

Practice Areas

BUSINESS

L-1 Visas

H-1B

H-1B Transfers

Visas

TN Visas (NAFTA)

Special Visas for Other Countries:

- Australia
- Chile / SingaporeE-1

E-1 Visas

E-2 Visas

PERM Labor Certification

HOSPITALS /HEALTHCARE

H-1C Visas

H-1B Visas for Doctors

FAMILY

Spouse / Fiancée Visas

Permanent Residence for Family
within U.S.

Naturalization /Citizenship

AMNESTY

Employer of Foreign Worker Tagged with \$156,000 Judgment

July 29th, 2011 by [admin](#)

Employers frequently hire foreign workers in specialty occupations (such as architects, engineers, doctors and computer programmers) pursuant to the H-1B visa program, but sometimes they are not able to follow through on a commitment made to such a worker when economic circumstances change.

Now, a June 30 ruling by an administrative law appellate judge for the Department of Labor demonstrates that it is both risky and costly to change those commitments without following the procedures set forth by law and regulation.

The ruling handed down by Judge William Dorsey penalized an employer for failing to follow prescribed procedures in terminating a foreign H-1B worker who had obtained a visa pursuant to the employer's petition.

Kevin Limanseto, the worker, was terminated prior to the start of his proposed term of employment but after the granting of his H-1B visa and after an extended stay in this country under F-1 student status.

The Judge ruled that the employer properly notified the worker of termination, but failed to follow two additional prescribed steps: giving prior notice to the U.S. Citizenship and Immigration Services (the "USCIS") and paying for the worker's transportation home.

Describing these steps as the "quid pro quo" for being relieved of the duty to pay wages, Judge Dorsey ruled that the employer was responsible for payment of \$156,424 in lost wages and \$1,500 in legal fees as result of the failure to follow procedure.

This ruling demonstrates the importance of having good counsel prior to taking any employment related action,

The Shapiro Law Group

Illinois Business Immigration Lawyer

450 Skokie Boulevard, Suite 502
Northbrook, IL 60062, United States
Phone: 847.564.0712
Fax: 847.564.0871
Email: consult@ronaldshapiro.com
Website: <http://www.ronaldshapiro.com/>
Blog: <http://www.business-immigration-lawyer.com/>

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especially with respect to immigrant workers, who are subject to additional federally prescribed rules.

If you are an employer or agent of an employer with questions about the employment of foreign workers, do not hesitate to call our offices for an appointment at (847)564-0712 and/or check out the pertinent section of [our Website](#).