

BRAUWERMAN LAW FIRM, P.A.

Immigration & Nationality Law

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The Immigration Connection

July 15, 2011 - Edition

Welcome to the **Brauerman 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.

Alabama Immigration Law (HB 56) Signed Into Law.

Alabama immigration bill (HB 56) was signed into law by Gov. Robert Bentley on June 9, 2011. HB 56 mandates the use of E-Verify, and requires schools to verify the immigration status of students and parents. The bill is set to take effect on Sept. 1, 2011.

No Relief for GLBT: Executive Office for Immigration Review ("EOIR") Explains its Policy Regarding the Application of DOMA in Proceedings.

Juan P. Osuna, Director, EOIR, stated that until the Defense of Marriage Act (DOMA) is repealed or struck down EOIR (Board of Immigration Appeals and the Immigration Court) will continue to apply DOMA as interpreted in the immigration context.

ICE Announces Eligibility of Certain Libyan Students for Employment Authorization.

In a press release ICE announced employment authorization eligibility for certain F-1 Libyan students who have suffered severe economic hardship as a direct result of the civil unrest in Libya since February 2011.

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Featured Article



Jeffrey N. Brauerman, 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.

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U.S. Supreme Court Says Arizona E-Verify Law Is Not Preempted.

The Supreme Court, in *Chamber of Commerce v. Whiting*, (563 US ___ May 26, 2011) held that the Legal Arizona Workers Act which mandates E-Verify and permits the suspension or revocation of business licenses for knowingly employing unauthorized workers is not preempted by federal immigration law. This decision could lead to a patchwork of immigration enforcement. (See July 1st edition of the *The Immigration Connection* for a note on *City of Hazelton v. Lozano* remand based on this case.)

For Procrastinators: 9th Circuit Affirms *Oh v. Gonzales*, Says 30 Day Appeal Deadline Is Not Jurisdictional.

Finding no ambiguity, the U.S. Court of Appeals for the Ninth Circuit in *Irigoyen-Briones v. Holder*, ___ F.3d ___ (9th Cir. May 31, 2011) refused to apply *Brand X* and *Chevron* deference to the BIA's decision in *Liadov* and concluded that the 30 day deadline for appeals under 8 CFR §1003.38 is not jurisdictional. The Court berated the Board for not permitting electronic filing, although it publishes its manual electronically.

9th Circuit Says EAD ("Employment Authorization Document") Grant Does Not Confer Admission Status for Cancellation of Removal Purposes.

The Ninth Circuit, in *Guevara v. Holder*, ___ F.3d ___, (9th Cir. June 3, 2011) held that the grant of work authorization pending the approval of adjustment of status does not confer admission status on an undocumented alien for purposes of calculating seven years continuous residence for cancellation. A cancellation of removal application, if granted by the immigration court results in a "green card" being issued.

Second Circuit Asks BIA to Reconsider Continuance for Arriving Alien.

In *Freire v. Holder*, ___ F.3d ___ (2nd Cir. May 27, 2011) a case involving an arriving alien with an application for adjustment of status, the Court found that the Board of Immigration Appeals erred in denying Petitioner's continuance on the ground that it lacked jurisdiction to adjudicate adjustment applications for arriving aliens. The Board and immigration judge have jurisdiction to grant a continuance as they do under the standards set forth in *Hashmi*. That case is usually cited in cases where the immigration court has jurisdiction to adjudicate the adjustment of status application.

Second Circuit Remands for BIA Clarification on the Concept of Legitimation.

In *Watson v. Holder*, ___ F.3d ___ (2nd Cir. May 31, 2011) a case involving a claim for derivative citizenship, the Court remanded to the Board to clarify how it interprets "legitimation" under INA §101(c)(1) and to explain how its understanding of legitimation applies to Jamaican law.

Call Us Today For A Professional Consultation

Jeffrey N. Brauwerman, of [Brauwerman 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.

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