

**YOUR IMMIGRATION SOLUTION**



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# Foreign workers and navigating the rough seas of US immigration

that US employers and their foreign workers are protected and represented by experienced counsel in their immigration processing.

In addition to enforcement-minded government forces, the immigration status of foreign workers in the US is also shaped by market forces. US immigration laws permit foreign workers to enter the US to meet US labor demands, and the legal status of these workers is tied to their employers. Whether the foreign worker is in the US pursuant to an H-1B specialty occupation visa or is being petitioned by an employer for permanent residency, any changes in the employment relationship may affect the foreign worker's immigration status.

All employers, from a start-up sole proprietorship to an established Fortune 500 company, can experience changes completely out of the control of the foreign worker which

may affect that employee's immigration status. Shifts in the economy and organizational changes may cause the employer to change their employment relationship with the foreign national. Whether the employer must shut down operations completely, lay off workers, or merge with another company, every foreign worker should know the effects these changes may have on their H-1B status or nascent application for adjustment of status.

If an employer ceases its operations or terminates the employee, an individual working in H-1B status is consequently no longer in a valid immigration status. In anticipation of termination or quitting, the foreign worker may transfer his H-1B status to a new employer by following certain rules. The H-1B worker may begin working for the qualifying new employer immediately upon the filing of a new petition by the new em-

ployer as long as the application for change of employment is non-frivolous and there has been no prior unauthorized employment on the part of the foreign worker.

Employer/petitioners may also sponsor foreign workers for permanent residency (Green Card). The route to a Green Card is a multi-step process, and may take anywhere from six months to six years or longer to complete, depending on the employment classification and visa availability. If the employer terminates the job offer at any time before the approval of permanent residence, the application process will most likely be stopped dead in its tracks. Similarly, if the employer goes out of business prior to the approval of the Green Card, the application process may no longer be possible.

There exists, however, a very important exception to this rule. If an employment-based application for adjustment of status has been filed and remains pending for 180 days or more, the employee may "port" to a new employer. Porting will only be permitted if the new position is in a same or similar occupational classification as the origi-

nal job for which the foreign worker was petitioned. Porting in this circumstance does not require the new position be located in the same geographic area nor is the new employer required to prove they have the ability to pay the prevailing wage.

There are numerous circumstances in employment-based immigration relationships which may affect the foreign worker's status in the US. In addition to those mentioned above, an employer may decide to relocate or change its name. The employer may also decide to change the foreign worker's job duties, hours, or salary. Any one of these changes may have a significant impact on the worker's H-1B status or Green Card application.

Foreign workers throughout history have made up a significant part of the backbone of US' workforce, and the present time is no different. Immigrant labor is seen in all sectors of our marketplace, and is vital to domestic growth. While fluctuations in the economy and in immigration policy make for challenging times, the employment-based immigration and temporary worker system is a

long-entrenched part of our nation's identity and that will not change. Indeed, in Fiscal Year 2008, the Department of Homeland Security granted 166,511 employment-based Green Cards according to the DHS 2008 Yearbook of Immigration Statistics. This is an increase from the 56,678 Green Cards allotted for employment-based immigrants in 1999. While processing remains complicated, there clearly exists a light at the end of the tunnel. Employers and their foreign workers are reminded that experienced counsel should be retained to navigate the employment-based immigration process.

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(Advertising Supplement)

# How not to dial M for murder

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on the rise, thankfully not in epidemic proportions just yet as to cause panic. Nonetheless, each senseless death diminishes us. Perhaps, this is fueled by the effects of the economic downturn, with mounting financial pressures and with an unprecedented number of foreclosures, forcibly displacing families from their nests. And yet to merely focus on economics as the root of this troubling phenomenon is shortsighted and misses the whole point.

After all the news vans are gone from the crime scene, after the vacuous words of any sitting president have been said, after all references to the story are buried in the inside pages and eventually ground to a halt on the internet, and when the grieving families have no more tears to shed, many questions as to why such things happen with alarming frequency remain unanswered.

There seems to be a moral

turpitude that ails a society when some of its members regard murder suicide as an option. This much is certain—when extreme hubris rules the heart and mind, there will always be a lack of personal responsibility and accountability when something goes wrong. It would always be because of someone else's fault or because of a set of circumstances. We tend to blame everything else but ourselves. The tendency to shirk responsibility is probably wired into our DNA right at the Garden of Eden with Eve playing the blame game early on. The devil made me do it. So did Adam. The woman gave me the apple. It is our inability, due to pride, the deadliest of all human failings, to own up to sin. And so it was with the fallen angels. There's only one antidote to pride for us mere mortals and that is to cultivate daily a grateful, humble heart that thanks God for every moment of life on earth. Our Blessed Mother exemplifies the kind of heart

that bears all. That is why she is worthy of emulation.

"Thou shalt not kill" is a commandment that holds in good times and in bad. There's no moral relativism on this. Each is precious to God or He wouldn't have sacrificed His own Son if He didn't think we were worth the time and trouble. Each murder is a grievous sin against the Holy Spirit from whom all life comes. It is us who has discounted our own worth.

Part of the reason we have discounted the value of human life is that modern society has become so desensitized to violence and death via the content in films, games and media that pass for entertainment these days, that we take life for granted as though it means nothing. Add to that is the easy access to the cheap killing machines, guns that only the very sane, the very mature and the upright should be given the license to own. If the strictest of standards for gun ownership were really enforced, maybe only a tiny percent of the population can own guns.

Does hell exist? How is pun-

ishment meted out in the afterlife? In the physical universe, scientists claim that there are black holes in the known universe that can't be seen by human eyes but with gravitation so strong that it suctions, as in a whirling cosmic cauldron stirred by mighty forces, all the stars and planetary systems that come within its orbit, so strong that not even light can escape. Need a visual image for hell aside from Dante's Inferno? Black holes could fit the bill as a repository for lost souls, a cold, dark, fetid, state of gnawing pain and bitter regret, filled with the piercing screams of the damned, without the presence of God for all eternity, and forever blotted out from all memory except their own.

Is it possible that the morally bankrupt and depraved, regard the taking of a life as an option when things do not go their way or when the course of their lives hit a snag and overweening pride tells them to end it all, instead of getting down on their knees to pray to the God of their beings for the humility, the courage and the strength to endure?

Gone is the fear of God, much less the love of God. As we steer farther and farther away from God and place something else in the center of our lives, scenarios of helplessness and despair such as what we are witnessing more frequently these days may be expected to unfold with eerie regularity.

Many of us have become egocentric, overly individualistic, self-absorbed individuals. Perhaps during this period of testing, we would be a lot happier, healthier and less prone to veer towards lives of quiet desperation if we focused less and less on ourselves and more on the welfare of the other person and commit spontaneous, frequent acts of kindness and generosity to family members, total strangers and even those we struggle to love. It would be a tough slog but doable.

There was one telling incident I never quite forgot. Long ago, I was running breathlessly huffing and puffing in my stilettoes to drop some coins on a parking meter on Wilshire Boulevard I knew had expired because of a

long, drawn-out presentation I was making on the upper floor of a nearby high rise. Fortunately, I narrowly missed getting a thirty-some dollar fine from the parking enforcer because a panhandler had dropped some coins for my car's meter, from his can of coins. It stunned me to see him feeding all the meters that were expiring on that block. Of course, he may have been merely trying to annoy the heck out of the parking enforcer. Who knows? I only saw the kindness in the act. That stayed with me. From then on, I would remember and always be inspired by the completely anonymous gesture of that person who had practically nothing but still gave of the little he had.

That's when I knew kindness is contagious like the flu.

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