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Immigration eNews

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### **Rallies, Walk-Outs - The Immigration Movement**

A growing grassroots immigration movement is organizing an event for Monday, May 1, 2006, that could mobilize hundreds of thousands of workers to walk off the job. Organizers of the "Great American Boycott 2006" are urging, among other things, walkouts at work and schools, and boycotts of products.

The presence of this growing grassroots immigration movement has been clearly demonstrated during the past month. On April 10, 2006, hundreds of thousands of immigrants and their supporters participated in a national "day of action for immigrant justice" in some 120 cities across the country demanding that immigration legislation being considered in Congress provide a pathway toward earned citizenship for all immigrants currently in the United States.

The rallies were organized by the National Capital Immigration Coalition, a group of faith-based organizations, labor unions, civil rights organizations, and Hispanic advocacy groups that favor immigration legislation that would give undocumented workers in the United States a path to citizenship.

Among the largest rallies, the organizers estimated that there were 500,000 people in

Washington, D.C.; 300,000 in Phoenix; 125,000 to 300,000 in New York City; and 100,000 in San Diego. In addition, a crowd estimated at 500,000 rallied in Dallas on April 9, 2006. [\[back\]](#)

## **Status of Immigration Reform Legislation**

The Senate was unable to reach agreement on any immigration reform legislation before the two-week spring recess began on April 7, 2005. Senate Judiciary Committee Chairman, Arlen Specter (R-Pa.), has now scheduled a Judiciary Committee markup on April 27, 2006, to report out a new version of the immigration reform bill. [\[back\]](#)

## **IFCO Systems Arrests - Initially Tipped by Mismatched Social Security Numbers**

CNN.com reports that the round up of over 1,000 illegal workers and the arrest of nine employees at IFCO Systems resulted from an investigation that was initiated because of IFCO's unresponsiveness to over 13 letters from the Social Security Administration (SSA). According to the report, the SSA had informed IFCO on these many occasions that it had over 1,000 employees (53% of the workforce) that had faulty social security numbers. The investigation also revealed alleged inducement of illegal workers to work for IFCO and the falsification of tax forms.

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## **Suing Companies Under RICO for Hiring Illegal Immigrants**

Several suits have been brought in the 2nd, 3rd, 6th, 7th, 9th, and 11th Circuits raising materially identical allegations under a new legal theory of civil liability under RICO (Racketeer Influenced and Corrupt Organizations Act) for the unwitting hiring of illegal immigrants. These suits claim that certain large manufacturing companies, leaders in their respective industries, practiced the hiring and harboring of undocumented workers, which artificially suppressed wages of its legal employees. The plaintiffs claim that these alleged immigration violations can be prosecuted under RICO because the company and its hiring recruiters comprise a RICO "enterprise."

While prior similar case law has been inconsistent, the latest suit brought in the 11th Circuit resulted in the filing of a petition for certiorari in the U.S. Supreme Court in October 2005. This petition raises a critical issue of whether such hiring practice can be viewed as an operation of an "enterprise" under RICO. The argument that a RICO enterprise can include a corporation and its contract suppliers of temporary workers may have significant implications not only to large corporations, but potentially to small businesses that frequently rely on such outsourced assistance. [\[back\]](#)

## **PERM Progress Report - One Year Later**

A year has passed since the advent of the new system for filing Applications for Alien Employment Certification with the U.S. Department of Labor ("DOL") called "PERM." PERM is an electronic method of filing which is based primarily on the formerly available method of filing called "Reduction in Recruitment." Recently published PERM regulations have added a great deal of detail to the actual recruitment requirements, which was not detailed in any prior regulations regarding Reduction in Recruitment. During the last year, it has become clear that PERM requires not only a careful reading of the substantive legal requirements outlined in the PERM regulations, but a keen understanding of what the computer system requires for the electronic filing and approval of applications.

Statistics recently released by the DOL reflect the frustration that many have felt with the electronic filing system. According to the DOL's count, there have been 80,272 applications filed through the PERM system between March 28, 2005, and March 17, 2006. As of March 17, 2006, 36,687 applications have been certified and 23,205 have been denied. These denials include applications that could be re-filed and subsequently certified as they were initially denied for minor errors. The DOL also reported that as of March 17, 2006, 24,960 audits were commenced.

Certifications under PERM can take as little as six days and as many as six months. Many speculate that the new backlog in the Alien Employment Certification process will occur at the audit stage of the process, where some cases are pending up to six months. The first PERM related cases are expected to be heard by the Bureau of Alien Labor Certification Appeals (BALCA) in the next few weeks. The first case expected to be reviewed by BALCA involves a typographical error regarding a recruitment date which resulted in a denial. [\[back\]](#)

## **United States Citizenship and Immigration Services Reaches H-2B Cap for Second Half of Fiscal Year 2006**

On April 6, 2006, the United States Citizenship and Immigration Services (USCIS) announced that it received a sufficient number of petitions to reach the congressionally mandated H-2B cap for the final six months of Fiscal Year 2006. The USCIS indicated that April 4, 2006, is the "final receipt date" for new H-2B worker petitions requesting employment start dates prior to October 1, 2006. The USCIS will reject petitions for new H-2B workers seeking employment start dates prior to October 1, 2006, that arrived after April 4, 2006. The USCIS applied a computer-generated random selection process to all petitions which are subject to the cap and were received on April 4, 2006. The USCIS rejected all cap-subject petitions not randomly selected. The H-2B program is available for workers engaged in temporary, seasonal, intermittent or one-time need employment. [\[back\]](#)

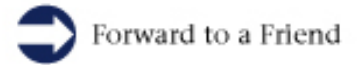
## **Department of State Visa Office Clarifies Policy on Blanket L Classifications Filed Prior to June 6, 2005**

The Department of State (DOS) has confirmed that an employer who filed a petition for initial blanket L classification prior to June 6, 2005 may continue to bring in blanket qualified workers with only 6 months of qualifying employment instead of one year. The DOS has indicated that the U.S. Citizenship and Immigration Services concurs with this policy, which is subject to continuing examination by the agencies. [\[back\]](#)

## **Temporary Protected Status Extended**

The Department of Homeland Security (DHS) extended temporary protected status (TPS) for Honduras and Nicaragua for 12 Months and employment authorization is automatically extended until January 5, 2007.

Visit [http://uscis.gov/graphics/services/tps\\_nica.htm](http://uscis.gov/graphics/services/tps_nica.htm) for more information from the USCIS with respect to TPS status for Nicaraguan Nationals and [http://uscis.gov/graphics/services/tps\\_hond.htm](http://uscis.gov/graphics/services/tps_hond.htm) for more information from the USCIS with respect to TPS status for Honduran Nationals. [\[back\]](#)



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