

BRAUWERMAN LAW FIRM, P.A.

Immigration & Nationality Law

A Progressive Law Firm Dedicated to Traditional Values SM

305-758-1234

www.brauwermanlaw.com



In This Issue

[About Jeffrey N. Brauwerman](#)

[The White House Has released a fact Sheet on the President's Plan to Fix the Broken Immigration System](#)

[USCIS Announces FY2011 H-1B Cap Has Been Reached](#)

[When is a Misdemeanor Conviction Not a Misdemeanor Conviction for Temporary Protected Status \(TPS\)?](#)

[Is Tampering With Evidence an "Aggravated Felony" And/Or a "Particularly Serious Crime?"](#)

[Simple Possession of Marijuana?](#)

[INA Section 217\(b\) States That an Alien Seeking Admission Under the Visa Waiver Statute Waives His Right to Contest Any Action for Removal, Except](#)

The Immigration Connection

February 2011

Welcome to the **Brauwerman Law Firm** newsletter. You are being sent this newsletter because of your interest in immigration and nationality matters. Should you wish to unsubscribe you may do so below.

The White House Has Released a Fact Sheet on the President's Plan to Fix the Broken Immigration System.

The President wants to: (1) Secure our borders; (2) Hold accountable businesses that break the law by exploiting undocumented laborers and undermining American workers; (3) Demand responsibility from those living in the United States illegally; and (4) Create a legal immigration system that meets our diverse needs.

USCIS Announces FY2011 H-1B Cap Has Been Reached.

The USCIS announced that the FY2011 cap-subject H-1B petition cap has been reached as of 01/26/2011. This means that employers can start to file new H-1B petitions on April 1, 2011 for visas to be issued on and after October 1, 2011, the start of the Government's 2012 fiscal year.

When is a Misdemeanor Conviction Not a Misdemeanor Conviction for Temporary Protected Status (TPS)?

[Asylum. Say It Ain't So
Second Circuit!](#)

[Does an Alien Labor
Certification Application
Have to be Signed?](#)

Quick Links

[Firm Overview](#)

[Client Login](#)

[Email/Contact Us](#)

[U.S. News Best Law
Firms](#)

[Become a Fan on
Facebook](#)

www.brauwermanlaw.com

Featured Article



Jeffrey N. Brauwerman, formerly a United States Immigration Judge, has served as Regional Counsel for the Southern Region of the U.S. Immigration and Naturalization Service and Chief Legal Officer for its Miami District office.

[Join Our Mailing List!](#)

In guidance about whether certain criminal dispositions constitute misdemeanors within the meaning of the TPS statute and regulation the USCIS stated that a conviction in which the criminal court had certified that the defendant would receive no jail time does NOT constitute a misdemeanor for TPS eligibility.

Is Tampering With Evidence an "Aggravated Felony" And/Or a "Particularly Serious Crime?"

The U.S. Court of Appeals for the Third Circuit in *Denis v. Holder* decided January 26, 2011 held that tampering with physical evidence in violation of New York Penal Law §215.40(2) is an aggravated felony under INA §101(a)(43)(S) and a particularly serious crime rendering Petitioner ineligible for withholding of removal. INA section 101(a)(43)(S) relates to obstruction of justice, perjury or subornation of perjury, or bribery of a witness.

Simple Possession of Marijuana?

In *Olivan-Duenas v. Holder*, the U.S. Court of Appeal for the Tenth Circuit found that possession of less than one ounce of marijuana in a drug-free zone in violation of Utah Code Ann. §58-37-8(2)(a)(i) and (4)(a)(ix) is not "simple possession" that would qualify for a waiver under INA §212(h).

INA Section 217(b) States That an Alien Seeking Admission Under the Visa Waiver Statute Waives His Right to Contest Any Action for Removal, Except Asylum. Say It Ain't So Second Circuit!

In spite of the clear statement of automatic waiving of rights in the statute, the U.S. Court of Appeals for the Second Circuit in *Galluzzo v. Holder* decided January 26, 2011 found no proof that the alien waived his right to contest removal. The court declined to adopt a presumption that a person cannot enter on a visa waiver without automatically waiving the right to contest removal, and remanded, finding the record silent as to whether Petitioner actually waived his right.

Does an Alien Labor Certification Application Have to be Signed?

The Board of Alien Labor Certification Appeals (BALCA) affirmed the denial of Unsigned ETA 9089 (Alien Labor Certification Application) submitted by mail.

In *Matter of Café Italiano*, decided 1/27/11, BALCA affirmed the CO's denial and rejected the employer's argument that he was forced to submit the application without the alien's signature because the alien currently works in a rural region of Kosovo with limited mail service.

Call Us Today For A Professional Consultation

Jeffrey N. Brauerman, of [Brauerman Law Firm, P.A.](#), is available for consultations in either of our two offices and is also available for telephonic consultations.

We look forward to meeting with you and ultimately providing you with representation. Please note that a consultation does not constitute an attorney-client relationship although information disclosed during the consultation to any member of the firm will be strictly confidential.

Coral Gables

137 Madeira Avenue
Coral Gables, FL 33134
Phone: (305) 758-1234
Fax: (305) 576-6251

Plantation

1776 North Pine Island
Road, Suite 310
Plantation, FL 33322
Phone: (954) 527-1234
Fax: (954) 424-8935

Boca Raton

561-266-0051

West Palm Beach

561-833-2288

www.brauermanlaw.com

Find us on Facebook 

Forward email



This email was sent to visas@brauermanlaw.com by visas@brauermanlaw.com | [Update Profile/Email Address](#) | Instant removal with [SafeUnsubscribe™](#) | [Privacy Policy](#).

Brauerman Law Firm, P.A. | 137 Madeira Avenue | Coral Gables | FL | 33134