 3 called *A New Era: Green Card Strategies***
 - Visit [KlaskoLaw.com](https://www.klaskolaw.com) to register

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Adjudication Trends

Biometrics

- Large backlog of over 1 million applicants awaiting biometrics appointments
- Impact on spousal EAD applications and potential gaps in employment authorization
- Impact on re-entry permits for lawful permanent residents
- In some cases, USCIS is utilizing previously captured biometrics



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Green Card Quotas

- April 2021 Visa Bulletin update
- October 2020 green card filing rush -- backlog of over 400,000 cases to be receipted
- Applications rejected for USCIS error-re-filing procedures
- Potential for rapid movement in Fall 2021?



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Visa Bulletin – April 2021

Employment-based	All Chargeability Areas Except Those Listed	CHINA-mainland born	EL SALVADOR GUATEMALA HONDURAS	INDIA	MEXICO	PHILIPPINES	VIETNAM
1st	C	C	C	C	C	C	C
2nd	C	01SEP16	C	01MAY10	C	C	C
3rd	C	15MAR18	C	01SEP10	C	C	C
Other Workers	C	01JUN09	C	01SEP10	C	C	C
4th	C	C	01AUG18	C	01FEB19	C	C
Certain Religious Workers	C	C	01AUG18	C	01FEB19	C	C
5th Non-Regional Center (C5 and T5)	C	15AUG15	C	C	C	C	15DEC17
5th Regional Center (I5 and R5)	C	15AUG15	C	C	C	C	15DEC17

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Hiring Candidates with Pending I-485's

- October Visa Bulletin rush and I-485 portability rules
- Pros and cons of extending nonimmigrant status
- Pros and cons of involvement with pending I-485
- Potential pitfalls and conflicts of interest in pending I-485s

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Public Charge Rule

- As of March 9, Form I-944 is no longer required to be included in AOS filings
- Form I-944 does not need to be provided to address an RFE due on or after March 9
- New amended Form I-485 will go into effect on April 19

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Pandemic Worksite Compliance

- Option 1: Basic process in person
- Option 2: Virtual Verification – virtual followed by in-person review of documents
- Option 3: Remote Agent Verification – authorized representative designated to complete the I-9 on the employer's behalf

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Overview of the Virtual Process

- Does employer qualify—Need to be Fully Remote?
- As of April 1, 2021 in-person inspection only applies to employees who report to a company location on a regular, consistent, or predictable basis
- A physical inspection of I-9 documents must take place within 3 business days of resumption of normal business operations



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Overview of the Virtual Process

(Continued)

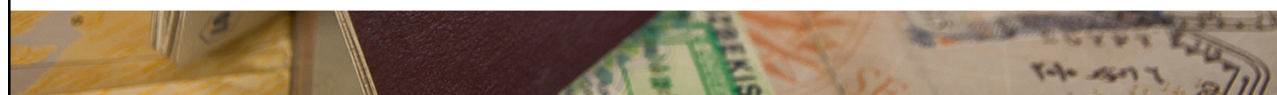
- Return to Work — Planning for the end of I-9 flexibility, set to expire on May 31, 2021
- Employers can opt to commence in-person verification now



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IS WORKING ABROAD A SOLUTION?

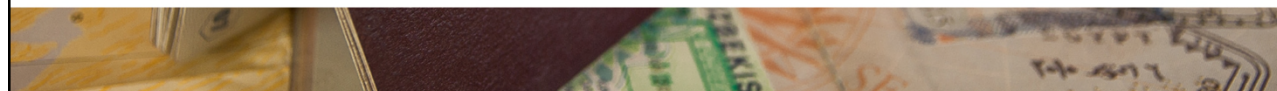
- Employers may think that working abroad can be the “easy” pandemic solution
- However, are you thinking about the impact of:
 - Global immigration compliance?
 - Tax concerns — Substantial presence issues?
 - Impact to employee benefits?



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Legislative & Regulatory Updates

- Is comprehensive reform on the horizon?
- If no comprehensive reform, is there room for bi-partisan agreement on piecemeal changes?
- Tune in next week to our webinar on Legislative, Litigation, Regulatory, and Policy changes for more information on what the coming months may hold
 - Visit [KlaskoLaw.com](https://www.klaskolaw.com) to register



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Questions?



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For Further Information



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