

LEGAL UPDATES

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Service

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New Developments Unfold on Immigration Executive Order

On February 3, 2017, the U.S. District Court for the Western District of Washington issued a temporary restraining order (TRO) with nationwide application, preventing enforcement of important parts of the Executive Order titled “Protecting the Nation From Foreign Terrorist Entry Into the United States.” However, affected individuals, their employers, educational institutions and family members should be alert to continuing legal developments.

Specifically, the court **stopped enforcement** of those sections of the Executive Order that:

Forbid entry into the United States for 90 days by people from seven named countries.

Forbid all refugee admissions into the United States for 120 days.

Prioritize refugee claims, favoring those based on the individual’s status as a religious minority.

Suspend admission of Syrian refugees indefinitely.

How We Got Here

A lawsuit seeking to prevent the enforcement of parts of the Executive Order was filed by the State of Washington on January 30, 2017, and joined by the State of Minnesota on February 1, 2017. Those states requested the court to issue a TRO until the court can hold a hearing on a motion for preliminary injunction. If granted, a preliminary injunction may lead to a permanent bar to enforcing some portions of the Executive Order.

All federal agencies charged with enforcing the Executive Order have announced that they will comply with the judge's ruling and will suspend all implementation of the Executive Order. Travelers whom the Executive Order would have prevented traveling to the United States will be permitted to do so, and visas that were revoked under the Executive Order will be revalidated. Arriving travelers will be inspected under rules applicable before the Order was issued.

The U.S. government defendants have announced an intention to appeal this TRO. In the meantime, they also asked the U.S. Court of Appeals for the Ninth Circuit to stay (i.e., not to apply) the TRO and to permit the Executive Order to be enforced while their appeal is being prepared and adjudicated. An emergency request not to enforce the TRO while the appellate court considered the main request for stay was denied on February 3, 2017. Oral argument is scheduled for February 7, 2017, on the government's primary request to stay the TRO.

Similar litigation is making its way through other federal courts in various parts of the country, and other provisions of the Executive Order will be enforced differently than originally presented or commonly understood. For instance, the Executive Order's exclusionary provisions will not be applied to individuals who have been admitted as lawful permanent residents.

What This Means to You

For the time being, this court ruling has permitted those individuals who were ready to travel, or who were in the midst of a journey when the Executive Order was issued, to complete their travel and to enter the United States if they otherwise qualify for admission. The Ninth Circuit Court of Appeals is expected to move swiftly on the government's motion for a stay. If it decides to leave the TRO undisturbed, the rules existing before the Executive Order will remain in place and the portions of the Executive Order described above will not be enforced while the court moves at a more normal pace in deciding the merits of the case. Individuals from affected countries and their employers, educational institutions, family members and other interested parties may follow developments in this litigation here to determine whether and how the rules may change in the coming days.

Contact Us

If you have questions about immigration or how the Executive Order could affect your organization, please contact Toni Blackwood, Kelli Stout or Tiffany Hutchens of Husch Blackwell's Immigration team.