



# United States Immigration Laws For Business

A summary of strategies to help facilitate the transfer of managers, executives, & personnel to the U.S.

 **VANDEVENTER BLACK LLP**  
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# Introduction

Vandeventer Black LLP is pleased to provide this publication for use by international businesses currently located, or seeking to locate operations, in the United States and to U.S. companies establishing international business operations. We hope that this publication will be useful to your business in determining how to facilitate the expeditious transfer of managers, executives, and other personnel to the United States. This publication is intended to provide a summary of some of the most useful and popular immigration options available to businesses. However, all of the detailed procedures and requirements of immigration law cannot be explained in a brief publication. Further, because immigration law is rapidly changing, it is important to consult with a qualified immigration attorney to determine the best immigration strategy for you and your business.

Vandeventer Black welcomes the opportunity to assist your company with the immigration process, as well as all of its legal needs. Since 1883, Vandeventer Black has provided legal counsel to international and domestic firms in a broad range of practice areas including, in addition to immigration law, international business, maritime, labor and employment, litigation, government contracts, construction law, environmental law, creditor's rights, and workers' compensation, among others. The firm continues its long tradition of comprehensive business planning through an integrated team of lawyers and legal professionals. Vandeventer Black is a full-service law firm with locations in Virginia, North Carolina, and Germany.

# Summary Of United States Immigration Laws For Business

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# PART ONE: Temporary Nonimmigrant Visa Options

Selecting the right immigration strategy depends upon the unique needs of your business. This section outlines some of the most popular temporary visas used by business. However, you should consult with a qualified immigration attorney to determine which particular visa is right for you and your business.

## Business Visitors (B-1/B-2)

Individuals who need to enter the United States quickly and for brief periods of time for business purposes can come to the United States as business visitors either pursuant to the Visa Waiver Program or a B-1 business visitor visa. Although business visitors cannot engage in active employment in the United States, they can undertake a number of important business activities which make a business visitor entry a very useful option for many companies.

## Visa Waiver Program (VWP)

Under the Visa Waiver Program (VWP), nationals of the following countries can enter the United States without a visa as business or tourist visitors for a period of up to 90 days:

Andorra	Iceland	Norway
Australia	Ireland	Portugal
Austria	Italy	San Marino
Belgium	Japan	Singapore
Brunei	Liechtenstein	Slovenia
Denmark	Luxembourg	Spain
Finland	Monaco	Sweden
France	Netherlands	Switzerland
Germany	New Zealand	United Kingdom
		Uruguay

The Visa Waiver Program should not be used by individuals who may need to stay for more than 90 days because no extensions or changes to another visa category are permitted. After 90 days, Visa Waiver Program visitors must leave the United States before entering the country again either pursuant to the Visa Waiver Program or another visa status.

## **IMMIGRATION**

**ALERT: The USCIS is placing more restrictions on both the duration of initial B-1 admissions and eligibility for extensions.**

*SPECIAL NOTE: There are many immigration advantages to being categorized as an L-1A manager or executive and careful attention should be given to using this categorization whenever possible.*

### SPECIAL NOTE:

*A first-line supervisor is not considered to be acting in a managerial capacity merely by virtue of the supervisory duties unless the employees supervised are professionals.*

*SPECIAL NOTE: L-1A employees can be approved for an initial period of 3 years and are eligible for two 2-year extensions for a total of 7 years of employment. L-1B employees can be approved for an initial period of 3 years and are eligible for one 2-year extension for a total of 5 years of employment.*

## Business and Tourist Visitor Visas

B-1 business and B-2 tourist visas can be issued by a United States embassy for a period of up to 10 years for multiple entries. Business or tourist entries pursuant to the visa can be for an initial period of up to six months with six month extensions thereafter. B-1/B-2 visitors or Visa Waiver Program visitors cannot be employed in the U.S. or receive a salary from a U.S. company. A business visitor can attend meetings, attend conferences, explore making an investment, or confer with business associates. Business visitors must remain on the payroll of a foreign firm, although they can be advanced expenses by a U.S. company.

## Intracompany Transferees (L-1A/L-1B)

Intracompany transferee visas are available to multinational companies to facilitate the transfer of executive, managerial, and essential-knowledge employees from their foreign operations to their United States operations. This is an excellent visa category because the applications are processed exclusively by the U.S. Citizenship and Immigration Services (USCIS) -- meaning the U.S. Department of Labor is not involved -- and, with respect to managers and executives, it is relatively easy to convert from this temporary work status to a permanent green card status. The basic requirements for an L-1 visa are as follows:

- The employee must have one year of continuous employment experience abroad within the three years preceding the application.
- The employment abroad must have been with a parent, branch, affiliate, or subsidiary of an existing or new U.S. entity.
- The employment abroad and in the U.S. must be in a managerial, executive, or specialized knowledge capacity.

**Managerial (L-1A) capacity** has been defined to include the following types of activities:

- Managing the organization, or a department, subdivision, function, or component of the organization.
- Supervising and controlling the work of other supervisory, professional, or managerial employees, or managing an essential function within the organization.
- Having the authority to hire and fire or to recommend those as well as other personnel actions (such as promotion and leave authorization) or otherwise functioning at a senior level within the organizational hierarchy or with respect to the function managed.

- Exercising discretion over the day-to-day operations of the activity or function for which the employee has authority.

**Executive (L-1A) capacity** has been defined to include the following types of activities:

- Directing the management of the organization or a major component or function of the organization.
- Establishing the goals and policies of the organization, component, or function.
- Exercising wide latitude in discretionary decision-making.
- Receiving only general supervision or direction from higher level executives, the board of directors, or stockholders of the organization.

**Specialized Knowledge (L-1B) capacity** is defined as “special knowledge possessed by an individual of the petitioning organization’s product, service, research, equipment, techniques, management, or other interests and its application in international markets, or an advanced level of knowledge or expertise in the organization’s processes and procedures.”

## Specialty Occupation Professionals (H-1B)

The H-1B visa is available to college-educated professionals and is useful for employees who do not otherwise qualify for intracompany transferee or treaty trader investor visas. Although the H-1B has more legal obligations than some of the other categories, it is a broad category which can be successfully utilized for a wide range of positions for applicants with a wide variety of credentials. The basic requirements for H-1B status include the following:

- A job offer in a “specialty occupation,” which generally means that the position requires a college degree or equivalent.
- The employee meets the requirements of the “specialty occupation,” which generally means that the employee possesses a college degree, a foreign equivalent, or a combination of education and experience equivalent to a college degree.
- A Labor Condition Application (LCA) approved by the Department of Labor. As part of the LCA process, employers must obtain prevailing wage data, post a notice of filing, and maintain a public access file containing information related to the petition.

### **IMMIGRATION**

**ALERT:** Spouses of L-1 visa holders are now permitted to apply for work authorization.

### **IMMIGRATION**

**ALERT:** The L-1 Visa Reform Act of 2004 eliminated the ability of the petitioning employer to “outsource” L-1B workers to a primary worksite, other than that of the petitioning employer, if the L-1B worker will be controlled and supervised by an employer that *is not* the petitioner (thus eliminating the ability of the petitioning employer to provide “labor for hire”).

### **IMMIGRATION**

**ALERT:** For L-1 petitions filed on or after March 8, 2005, there is a new “Fraud Prevention and Detection Fee” of \$500, in addition to the base L-1 application fee of \$185. Please note that the USCIS fees described at the time of this writing are subject to change at the discretion of the USCIS.

SPECIAL NOTE: *H-1B employees can be approved for an initial period of 3 years and are eligible for a 3-year extension for a total of 6 years of employment. However, under certain circumstances, H-1B employees can extend their status beyond 6 years as follows:*

*• H-1B employees with pending employment-based immigrant visa petitions who filed either a labor certification or an I-140 petition at least one year prior (365 days) may extend their H-1B status beyond the 6-year limit in one year increments until the green card petition is adjudicated.*

*• H-1B employees with pending or approved employment-based immigrant visa petitions and who are subject to the per-country limits may extend their H-1B status beyond the 6-year limit until they become eligible to proceed with green card processing and their petition is adjudicated.*

#### **IMMIGRATION**

**ALERT: The H-1B Visa Reform Act of 2004 created 20,000 additional H-1B cap-exempt slots for beneficiaries who have earned a Master's degree or higher from a U.S. institution of higher education. This effectively raises the "H-1B cap" by 20,000 for those who qualify for this exemption.**

In October 2000, several new H-1B provisions were enacted. Following is a brief summary of these provisions:

- The annual cap was increased to 195,000 for FY 2001, FY 2002, and FY 2003; it reverted back to 65,000 thereafter, and is currently at 65,000 at the time of this writing.
- Exempt from the H-1B cap are:
  - Employees of U.S. institutions of higher education & related non-profit entities
  - Employees of U.S. non-profit research organizations
  - Employees of U.S. government research organizations
- The fee payable to the USCIS by the employer to fund U.S. worker job training and scholarship programs has been reinstated at the time of this writing. The H-1B Visa and Reform Act of 2004 has increased this fee to \$1,500 (petitioners who employ no more than 25 employees, including any affiliates or subsidiaries, may submit a reduced fee of \$750). The following employers are exempt from paying the fee:
  - Elementary and secondary schools
  - Institutions of higher education
  - Non-profit entities affiliated with institutions of higher education, non-profit entities engaged in curriculum-related clinical training of students at institutions of higher education, non-profit research organizations, and government research organizations
- Employees with H-1B status may accept new employment in the same or similar occupation upon the filing of an H-1B petition by the new employer.

*A few words about F-1 students.... Many companies hire foreign nationals who are recent graduates of U.S. colleges and universities. An excellent option for businesses is to hire F-1 students pursuant to their "practical training" authorization, which permits them to work for up to one year without the filing of a USCIS application by the employer. Practical training enables companies to recruit top foreign graduates of U.S. colleges and universities without delays or paperwork and is especially useful during any period of H-1B unavailability.*

## Temporary Non-Agricultural Workers (H-2B)

H-2B visas are designed for employers looking to fill temporary jobs which last less than a year. Although the H-2B visa can be extended up to a maximum of three years, very close scrutiny is given to each extension request, with the exception of seasonal workers who are eligible to apply to re-enter annually. Unfortunately, the H-2B visa program has a number of limitations that reduce its usefulness. The application process takes approximately three to six months to complete, and employers must convince the following four agencies that their temporary need for



laborers satisfies applicable H-2B requirements: State Workforce Agency (SWA), U.S. Department of Labor (DOL), U.S. Citizenship and Immigration Services (USCIS), and Department of State (DOS) Consular Offices.

To qualify for H-2B visas, the following must be demonstrated through a government-controlled application process:

- That the prospective employee has an offer of “temporary employment” from a United States employer.
- That the prospective employee intends to return home after the expiration of the visa.
- That there are no qualified Americans willing or able to do the job.

Following are the four basic categories of “temporary employment” for H-2B status.

**One-Time Occurrence:** Employers must demonstrate either that (a) they have not hired workers in the past for this particular service and do not anticipate needing this same category of worker in the future, or (b) a temporary event has created a one-time need for the particular service. (*Examples:* construction workers needed to repair hurricane damage or additional chefs for restaurant servicing the Olympic games.)

**Recurring Seasonal Job:** Employers must demonstrate that the service is of a recurring nature and is thereby tied to a season of the year by an event or pattern. (*Examples:* Deckhands needed aboard fishing vessels which harvest seasonal shrimp, landscape laborers needed during the growth seasons or laborers in seasonal resort areas.) *Note:* Employment is not considered seasonal if the period in which the service will be needed is unpredictable or subject to change.

**Peakload Demand:** Employers must demonstrate that the temporary addition to their workforce will not become permanent. This category is for employers who regularly employ permanent employees but need to supplement the permanent workforce temporarily due to a short-term demand. (*Examples:* construction workers hired for an unanticipated single project or seamstresses hired for unexpected projects such as manufacture of Olympic uniforms.) *Note:* Placement agencies in the permanent business of providing short-term, temporary workers to other companies cannot establish a peakload need. This is because they have an ongoing, permanent need for workers to subsequently place with other businesses.

**Intermittent/Occasional Jobs:** Employers must demonstrate that they have not permanently hired this type of worker before and also must show that they have to temporarily hire this type of worker due to an occasional need. (*Examples:* technicians upgrading foreign machinery or skilled computer personnel to provide periodic training.)

## **IMMIGRATION**

**ALERT:** For H-1B petitions filed on or after March 8, 2005, there is a new “Fraud Prevention and Detection Fee” of \$500, in addition to the base H-1B application fee of \$185. Please note that the USCIS fees described at the time of this writing are subject to change at the discretion of the USCIS.

*SPECIAL NOTE:* Since 1992, the Immigration and Nationality Act (INA) has capped the quota of H-2B workers at 66,000 per fiscal year. Because of the increasing utility of this category, this cap was hit for the first time in FY 2005.

*SPECIAL NOTE:* Job vacancies caused by labor shortages in permanent positions do not qualify for H-2B visas.

*SPECIAL NOTE:* Although both skilled and unskilled workers may obtain H-2B visas, the following two categories of workers are excluded from the H-2B program: 1) foreign medical graduates seeking to perform work in medical fields, and 2) agricultural workers (H-2A program).

# Treaty Traders and Treaty Investors (E-1/E-2)

***SPECIAL NOTE:** E-1/E-2 visas are generally issued for an initial period of two to four years and can be renewed indefinitely. Generally, E-1/E-2 entries pursuant to the visa are for two years each and also can be renewed indefinitely.*

Treaty trader and treaty investor visas can be a very useful visa option because, although E visas do not always lead to clear-cut, employment-based green card options, the temporary work status can be renewed indefinitely. Treaty trader and treaty investor visas are generally obtained in two distinct circumstances. The first is by large multinational companies that have made substantial investments of capital in the United States or have been engaging in substantial trade. These companies frequently transfer employees to the United States as E-1/E-2 treaty employees. The second is by small start-up businesses where an individual is investing funds or engaging in substantial trade and desires to transfer himself to the United States in E-1/E-2 status to operate the business.

## **IMMIGRATION**

### **ALERT:**

**Spouses of E-1/E-2 visa holders are now permitted to apply for work authorization.**

The basic requirements for **Treaty Trader (E-1)** status include the following:

- There must be a qualifying treaty with the country of the beneficiary's nationality. Following is a list of eligible countries:

Argentina	Germany	Netherlands
Australia	Greece	Norway
Austria	Herzegovina	Oman
Belgium	Honduras	Pakistan
Bolivia	Iran	Paraguay
Bosnia	Ireland	Philippines
Brunei	Israel	Serbia
Canada	Italy	Slovenia
Colombia	Japan	Spain
Costa Rica	Korea	Suriname
Croatia	Latvia	Sweden
Denmark	Liberia	Switzerland
Estonia	Luxembourg	Taiwan
Ethiopia	Macedonia	Thailand
Finland	Montenegro	Togo
France	Mexico	Turkey
		United Kingdom

- The beneficiary and the company must possess the nationality of the treaty country. Accordingly, the U.S. business must be at least 50% owned by nationals of the treaty country.
- The activities of the business must constitute "trade," which can include activities such as import/export, purchases from a related company, and trade in technology.
- The trade must be "substantial" either monetarily or in sheer volume of transactions.
- The trade must be principally (at least 50%) between the United States and the treaty country.

- Employees of a treaty trader firm must serve in an executive or supervisory position or possess skills essential to the company's operations in the United States.

The basic requirements for **Treaty Investor (E-2)** status include the following:

- There must be a qualifying treaty with the country of the beneficiary's nationality. Following is a list of eligible countries:

Albania	France	Norway
Argentina	Georgia	Oman
Armenia	Germany	Pakistan
Australia	Grenada	Panama
Austria	Herzegovina	Paraguay
Azerbaijan	Honduras	Philippines
Bahrain	Iran	Poland
Bangladesh	Ireland	Romania
Belgium	Italy	Senegal
Bolivia	Jamaica	Serbia
Bosnia	Japan	Slovak Republic
Bulgaria	Kazakhstan	Slovenia
Cameroon	Korea	Spain
Canada	Kyrgyzstan	Sri Lanka
Colombia	Latvia	Suriname
Congo	Liberia	Sweden
Costa Rica	Luxembourg	Switzerland
Croatia	Macedonia	Taiwan
Czech Republic	Mexico	Thailand
Ecuador	Moldova	Togo
Egypt	Mongolia	Trinidad & Tobago
Estonia	Montenegro	Tunisia
Ethiopia	Morocco	Turkey
Finland	Netherlands	Ukraine
		United Kingdom

- The beneficiary and the company must possess the nationality of the treaty country.
- There must be an investment, or the active process of investing, in a business that must be a real and operating commercial enterprise.
- The investment must be "substantial" and more than a marginal one solely for earning a living. There is no specific dollar amount required. Generally \$100,000 is a good starting point; however, in some cases, smaller investments can be successful.

## **IMMIGRATION**

**ALERT: While the USCIS regulations state that only three of the enumerated items of evidence are required, in reality, substantial documentation for most of the items of evidence is required for a successful O-1 petition.**

- If an individual is the actual treaty investor, he or she must be in a position to develop and direct the enterprise, which generally means holding a majority of the stock and serving as an officer and/or director.
- Employees of a treaty investor firm must serve in an executive or supervisory position or possess skills essential to the company's operations in the United States.

## Extraordinary Ability Petitions (O-1)

O-1 nonimmigrant status is available to individuals who have "extraordinary ability" in the sciences, arts, education, business, or athletics. Extraordinary ability can be established through evidence of receipt of a major, internationally recognized award or by submission of at least three of the following forms of documentation:

- Documentation of receipt of nationally or internationally recognized prizes or awards for excellence.
- Documentation of membership in associations that require outstanding achievements of their members.
- Published material in professional or major trade publications or major media about the applicant and his or her work in the field.
- Evidence of participation on a panel, or individually, as a judge of the work of others in the field.
- Evidence of original scientific, scholarly, or business-related contributions of major significance.
- Evidence of authorship of scholarly articles in the field, in professional journals, or other major media.
- Evidence of employment in a critical or essential capacity for organizations that have a distinguished reputation.
- Evidence of a high salary or other remuneration for service.

## Temporary Religious Workers (R-1)

The religious worker visa category is for individuals coming to the United States to work in a religious capacity. The initial period of admission for a religious worker cannot exceed three years. An extension may be authorized for up to two additional years for a total period of stay not to exceed five years. Spouses and children in R-2 status may not accept employment while in the United States.

- **Definition of Religious Workers**

- **Religious Minister** - Includes ministers of religion who are authorized by a recognized denomination to conduct religious worship and perform other duties usually performed by members of the clergy such as administering sacraments, or their equivalent. *This does not apply to lay preachers.*
- **Religious Vocation** - A calling to religious life, evidenced by the demonstration of a lifelong commitment, such as taking vows. Examples include nuns, monks, and religious brothers and sisters.
- **Religious Occupation** - A habitual engagement in an activity, which relates to a traditional religious function. Examples include liturgical workers, religious instructors or cantors, catechists, workers in religious hospitals, missionaries, religious translators, or religious broadcasters. *It does not include janitors, maintenance workers, clerks, fundraisers, solicitors of donations, or similar occupations.* The activity of a lay-person who will be engaged in a religious occupation must relate to a traditional religious function, i.e., the activity must embody the tenets of the religion and have religious significance, relating primarily, if not exclusively, to matters of the spirit as they apply to religion.
- **Religious Professionals** - A religious vocation or occupation for which the individual has at least a baccalaureate degree or equivalent, and that such degree is required for entry into the religious profession.

- **Basic Requirements of the R-1 Visa**

- Applicant must be a member of a religious denomination having a bona fide nonprofit religious organization in the United States.
- The religious denomination and its affiliate, if applicable, are exempt from taxation, or the religious denomination qualifies for tax-exempt status.
- The applicant has been a member of the denomination for two years immediately preceding the filing of the application.

## NAFTA Visa Options for Canadians and Mexicans

The North American Free Trade Agreement (NAFTA) went into effect on January 1, 1994 and contains special immigration provisions which are applicable to Canadians and Mexicans. NAFTA was modeled on the previously enacted United States-Canada Free Trade Agreement (FTA). Although NAFTA can be very helpful to Canadians and Mexicans in certain circumstances, the provisions of NAFTA are much more beneficial to Canadians than to Mexicans.

*SPECIAL NOTE: The TN is valid for one year and requires the TN holder to work as an employee or under contract for a U.S. employer. Although the TN can be renewed indefinitely, the holder must establish at each entry and renewal that he or she continues to maintain a permanent residence outside of the U.S. to which he or she plans to return.*

Canadians have long enjoyed certain unique benefits under U.S. immigration laws. Canadians are not currently required to have a passport when entering the United States (although such is advisable as a passport can be useful for many purposes). Also, Canadians are not required to have visas to enter as B-1 business visitors and can be admitted for up to one year for many business activities. Further, Canadians are not required to have a visa to enter the United States as a TN, H-1B professional, or L-1 intra-company transferee. The only nonimmigrant classifications for which a visa must be obtained are the E-1 Treaty Trader and E-2 Treaty Investor visas.

NAFTA created the TN visa category for Canadians and Mexicans seeking temporary entry for certain specified business activities. Following is a complete listing of the permissible TN professions and the eligibility requirements of each. It is noteworthy that for nearly all of the TN occupations (with the exception of management consultants), experience cannot be substituted for education in meeting the TN educational requirements.

Accountant	baccalaureate or licenciatura degree; or C.P.A., C.A., C.G.A., C.M.A.
Architect	baccalaureate or licenciatura degree; or state/provincial license
Computer Systems Analyst	baccalaureate or licenciatura degree; or post-secondary diploma or post-secondary certificate, and three years experience
Disaster Relief/Insurance Claims Adjuster	baccalaureate or licenciatura degree, and successful completion of training in disaster relief insurance adjustment; or three years experience in claims adjustment and successful completion of training in Disaster Relief Insurance Adjustment
Economist	baccalaureate or licenciatura degree
Engineer	baccalaureate or licenciatura degree; or state/provincial license
Forester	baccalaureate or licenciatura degree; or state/provincial license
Graphic Designer	baccalaureate or licenciatura degree; or post-secondary diploma or post-secondary certificate, and three years experience
Hotel Manager	baccalaureate or licenciatura degree in hotel/restaurant management; or post-secondary diploma or post-secondary certificate in hotel/restaurant management, and three years experience
Industrial Designer	baccalaureate or licenciatura degree; or post-secondary diploma or post-secondary certificate, and three years experience
Interior Designer	baccalaureate or licenciatura degree; or post-secondary diploma or post-secondary certificate, and three years experience
Land Surveyor	baccalaureate or licenciatura degree; or state/provincial license

Landscape Architect	baccalaureate or licenziatura degree Lawyer (or Notary in Quebec) LL.B., J.D., LL.L., B.C.L., or licenziatura degree (five years); or membership in a state/provincial bar
Librarian	M.L.S. or B.L.S. (for which another baccalaureate or licenziatura degree is a prerequisite)
Management Consultant	baccalaureate or licenziatura degree; or 5 years experience in consulting or related field
Mathematician (Statistician)	baccalaureate or licenziatura degree
Range Manager/Conservation	baccalaureate or licenziatura degree
Research Assistant (college)	baccalaureate or licenziatura degree
Scientific Technician	must possess theoretical knowledge of any of the following disciplines: agricultural sciences, astronomy, biology, chemistry, engineering, forestry, geology, geophysics, meteorology, or physics; & the ability to solve practical problems in the discipline
Social Worker	baccalaureate or licenziatura degree
Sylviculturist/Forestry	baccalaureate or licenziatura degree
Technical Publications Writer	baccalaureate or licenziatura degree; or post-secondary diploma or post-secondary certificate, and three years experience
Urban Planner (Geographer)	baccalaureate or licenziatura degree
Vocational Counselor	baccalaureate or licenziatura degree

## **MEDICAL/ALLIED PROFESSIONALS**

Dentist	D.D.S., D.M.D., Doctor en Odontologia, or Doctor en Cirugia Dental; or state/provincial license
Dietitian	baccalaureate or licenziatura degree; or state/provincial license
Medical Laboratory/Tech	baccalaureate or licenziatura degree; or post-secondary diploma or post-secondary certificate, and three years experience
Nutritionist	baccalaureate or licenziatura degree
Occupational Therapist	baccalaureate or licenziatura degree; or state/provincial license
Pharmacist	baccalaureate or licenziatura degree; or state/provincial license
Physician (teaching/research)	M.D., Doctor en Medicina; or state/provincial license
Physio/Physical Therapist	baccalaureate or licenziatura degree; or state/provincial license
Psychologist	state/provincial license or licenziatura degree
Recreational Therapist	baccalaureate or licenziatura degree
Registered Nurse	state/provincial license or licenziatura degree
Veterinarian	D.V.M., D.M.V. or Doctor en Veterinaria; or state/provincial license

## SCIENTIST

Agriculturist (Agronomist)	baccalaureate or licenciatura degree
Animal Breeder	baccalaureate or licenciatura degree
Animal Scientist	baccalaureate or licenciatura degree
Apiculturist	baccalaureate or licenciatura degree
Astronomer	baccalaureate or licenciatura degree
Biochemist	baccalaureate or licenciatura degree
Biologist	baccalaureate or licenciatura degree
Chemist	baccalaureate or licenciatura degree
Dairy Scientist	baccalaureate or licenciatura degree
Entomologist	baccalaureate or licenciatura degree
Epidemiologist	baccalaureate or licenciatura degree
Geneticist	baccalaureate or licenciatura degree
Geochemist	baccalaureate or licenciatura degree
Geologist	baccalaureate or licenciatura degree
Geophysicist/Oceanographer	baccalaureate or licenciatura degree
Horticulturist	baccalaureate or licenciatura degree
Meteorologist	baccalaureate or licenciatura degree
Pharmacologist	baccalaureate or licenciatura degree
Physicist/Oceanographer	baccalaureate or licenciatura degree
Plant Breeder	baccalaureate or licenciatura degree
Poultry Scientist	baccalaureate or licenciatura degree
Soil Scientist	baccalaureate or licenciatura degree
Zoologist	baccalaureate or licenciatura degree

## TEACHER

College	baccalaureate or licenciatura degree
Seminary	baccalaureate or licenciatura degree
University	baccalaureate or licenciatura degree

No visa is required for TN status and an application for entry is made at a land border, preclearance station, or at an airport. Although there is no application required for TN status, Canadians are required to submit proof of Canadian citizenship, evidence of qualifications meeting the criteria for the TN visa such as diplomas, transcripts, licenses and experience credentials, and evidence of an offer of employment or contract with a U.S. company. Although Mexicans are eligible for TN status under NAFTA pursuant to the same list of occupations, Mexicans must file an application with USCIS and obtain a TN visa in advance at an embassy.

Although Mexicans do not enjoy the same level of immigration benefits as Canadians, one important NAFTA benefit to Mexicans and Canadians alike is the following expanded list of business activities permitted of B-I business visitors:

- *Research and design.* Technical, scientific, and statistical researchers.
- *Growth, manufacture, and production.* Harvesting agricultural crops; purchasing and production management personnel conducting commercial transactions.



- *Marketing.* Market researchers and analysts conducting research or analysis; trade fair and promotional personnel attending trade conventions.
- *Sales.* Sales representatives and agents taking orders or negotiating contracts.
- *Distribution.* Transportation operators transporting goods or passengers; customs brokers performing brokerage duties.
- *After-sales Service.* Installers, repair and maintenance personnel, and supervisors performing services pursuant to a warranty or service contract incidental to the sale of equipment.
- *General Service.* Certain personnel performing services on behalf of a Canadian or Mexican business and not receiving a salary or remuneration in the United States including professionals, management and supervisory personnel, computer specialists, financial services personnel, public relations and advertising personnel, tourism personnel, tour bus operators, and translators or interpreters.

## PART TWO: Permanent Resident Green Card Options

Many individuals coming to the United States want to obtain a permanent resident “green card” to eliminate the need to obtain extensions of temporary visas, to allow the spouse and children to work or attend college, and to facilitate owning a home, borrowing money, and otherwise participating in the “American dream.” Green cards can be obtained through a number of different methods, including employment, investment, family, asylum, lottery, and as a result of unique skills. This section focuses on obtaining green cards through employment, investment, and unique skills. You should consult with a qualified immigration attorney to obtain information on all available choices and to determine the particular approach that is right for you.

### Intracompany Transferee Executives & Managers (EB-1)

Intracompany transferees are eligible for streamlined permanent resident processing under the *first preference* employment category. No labor certification is required and there are no education or experience requirements. Following is a brief summary of the eligibility requirements for this category, which closely match those for the L-1 visa:

***SPECIAL NOTE:** The petitioning employer must have been doing business for at least one year. Accordingly, for new international businesses, their L-1 employees are not eligible for permanent residence until after the business has been in existence for one year.*

*SPECIAL NOTE: This category is available only to individuals employed in a managerial or executive capacity abroad and in the U.S. This category is not available to individuals who are employed due to their specialized knowledge.*

**IMMIGRATION ALERT: Although USCIS regulations often indicate that only 2 or 3 types of evidence are required for certain types of EB-1 and EB-2 green card categories, in reality, substantial documentation for most of the evidence categories is required to be successful.**

- If outside of the United States, in the three years immediately preceding the filing of the petition, the individual must have been employed abroad for at least one year.
- If already in the United States, in the three years immediately preceding entry as a nonimmigrant, the individual must have been employed abroad for at least one year.
- The employment abroad must have been with a parent, branch, affiliate, or subsidiary of the U.S. entity.
- The employment abroad *and* in the United States must be in a managerial or executive capacity (a detailed discussion of these capacities is contained in the section on L-1 visas).

## Outstanding Professors & Researchers (EB-1)

This *first preference* category is an excellent streamlined method by which professors and researchers can quickly obtain permanent resident status. Although a *job offer is required, labor certification is not required*. United States colleges and universities may sponsor outstanding professors and researchers for green cards. Further, certain private employers who employ at least three full-time researchers may sponsor researchers for green cards. Outstanding professor or researcher petitions must be accompanied by evidence of at least two of the following:

- Documentation of receipt of major prizes or awards for outstanding achievement.
- Documentation of membership in associations that require outstanding achievements.
- Published material in professional publications written by others about the individual's work.
- Evidence of participation, either individually or on a panel, as the judge of the work of others.
- Evidence of original scientific or scholarly research contributions.
- Evidence of authorship of scholarly books or articles in scholarly journals with international circulation.

The petition must also include evidence of *at least three years of experience* in teaching and/or research and evidence of an offer of employment from a university

or institution of higher learning in a *tenured or tenure-track teaching position* or a *permanent research position* or from certain private employers offering a *permanent research position*.

## Extraordinary Ability Petitions (EB-1)

This *first preference* category is similar to the O-I nonimmigrant status and is available for individuals with “extraordinary ability” in the sciences, arts, education, business, or athletics. *No offer of employment is required and no labor certification is required.* Although the petitioner is not required to be sponsored by an employer, evidence must be submitted establishing that the person is coming to the United States to continue work in their area of expertise. Evidence can be in the form of letters from prospective employers, evidence of prearranged commitments such as contracts, or statement detailing how the petitioner intends to continue his or her work in the United States. An extraordinary ability petition must be accompanied by evidence of a one-time achievement (such as a major, internationally recognized award) or include evidence of at least three of the items described in the section on O-I visas.

## Persons of Exceptional Ability & Advanced Degree Professionals (EB-2)

The *second preference* employment-based category includes persons of exceptional ability and professionals holding advanced degrees. An individual meeting either of these standards is eligible to apply under this category. The second preference category *generally does require a job offer and a labor certification.* However, if the applicant’s work is found to be in the national interest, then the position is exempt from the labor certification process. The labor certification process is discussed in detail in the following section on the EB-3 green card category.

To qualify as an EB-2 person of *exceptional ability* one must have “a degree of expertise significantly above that ordinarily encountered in the sciences, arts or business,” which is established by presenting evidence of at least three of the following:

- An official academic record showing a university degree.
- Evidence in the form of letters from current or former employers showing at least ten years of full-time experience in the field.
- A license or other certification to practice the profession.
- Evidence of a salary, or other remuneration for services, which demonstrates exceptional ability.

## **IMMIGRATION**

**ALERT: Decision of the AAU, In Re New York State Department of Transportation (EAC9606351031) (Aug. 7, 1998), imposes the following more stringent criteria for eligibility for a national interest waiver: area of work must have “substantial intrinsic merit;” work will be “national in scope;” and the foreign national will serve the national interest to a “substantially greater degree” than would an available U.S. worker having the same minimum qualifications.**

*SPECIAL NOTE: The list of grounds for a national interest waiver is not exclusive or exhaustive. There are other creative possibilities for national interest waivers such as, for example, work in support of the national defense.*

- Evidence of membership in professional associations.
- Evidence of recognition for achievements and significant contributions by peers, governmental entities, or professional or business organizations.

To qualify as a person with an *advanced degree*, one must possess a U.S. academic or professional degree or a foreign equivalent degree that is above a baccalaureate. To establish equivalency to an advanced degree, one must have a baccalaureate degree followed by at least five years of progressive, post-baccalaureate experience in the field.

As previously noted, exceptional ability and advanced degree professionals are required to obtain a job offer and a labor certification. However, an important exception to the requirement of a job offer, and thus of a labor certification, exists where an exemption would be in the *national interest*, which has been defined to include, among other activities, the following:

- Improving the U.S. economy.
- Improving wages and working conditions of U.S. workers.
- Improving education and training programs for U.S. children and other qualified workers.
- Improving health care.
- Providing more affordable housing for young and/or older, poorer U.S. residents.
- Improving the U.S. environment and making more productive use of natural resources.
- Involving a request from an interested U.S. government agency.

## **Professionals, Skilled Workers & Other Workers (EB-3)**

The *third preference* employment-based category includes professionals, skilled workers, and unskilled workers. All three groups are *required to obtain a job offer and a labor certification*. However, exemptions from the labor certification requirements do exist for nurses and physical therapists. *Professionals* include individuals who have at least a baccalaureate degree, *skilled workers* include individuals who perform skilled labor which requires at least two years of training or experience, and *unskilled workers* include individuals who are performing unskilled labor that requires less than two years of training or experience.

The purpose of the labor certification process is to establish that an employer needs the skills and abilities of a foreign worker, that it has tried to recruit U.S. workers for the position, that it has offered the position at the prevailing wage, and that it has found no qualified U.S. worker. For all labor certification applications filed on or after March 28, 2005, employers are required to conform to a new system (“PERM”) for filing and processing such applications. PERM and the two previous options, which are no longer available, are described below for purposes of comparison:

- *Regular labor certification process:* In a regular labor certification, the labor certification forms were completed and submitted to the local state office of the Department of Labor (DOL). The DOL reviewed the application, and if acceptable, advised the employer to proceed with a three-day advertisement in a local newspaper, or a single advertisement in a national journal, along with a posting of a job notice at the place of employment. Applicants submitted resumes directly to the Department of Labor, which pre-screened them and forwarded the resumes of potentially qualified applicants to the employer for interviewing. At the end of the recruiting period, the results of the employer’s recruiting efforts were summarized and submitted to the DOL for consideration. The case was reviewed by the local state office and forwarded to the Federal Regional Certifying Office for a final determination. Processing times for regular labor certification cases varied by region, but generally took several years to complete.
- *Reduction in recruitment process:* This process was adopted by the Department of Labor to enable employers to submit the results of their “real world” recruitment efforts at the time of filing the labor certification application. If the local state office found this prior recruitment acceptable, the case was approved without any further recruitment. However, if the local state office rejected the prior recruitment, the employer was required to engage in additional recruitment, usually in the form of a one-day newspaper advertisement and a 10-day recruitment period conducted through the local state office of the DOL. Finally, the case was reviewed by the local state office and forwarded to the Federal Regional Certifying Office for a final determination. Again, processing times for RIR cases varied from region to region, but generally took several years.
- *PERM process:* For all labor certification applications filed on or after March 28, 2005, employers are required to conform to the new PERM system for filing and processing such applications. PERM was designed to reduce the lengthy processing times that plagued both the regular labor certification process and the RIR process, which, as previously noted, could take several years or more and involved to a significant degree both the DOL local state office and the Federal Regional Certifying Office. As of this writing, under the new PERM system, the following procedures apply:
  - DOL local state offices play a minor role in the process and provide, among other things, prevailing wage determinations.
  - Applications are filed directly with the centralized federal processing centers/DOL Federal Regional Certifying Offices and the local state offices no longer receive or process labor certification applications.

**IMMIGRATION**  
**ALERT:** Under former law, green card applicants whose petitions were based on employer sponsorship were required to stay with that employer until the final green card application was approved. Under current law, an employment-based green card applicant whose final I-485 application has been pending for 180 days or more can change jobs or employers without invalidating the underlying I-140 or labor certification, provided that the new job is in the same or similar occupational classification.

**IMMIGRATION**  
**ALERT:** The Department of Labor issued a final rule for the “PERM” system, which applies to all labor certification applications filed on or after March 28, 2005.

- Employers conduct recruitment before filing labor certification applications in accordance with detailed DOL requirements, which include:
  - posting a notice in-house for at least 10 consecutive business days
  - placing a job order with the DOL local state office
  - placing two advertisements on two different Sundays in the area's newspaper of general circulation
  - performing three additional recruiting steps (from a specific list of 10 additional steps) for professional jobs (which are jobs that require a baccalaureate degree or higher)
  - preparing a detailed "recruitment report" to keep in-house, on file, for five years (and which is subject to audit)
  - filing the labor certification application either electronically or by mail

The regulations anticipate that an electronically filed labor certification application not selected for audit will have a computer-generated decision within 45 to 60 days of the date the application was initially filed. As of this writing, it is too early to determine if this estimate of such a rapid processing time is accurate.

## Special Immigrant Religious Worker (EB-4)

To qualify as an EB-4 special immigrant religious worker, an individual must be a member of a religious denomination that has a nonprofit religious organization in the United States and must have been a member of that denomination for at least two years before applying. This category is available for the following religious workers:

- Religious ministers in the religious denomination
- Individuals working in a religious vocation or occupation for the religious organization or its nonprofit affiliate. (A religious vocation means a calling or devotion to religious life. A religious occupation is an activity devoted to traditional religious functions, such as cantors, missionaries, and religious instructors.)
- Individuals working in a professional capacity in a religious vocation or occupation for the religious organization. (A professional capacity means that a baccalaureate degree or equivalent is required to do the job.)

*An applicant must have been performing remunerated religious work for the two years immediately preceding the filing.* Voluntary service does not apply to this two-year requirement; work must be remunerated.

Note: Eligibility for an immigrant visa for an individual coming to the United States to perform work in a religious occupation or vocation extends only until September 30, 2008 although it may be further extended as it has been in the past. However, this limitation DOES NOT apply to special immigrant ministers of religion.

## Investors (EB-5)

The investor green card option is commonly referred to as the "million dollar

visa.” Although 10,000 investor visas are available each year, relatively few are utilized. This is due, in part, to the fact that individuals with the ability to invest one million dollars in the United States can usually process a green card in a less expensive and more streamlined manner, such as an intracompany transferee. Another drawback of this category is that the initial green card is conditional and the condition must be removed after a period of two years, at which time the investment is reevaluated by USCIS. However, for those with the financial means and without other immigrant options available, the million dollar visa may be the appropriate alternative. Following is a brief summary of the criteria for investor visas:

1. The applicant must invest in and actively manage or establish policies for a new commercial enterprise which can include the following:
  - The creation of a new or original business.
  - The purchase of an existing business and the simultaneous or subsequent restructuring or reorganization of the business such that a new commercial enterprise results.
  - An investment in an existing business that increases either its net worth or the number of employees by 40%, creates at least 10 new jobs, and creates a new net worth which is 140% of the pre-expansion net worth or number of employees.
  - An investment in a troubled business that has been in existence for at least two years and has incurred a net loss equal to at least 20% of its prior net worth. The investment must maintain employment levels at the pre-investment level for a period of at least two years.
2. The applicant must be in the process of investing or have invested a minimum of \$1,000,000, or in certain “targeted areas” (rural or high unemployment areas) \$500,000. The capital investment can be from U.S. sources, such as a bank, or from overseas, and can be a combination of cash, inventory, equipment, or loans (provided that the borrowed funds are not secured by the assets of the business).
3. Except in the case of a troubled business investment, the investment must create or preserve at least 10 full-time positions for qualified U.S. workers, including holders of certain temporary work visas and permanent residents but *not* including family members of the investor.

SPECIAL NOTE:  
*Although there are many creative methods to structure investments to reduce the amount of cash required, including the pooling of funds, investors should proceed with extreme caution as USCIS has challenged the validity of many of these arrangements.*

SPECIAL NOTE:  
*Qualifying investors and their spouses and children under 21 receive conditional permanent residence for two years and must remove the condition, based upon the continued viability of the investment, to obtain unconditional permanent residence.*

# PART THREE:

## Vandeventer Black LLP

### International Business Group

The International Business Group at Vandeventer Black services the needs of international investors seeking to locate operations in or trade with the United States, as well as U.S. companies setting up operations internationally or engaging in international trade. The Group is composed of corporate, immigration, tax, and commercial attorneys experienced in international transactions and trade. Depending upon the individual needs of the client, an integrated program of strategic advise regarding appropriate corporate vehicles, tax advantage planning for multinational operations, site acquisitions, and immigration requirements for executives and employees can be presented in a clear and cohesive manner. The Group handles matters for businesses ranging in size from small partnerships to Fortune 500-companies who are engaged in international trade. Below is contact information followed by attorney profiles for members of the International Business Group.

### *International Business Group Directory*

<u>Attorney</u>	<u>Area of Practice</u>	<u>Email</u>	<u>Phone</u>
<b>Partners</b>			
Dean T. Buckius	Labor & Employment	dbuckius@vanblk.com	757.446.8620
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**Dean T. Buckius is a partner with Vandeventer Black and concentrates his practice in all areas of Labor & Employment Law and Litigation.** He advises and represents businesses on a broad range of employment issues including union avoidance, discrimination, wrongful discharge, wage and hour claims, VOSH/ OSHA citations, trade secrets, employment contracts, and covenants not to compete. Dean represents clients in state and federal courts, as well as in administrative forums and before arbitrators and mediators. Dean received his B.A. from The College of William & Mary and his J.D. (*cum laude*) from the Wake Forest University School of Law, where he was a member of the Wake Forest Law Review. He is licensed to practice in Virginia and North Carolina. He is a member of the Society for Human Resource Management, Downtown Norfolk Council and is an alumnus of Leadership Hampton Roads. He served as a member of the executive council of the Labor and Employment Law Section of the Virginia Bar Association. He also serves as a Chairman for the City of Norfolk Employee Grievance Panel. Dean was selected one of *Virginia Business*' "Virginia Legal Elite" in the field of Labor and Employment Law. He is a frequent speaker before management groups on a wide variety of labor and employment law topics.



**Mark T. Coberly is a partner and practices in the areas of Maritime Law and Marine-related Administrative Law.** He represents clients in federal and state court litigation as well as administrative proceedings of the United States Coast Guard, Customs, Immigration and National Marine Fisheries. Mark received his B.A. (*with distinction*) in 1975 from the University of Virginia and his J.D. in 1978 from Washington & Lee University, where he was a contributor and editor for the Washington & Lee Law Review. He is admitted to practice in Virginia as well as the United States Court of International Trade, United States Supreme Court, Court of Appeals for the Fourth Circuit, Court of Appeals for the Federal Circuit, and the Eastern and Western Districts of Virginia. Mark is a member of The Maritime Law Association of the United States, Virginia and American Bar Associations, Virginia State Bar, Hampton Roads Maritime Association, and the Southeastern Admiralty Law Institute (Director). He has lectured at The College of William & Mary School of Law and at the Southeastern Admiralty Law Institute. He is a member of the Board of Trustees for The Hermitage Foundation. His publications include *Bridgeworkers as Seamen under the Jones Act* 34 W & L Law Rev. 445 and *Maritime Lien Priority and the Ship Mortgage Act*, 34 W & L Law Rev. 458.



**Lawrence G. Cohen is a partner and chairs the firm's International Business Group. He has over 30 years experience practicing international law.** Prior to joining Vandeventer Black as a partner in 1996, he was General Counsel for Asia for Exxon Corporation, where he was responsible for setting up new business ventures throughout the Asia region. Prior to joining Exxon, he had considerable experience with businesses in Europe and resided in London where he worked on major insurance and maritime matters for European and American companies while a partner with a New York international law firm. Larry received his J.D. from Washington & Lee University School of Law. He is licensed to practice in New York and Virginia. He is a director of the Japan-Virginia Society, the Peninsula Alliance for Economic Development and Hampton Roads Economic Development Alliance.



He is a member of the German–American Chamber of Commerce, the International Business Council, American Bar Association, and The Maritime Law Association of the United States. He is also an adjunct Professor of Law at Regent University where he teaches international contracts. Larry has a working knowledge of German and speaks Japanese. He is AV rated by Martindale Hubbell Law Directory, which is the highest quality and ethics rating possible for attorneys.



**S. Sadiq Gill is a partner and concentrates his practice in Construction Litigation, Business and Commercial and Tort Liability.** He is an experienced and progressive litigator with an extensive state and federal practice that covers all stages of litigation: discovery, motions, trial and appeal. He has tried numerous cases to judges and juries, conducted more than two dozen arbitrations, and argued before appellate courts. His construction litigation practice encompasses all types of construction matters, from mass construction defect and design claims to contract and employment disputes. Sadiq has represented a wide variety of professionals in the construction industry, including design professionals (architects and engineers), owners, developers, general contractors, subcontractors, materialmen and sureties. He is equally skilled at commercial and business litigation, commercial transactions, commercial landlord–tenant relations, and general corporate problem-solving. In addition, Sadiq maintains a large tort liability practice, which focuses on claims related to transportation and ICC carriers. Sadiq also has substantial experience in government contracts and insurance coverage and defense, as well as in representing and advising start-up companies. He is proficient in the management of major litigation efforts, including strategy, budget, and staffing. He received a B.S. (cum laude) from James Madison University and a J.D. from the University of Richmond T.C. Williams School of Law, where he was associate editor of the Law Review. Some of Sadiq’s notable engagements include representing some of the region’s largest general contractors in all aspects of business, including labor and employment issues; contract negotiations and remedying owner and subcontractor default; and representing numerous interstate long-haul trucking firms involved in serious and fatal collisions in Virginia.



**Geoffrey G. Hemphill is a partner with the firm and concentrates his practice in Taxation, ERISA, Employee Benefits, and Business Transactions.** His Taxation practice focuses on corporate taxation, limited liability company issues, international tax, and state and local tax. Geoff’s Benefits practice concentrates on qualified retirement plans, executive compensation, and welfare benefits with an emphasis in multiemployer plans. His Business Transactions practice is geared toward closely held business issues and international transactions. Geoff received his B.S. from Lehigh University, his J.D. from Regent University School of Law, and his LL.M. in Taxation from Georgetown University. He served as a Law Clerk for Special Master Richard B. Abell of the United States Court of Federal Claims from 1995-1997. Geoff is admitted to practice before the U.S. Court of Federal Claims and the United States Tax Court. A few of Geoff’s most notable accomplishments include facilitating the financing and purchase of agricultural products in Africa for distribution in the United States, and structuring an independent power project development in Eastern Europe. He is the author of “Life After Death of a Tax-

Exempt Hospital: Creative Use of Supporting Organizations After the Sale,” *Exempt Org Tax Review*, June 1997, and “The Administrative Search Doctrine - Isn’t this Exactly What the Framers Were Trying to Avoid?” *5 Regent University Law Review*, Spring 1995.

**Patrick W. Herman is a partner and provides corporate tax advice to both small and large businesses on international tax planning.** He concentrates his practice in Tax, Wills, Trusts and Estates, Exempt Organizations and ERISA. Pat received his B.A. from Virginia Tech, his M.S. from George Washington University, and his J.D. and Masters of Law in Taxation from The College of William & Mary School of Law. He was a Captain in JAGC, USAR (1974-1986). Pat is a member of the Norfolk & Portsmouth, Virginia, and American Bar Associations (Tax Sections), as well as the Virginia State Bar. He is also a member of the Hampton Roads Tax Forum and the Tidewater Estate Planning Council. Pat speaks on a variety of tax-related topics, including ERISA, estate planning, exempt organizations, partnerships, and ethics and has several publications, including “Private Benefit, Private Inurement, and Inurement per se: Avoiding the Loss of Your Organization’s Tax-Exempt Status,” *Tax Exempt Organizations*. He is licensed to practice in Virginia and in North Carolina, where he serves as tax-counsel to the Outer Banks Community Foundation.



**Daniel D. Khoury is a partner and concentrates his practice in commercial law, real estate transactions, international business and municipal law.** Daniel is a Board-Certified Specialist in Real Estate Law for Business, Commercial, and Industrial Transactions. Daniel’s commercial and real estate transactions practice includes representation of franchise hotel and restaurant operators, developers, owners, lessors, and lessees, of commercial, industrial, utility, and residential real estate development projects; representation of purchasers and sellers in numerous merger and acquisition transactions involving public and private companies in a wide range of industries; representation of issuers in offerings of more than \$23 million in private equity; representation in sale/leaseback of corporate offices, representation of golf-course developers in acquisition, construction, operation, and financing of several championship golf courses; and representation of owners in property rezoning. His international business practice includes representation of importers of furniture and other goods from Asian manufacturers to U.S. distributors for retail by companies such as Southern Classics and Tickle Imports. A diverse range of clients have used his contacts to explore other opportunities for Asian manufacturing sources. He earned a B.S. from the Ohio State University and a J.D. from the Wake Forest University School of Law. He is admitted to practice before the North Carolina Supreme Court, Federal Fourth Circuit Court of Appeals, Federal Eastern District of North Carolina, the Ohio Supreme Court, and the United States Supreme Court. Daniel is a member of the Board of Governors of the North Carolina Bar Association and is a member of the North Carolina Board of Legal Specializa-





tion. As a councilor for the North Carolina State Bar, he was named to the Executive Committee and served as state ethics chair. Currently, Daniel serves as Manteo Town Attorney and president of the Manteo Preservation Trust. He is AV rated by Martindale Hubbell Law Directory, which is the highest quality and ethics rating possible for attorneys.

**Arlene F. Klinedinst is a partner and concentrates her practice in all areas of Labor & Employment Law.** She advises and represents a variety of organizations and businesses on a broad range of employment issues, including discrimination, wrongful discharge, wage and hour claims, VOSH/OSHA citations, and covenants not to compete. She also has a strong background in advising employers on preventative measures such as handbooks and policies, evaluations and job descriptions, discipline and discharge, drug testing policies, legal compliance, and union avoidance. Arlene received her B.A. in Labor Studies from Penn State University and her J.D. from Temple University School of Law. Before attending law school, Arlene worked as a human resources professional for Consolidation Coal Company. Prior to entering private practice, she served as a staff attorney to the Pennsylvania Labor Relations Board, and later to the Governor's Budget Office in Pennsylvania. She has been recognized as one of Virginia's "Legal Elite" among Labor and Employment lawyers by *Virginia Business* magazine. Arlene is a frequent speaker before management and civic groups on a wide variety of labor and employment law topics.



**Arthur Serratelli is a partner at Vandeventer Black, where he chairs the Immigration Law practice.** He advises companies and individuals on all aspects of immigration strategy for temporary employment and permanent residence options in the United States. He also assists employers with compliance under the employer sanction provisions of the Immigration and Nationality Act, including counsel on the implementation of Form I-9 procedures and avoiding civil and criminal fines and penalties under the Act. He is a frequent presenter across the country on a variety of immigration topics, including immigration rules for international business; DSO liability in the age of SEVIS; "Living and Working in America After Graduation;" what is needed to employ a foreign born nurse; and HI-B issues. Art speaks before a broad range of audiences, including the International Trade Councils, NAFSA, various colleges and universities, human resource groups, and economic development alliances. Art also serves as a trusted resource for various news media. He received a B.S.B.A. (summa cum laude) from Georgetown University, a M.B.A. from the University of Virginia, and a J.D. from George Washington University (with honors). Art is a member of the American Immigration Lawyers Association (AILA), an alumnus of the Hampton Roads Chamber of Commerce Leadership Hampton Roads program (2002) and a member of the National Association of Foreign Student Advisers (NAFSA): Association of International Educators. Art is the Past Director of Public Relations for the Institute of Management Accountants and was a member of the Virginia Society of Certified Public Accountants. He was selected as one of Virginia's "Super CPAs" for 2002 in the field of Litigation Support by *Virginia Business*. He is the author of "Surrogate Motherhood Contracts: Should The British or Canadian Model Fill the U.S. Legislative Vacuum?" *George Washington Journal of International Law and Economics*, Vol. 26, Issue 3.

**Katharina K. Brekke is an attorney with the firm and concentrates her practice in International, Maritime, and Commercial Law.**

She received her Norwegian law degree from the University of Oslo in 1997. She graduated in 1995 with honors from the University of Stockholm International Law Studies program and earned a Master of Laws degree from The College of William & Mary School of Law in 1999. She is qualified to practice law in Norway and Sweden. She is admitted to practice in Virginia and before the U.S. District Court, the U.S. Bankruptcy Court for the Eastern District of Virginia, and the U.S. Court of Appeals for the Fourth Circuit. She is a member of the American, Norfolk & Portsmouth, and Virginia Bar Associations and the Maritime Law Association of the United States, the Southeastern Admiralty Law Institute, and the Hampton Roads Maritime Association. She is also a member of the American Bar Association's Section of International Law and Practice and a member of the Norwegian-American Chamber of Commerce. Katharina is fluent in Norwegian, Swedish, Danish, English, and German.



**Mara S. Mijal is an attorney and concentrates her practice in Immigration Law.**

She advises companies and individuals on all aspects of immigration strategy for temporary employment and permanent residence options in the United States. She also assists employers with compliance of the employer sanction provisions of the Immigration and Nationality Act, including counsel on the implementation of the I-9 form and avoiding civil and criminal fines and penalties under the Act. She earned her J.D. from The College of William & Mary School of Law and a B.A. in International Relations from the University of Minnesota. Mara is a member of the American Immigration Lawyers Association, the Virginia Bar Association, and the Norfolk & Portsmouth Bar Association. She has worked for Vandeventer Black since 1998, first as an immigration case manager, then a summer associate, and currently as an attorney. Mara also served as a summer associate at the Norfolk office of the U.S. Citizenship and Immigration Services in 2002. She is the author of "U.S. Immigration Benefits for Same Sex Couples: Green Cards for Gay Partners?" William & Mary Journal of Women & the Law, Vol. 9.





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