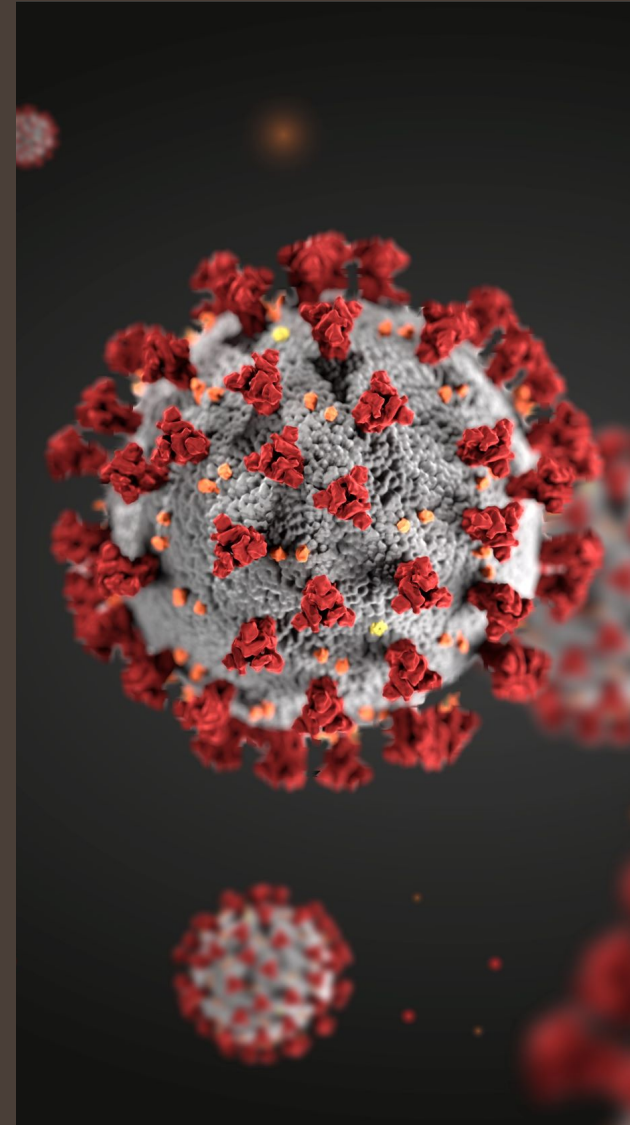


# Representation of Clients During Covid

Katja Hedding and Chay Sengkhounmany

November 2020



# Covid & USCIS

## Impact of COVID-19

- 03/18/2020 – All in-person services except for emergencies suspended
- Signatures - Reproduced original signatures accepted on all benefit forms for duration of National Emergency
- Deadlines - Automatic 60-day extension for certain documents issued between the dates of 03/01/2020 – 01/01/2021
  - Requests for Evidence;
  - Continuations to Request Evidence (N-14)
  - Notices of Intent to Deny; Notices of Intent to Revoke
  - Notices of Intent to Rescind and Notices of Intent to Terminate regional investment centers
  - Filing date requirements for Form N-336
  - Filing date requirements for Form I-290B, Notice of Appeal or Motion

## Impact of COVID-19

- Biometrics - Reuse previously-submitted biometrics to process Employment Authorization Document, or EAD, extension requests. Multiple appointment notices
- Public Charge - Testing, prevention, or treatment for COVID-19 will not be used against immigrants in a public charge test (new Public Charge Rule vacated 11/2/2020)
- Delayed production of work permits and green cards
  - InfoPass for temporary I-551 stamp
  - DOJ IER Employee Hotline: 800-255-7688
  - USCIS Ombudsman
- Social Security cards

## Reopening – Field Offices and ASCs

- 6/4/20 – Field offices and Application Support Centers (ASC) open for in-person services
- Masks and COVID-19 questions required to enter; enter no earlier than 15 minutes before your appt time. No walk-ins
- Attorneys and DOJ reps can appear in person or by phone
- At check-in, client should let officer know that attorney/rep will appear by phone and give attorney/rep's phone number
- Interpreters can appear in person or by phone
- Interviews conducted face to face or through in office video

## Proposed Fee Increases

- Proposed fee schedule announced November 2019;
- Effective date was supposed to be 10/02/2020
- 09/29/2020 – Nationwide injunction halting implementation of USCIS final fee rule
- Examples
  - AOS – increase from \$1225 to \$2195; separate fee for each application (I-485, I-765, I-131)
  - DACA - \$495 to \$765
  - Natz - \$640 to \$1170
- Will eliminate the reduced fee option

# Fee Waivers

- Fee waivers allowed where statutorily required
  - VAWA (I-485, I-601, I-212)
  - U (I-485, I-192, I-929)
  - T (I-485, I-192, I-601)
  - TPS
- USCIS modus operandi - Deny, deny, deny
  - Sometimes takes resubmitting several times before you get an approval
  - Best chance of approval if you submit income taxes

## Adjudication Trends

- USCIS stonewalling applications
- Leave no space blank!
  - “None” and “N/A” being required on all U nonimmigrant-related forms (I-918, I-918b (cert) and I-918a (derivative) and asylum applications
  - Expect same requirement for I-360, I-751 and I-821D
- Boilerplate RFEs asking for evidence previously provided or evidence irrelevant to eligibility for relief
- I-944 RFEs (Public Charge Rule vacated 11/2/2020)
- OCC reluctant to join motions to reopen and terminate after grant of U or U-based AOS
- Reports of NTAs issued upon denial



## Expiring Statuses

- File COS or EOS with USCIS
  - Generally do not accrue unlawful presence while an EOS/COS application is pending
  - May excuse failure to timely file EOS/COS requests if the delay was due to extraordinary circumstances
- VWP entrants – must request satisfactory departure from CBP
  - Email [NashvilleATU@cbp.dhs.gov](mailto:NashvilleATU@cbp.dhs.gov)
  - In person at BNA CBP office Terminal B

# Covid & ICE

## Covid & ICE

- **Enforcement** - ICE temporarily changed its enforcement priority to focus on public safety risks and individuals subject to mandatory detention based on criminal grounds.
- **Sensitive Locations** - ICE indicates that it does not pick up people at medical facilities, except under extraordinary circumstances. However, news reports show that enforcement has happened at some locations.
- **Check-Ins** – In-person check-ins and home visits temporarily suspended
  - Telephonic check-in - All clients who have check-in appointments should call (615)-664-5558 (Nashville) and leave their name, A Number, and telephone number.
- **Detention**
  - All social visitation suspended
  - Legal visitors permitted but must wear and provide own PPEs
  - Legal Orientation Program to continue

# Covid & EOIR

## Covid & EOIR

- **Canceled** - All non-detained master calendar are suspended through 11/13/2020 (Memphis)
- **Proceeding as Scheduled** - All detained matters and some courts for non-detained matters
- **Open for Filings** - Memphis Immigration Court is closed for hearings through 11/13/2020 but is open for filings. Parties are encouraged to file by mail.
- **Email Filings** - Temporary email available for e-filings. The Memphis Immigration Court address is [Memphis.Immigration.Court@usdoj.gov](mailto:Memphis.Immigration.Court@usdoj.gov). Follow the guidelines at <https://www.justice.gov/eoir/eoir-operational-status-during-coronavirus-pandemic>

Covid &  
U.S. Dept. of State

## Covid & U.S. Dept. of State

- **U.S. Passport Services** – Expect 10-12 weeks for routine passport service. Expedite service 4-6 weeks and emergency service only available for passport customers with a qualified life-or-death emergency and who need a passport for immediate international travel within 72 hours
- **Visa Appointments** - Closures and cancellations vary depending on the country and consulate. Go to <https://travel.state.gov/content/travel/en/traveladvisories/COVID-19-Country-Specific-Information.html> for updated information. Emergency appointments possible.
- **National Visa Center (NVC)** - Unable to respond to all inquiries received via [NVC's online inquiry tool](#), only respond to inquiries with urgent medical or humanitarian concerns or other necessary updates. Call center remains open 7 am-12 am ET
- **Global Level 4 Health Advisory** - U.S. citizens advised to avoid all international travel and should arrange for immediate return to the US or prepare to remain abroad for an indefinite period

# Covid & Presidential Proclamation



# Presidential Proclamations

- 03/11/2020 Proclamation
  - U.S. Citizens and Legal Permanent Residents who have been in certain European countries (see banned countries below) will to travel through select airports with enhanced screening procedures
  - All foreign nationals who visited Iran and China during the 14-day period before attempted entry into the US are banned
  - All foreign nationals who have recently visited the following European countries are banned: United Kingdom, Ireland, Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, and Switzerland

# Presidential Proclamations

- 04/23/2020 – Suspended for 60 days entry of certain immigrants applying for LPR abroad
  - Noncitizens who are outside the United States as of 11:59 p.m. ET on April 23, 2020;
  - Do not have a valid immigrant visa as of that time; and
  - Do not have a valid travel documents such as Advance Parole, Boarding Foil or Transportation Letter
- 05/24/2020 – Travel restriction for Brazil
- 06/22/2020 Proclamation
  - Extends suspension of certain immigrants applying for LPR abroad to 12/31/2020
  - Suspends entry for certain visa entrants and family members
    - H-1B, Specialty Occupation Workers
    - H-2B, Temporary, Non-Agricultural Workers
    - L-1, Intracompany transferees
    - J-1, Exchange Visitors



# Covid & Practice of Law

## Covid & the Practice of Law

- Meeting with clients
- Relaxed payments or stick to your plan
- Self care and not afraid to ask for help (covering interviews, referring out clients who insists of meeting in person)
- Keeping up with your CLE requirements