

Dear Members and Friends,

Today, the U.S. Supreme Court weighed in on the Trump Administration's "Travel Ban" Executive Order. In so doing, the Supreme Court: (1) accepted review of the prior Fourth and Ninth Circuit opinions, which broadly stayed the Travel Ban; and (2) agreed to continue staying part of the Travel Ban, while allowing other parts of it to proceed forward, pending a decision on the merits in Fall 2017.

In its decision, the Supreme Court held that the Travel Ban: (1) **cannot** be enforced against any foreign nationals who can credibly show a "bona fide relationship with a person or entity in the United States," but (2) **can be** enforced against *other* foreign nationals from the six listed countries (i.e. those with no ties to the U.S.).

More specifically, the Supreme Court held that the Travel Ban *cannot* prohibit foreign nationals of Iran (or five other countries) if they can credibly show:

- A close familial relationship *to a person* in the U.S. (examples from the Court went beyond the "family nucleus" to in-laws and other possible extended family); *or*
- A formal and documented relationship with *a U.S. entity*, formed in the ordinary course (e.g., students admitted to university, workers with employment at a U.S. company, a lecturer invited to address a U.S. audience, etc.).

Notably, the Supreme Court applied the same standard to refugees who are foreign nationals of the six identified countries: i.e. they may not enter the U.S. unless they can show a "bona fide" relationship with a U.S. person or entity. If they can make this showing, the Travel Ban cannot prohibit their entry, even if it exceeds the new 50,000 "cap" that the Travel Ban imposes.

The Supreme Court warned that a "bon fide" relationship may not be manufactured for purposes of evading the Travel Ban – e.g., a non-profit creating a work or other relationship for the sole purpose of bringing an otherwise prohibited foreign national to the U.S.

The Court's reasoning appears to be based (in part) on the principles that: (1) foreign nationals with weak or no ties to the U.S. have no "legally relevant" injury or enforceable constitutional rights; (2) such individuals cannot "burden any American party" by virtue of their relationship; and (3) the government's national security interests are "at their peak" in prohibiting their entry.

The Court's order will go into effect on Thursday, June 29, 2017, and will remain in place until at least until October 2017, pending final resolution of this case on its merits.

While this decision was not entirely unexpected, it is extremely disappointing, in that it permits the Trump Administration to implement parts of a self-recognized Travel Ban, despite repeated statements expressing discriminatory intent based on nationality and religion. The Supreme Court decision also leaves ambiguity about its implementation. For example, it is unclear exactly what a "bona fide relationship" means (e.g., whether the quality or type of the relationship matters, which members of an extended family qualify, etc.). Such ambiguity is dangerous, and can permit arbitrary application. It also remains unclear whether and to what extent the Trump Administration will seek to apply "back door" immigration policies to implement its stated ban.

IABA expects that this ruling will lead to additional confusion and travel-related complications among our community members. So it is critical that our members know their rights, and have access to organizations capable of helping them. To that end, the IABA, through its website, will continue to: (1) disseminate information about member rights, (2) collect information and data from community members (and other individuals) who are affected by the Travel Ban; and (3) connect our members affected by this ban to attorneys capable of helping. All of this information will be available on: <http://iaba.us/iaba-immigration-updates>. If you know of anyone affected by the Travel Ban, please have them reach out to us, or visit our website.

As we have repeatedly said in prior communications, the issues surrounding the Travel Ban are not going away. However, we have – again and again – been able to secure victories though through the courts. As attorneys, it continues to fall on us to protect the community from the effects of this discriminatory ban, and other hostile legal policies. Please help us with those efforts by:

1. Joining or renewing your membership with IABA (click [here](#) to join, and [here](#) to renew);
2. Donating to IABA so it can continue its efforts (click [here](#));
3. Answering calls and volunteering for translating, legal help, attendance at airports, etc.
4. Engaging the community members who need help and directing them to IABA as appropriate;
5. Answering calls to volunteer time for translating, legal help, at airports, etc.
6. Sharing this statement and related information with your friends, families, and professional networks.
7. Calling and writing your local, state, and federal representatives;

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