

DETAILED TABLE OF CONTENTS

THE CONSULAR PRACTICE HANDBOOK, 6TH ED.

Summary Table of Contents.....	vii
Preface and Caveat.....	ix
Index	371
 The Fundamentals of Lawyering at Consular Posts	 1
SCOPE OF ARTICLE	1
The Structure Governing Consular Processing	1
Sources of Authority	4
Statutory References.....	4
Regulatory References	4
Instructions/Interpretive Materials	4
IMPACT OF TRAVEL BAN 4.0 ON CONSULAR PROCESSING	5
GENERAL PROCEDURES AND CONSIDERATIONS	7
Visa Waiver Program (VWP) Travelers and the Electronic System for Travel Authorization (ESTA)	8
Automatic Visa Revalidation	9
REPRESENTATION AT CONSULAR POSTS IN THE NONIMMIGRANT VISA PROCESS	11
NIV Application Procedure.....	13
The Visa Application.....	14
Practice Tips for a Successful Visa Application.....	16
Overcoming Barriers to Success in NIV Processing.....	18
Waivers of Inadmissibility for Nonimmigrant Visas	22
Waiver Processing	24
Visa Revocation.....	27
IMMIGRANT VISAS	30
Consular Processing vs. Adjustment of Status	30
Consular Processing	31
Eligibility	32
Immigrant Visa Application Process	36
The Case Process.....	38
Appointment Packet and Visa Interview	50

Jurisdiction Over Immigrant Visa Applications	51
Client Preparation	56
Visa Issuance	57
Consular Petition Returns to USCIS.....	58
Visa Refusal.....	59
Waivers of Inadmissibility	62
Visa Revocation and Termination of Registration for an Immigrant Visa.....	66
Termination of IV Registration.....	66
Entry Into the United States	66
Administrative Review.....	66
Doctrine of Non-Reviewability of Consular Decisions by Courts	67
CONCLUSION.....	69
Visa Services Under the Second Trump Administration	71
VISA REVOCATIONS.....	72
DOS Revocation Practice.....	72
Changes to Visa Revocations.....	74
Implications for Practitioners.....	74
EXPANDED USE OF §214(B) REFUSAL AUTHORITY	75
Implications for Practitioners.....	77
NEW RESTRICTIONS ON ENTRY	77
Implications for Practitioners.....	79
CONCLUSION.....	79
The National Visa Center and the Kentucky Consular Center	81
BACKGROUND	81
NVC.....	82
Case Number Assignment.....	82
Fee Bills	83
Document Processing.....	83
Visa Number Assignment	87
Nonimmigrant Visa Petitions Processed at NVC (K-1 and K-3).....	88
Security Advisory Opinion.....	88
Problem Resolution Unit.....	88
Packet Control	89

Contacting NVC	89
Affidavit of Support	91
Age-Out Cases	91
Tips for Attorneys Working with NVC	92
KCC	93
Diversity Visa Program	93
PETITIONS RETURNED BY POSTS.....	95
CONCLUSION.....	95
 DS-260 Immigrant Visa Applications and Fee Payment Through CEAC.....	97
THE CEAC SYSTEM	97
PAYING THE FEES	98
COMPLETING FORM DS-260	98
REVIEWING AND EDITING FORM DS-260	106
SIGNING AND SUBMITTING FORM DS-260.....	107
PRINTING CONFIRMATION OF SUBMISSION AND A COPY OF FORM DS- 260.....	107
NOTE ON WHERE TO BOOK THE CONSULAR APPOINTMENT	108
 Instructions for Completing the DS-160 Nonimmigrant Visa Application.....	109
DATA PRESERVATION	109
CORRECTING MISTAKES ON SUBMITTED DS-160	110
FAMILY MEMBER’S APPLICATION	110
COMPLETING THE FORM	110
RETURNING TO AN APPLICATION IN CEAC	117
NOTE ON WHERE TO BOOK THE CONSULAR APPOINTMENT	117
 Obtaining Documents from Foreign Countries for Use in Consular Processing	119
INTRODUCTION	119
CIVIL DOCUMENTS BY COUNTRY	119
ALTERNATIVES.....	120
REQUESTING DOCUMENTS	122
VALIDITY PERIOD OF DOCUMENT	123
TRANSLATION.....	123

B-1 Business Visitors	125
INTRODUCTION	125
AUTHORITY	125
Statutory Authority	125
VISA WAIVER PROGRAM	126
B-1 VISA: REGULATORY AUTHORITY, AGENCY GUIDELINES, AND POLICY CONSIDERATIONS	129
THREE BASIC REQUIREMENTS OF THE B-1 CATEGORY	131
Unabandoned Foreign Residence	131
Entry for a Temporary Period	131
Permitted Business Activities	132
PROVING ELIGIBILITY FOR THE B-1 VISA	132
B-1 STATUS FOR WORKERS IN THE UNITED STATES	133
OTHER BUSINESS ACTIVITIES CLASSIFIABLE AS B-1	134
BUSINESS VISITORS UNDER USMCA	136
TRAVEL BANS AND EXTREME VETTING	137
Extreme Vetting	137
Form DS-5535	138
Travel Bans Under the Second Trump Administration	138
VISA APPLICATION PROCESS	139
ADMISSION, EXTENSION, AND CHANGE OF STATUS	140
CORPORATE MANAGEMENT OF B-1 VISITORS	142
B-2 VISAS	143
CONCLUSION	144

Consular Processing Considerations and Nuances for E-1 and E-2 Visa Applications	145
INTRODUCTION AND OVERVIEW	145
E-2 VISA REQUIREMENTS	146
What Is an E-2 Visa?	146
The Investor and Company Must Have the Nationality of a Treaty Country	147
The Investor Must Develop and Direct the Company	148
The Investment Must Be Substantial	149
The Investment Must Be from a Legitimate Source	154
The E-2 Company Cannot Be Marginal	155
The Company Must Be Real, Active, and Operating	157

The Investor Must Intend to Depart the United States	158
E-1 VISA REQUIREMENTS	159
What Is an E-1 Visa?	159
The Trader and Company Must Have the Nationality of a Treaty Country	159
The Activities Must Constitute Trade	160
The Trade Must Be Substantial	162
The Trade Must Be Principally Between the United States and the Treaty Country	163
The Trader Must Intend to Depart the United States	164
THE BUSINESS PLAN	164
Description of the Business and Executive Summary	164
Market and Competitor Analysis	164
Marketing Plan	165
Personnel Plan	165
Financial Plan	165
E-1 and E-2 EMPLOYEES	165
Executive/Supervisory Employees	165
Special Qualification/Essential Employees	166
E VISA DEPENDENTS	166
Spouses and Children of E Visa Holders	166
Parents and Extended Family of E Visa Holders	167
PROCEDURAL CONSIDERATIONS WHEN CONSULAR PROCESSING	167
Recent Changes to the Foreign Affairs Manual (FAM)	169
Administrative Processing	169
Considerations for the E Visa Interview	170
COMMON REASONS E VISAS ARE DENIED	170
Reasons for E-1 Visa Denials	170
Reasons for E-2 Visa Denials	171
Changes to E Visa Issuance	172

Consular Processing for Individuals Seeking F, M, or J Visas	175
INTRODUCTION	175
DOCUMENTS REQUIRED FOR VISA ISSUANCE	176
In General	176
Forms I-20 or DS-2019	177
Documents Required of Canadians and Foreign Nationals with Visas	177
Evidence of Financial Ability	177
Evidence of Nonimmigrant Intent.....	178
FORM I-901 SEVIS FEE	178
WHEN TO APPLY FOR A VISA	179
ADMISSION INTO THE UNITED STATES	180
2025 EXECUTIVE ACTIONS AFFECTING INTERNATIONAL STUDENTS AND SCHOLARS	180
CONCLUSION	181
 K Visa Processing 101	183
GENERAL OVERVIEW	183
BRINGING THE APPLICANT’S CHILDREN	183
VALIDITY PERIOD OF THE I-129F APPROVAL	184
K-1 AND K-2s ARE TREATED AS IMMIGRANT VISAS	185
GET TO KNOW THE CONSULAR POST	185
INTERVIEW PROCESS.....	186
POTENTIAL ISSUES	187
Credibility	187
Previous Immigration History.....	187
IMMIGRATION MARRIAGE BROKER REGULATION ACT (IMBRA)	188
ADAM WALSH CHILD PROTECTION AND SAFETY ACT OF 2006.....	189
OTHER FACTORS	190
CONCLUSION	190

Consular Processing of L-1 Petitions: An Update.....	191
INTRODUCTION	191
L-1 VISA WAIT TIMES.....	191
L-1 Visa Statistics for FY 2024	191
Measures Enacted by the Administration in 2025.....	191
L-1 ISSUES PRIOR TO VISA APPLICATION SUBMISSION.....	192
Reciprocity.....	192
Specialized Knowledge and Managerial Requirement	193
L-1 ISSUES POST-VISA ISSUANCE	194
CONCLUSION	194
 The Art of the One-Page Cover Letter.....	 195
INTRODUCTION	195
DO YOU NEED A COVER LETTER?	198
THE TONE OF THE COVER LETTER.....	199
COMPONENTS OF THE COVER LETTER.....	200
First: The Ask	200
Second: The Law.....	200
Third: The Facts.....	201
KNOW YOUR CONSULATE	201
ADVICE FROM AROUND THE WORLD	202
CONCLUSION	207
 Addressing Inadmissibility in Consular Processing Cases.....	 209
INVESTIGATING THE CONSULAR CASE.....	209
COMBATTING ADVERSE CRIMINAL AND MISCONDUCT FINDINGS TO AVOID INADMISSIBILITY AND WAIVER FILINGS.....	210
AVOIDING CONSULAR MARRIAGE FRAUD DETERMINATIONS AND I-130 REVOCATION	213
THE ROLE OF THE CIVIL SURGEON OR PANEL PHYSICIAN IN ESTABLISHING INADMISSIBILITY ON ACCOUNT OF DRUGS, ALCOHOL, AND TATTOOS.....	215
ADDRESSING 3-YEAR, 10-YEAR, AND PERMANENT BARS	217
CONCLUSION	218

General Waiver for Nonimmigrants: Processes and Procedures	219
OVERVIEW	219
How to Apply	220
Processing Times	221
Expedite Requests	221
Consular Processing of the Waiver Request	223
Adjudication	224
LENGTH OF VALIDITY OF THE §212(d)(3) WAIVER AND EFFECTS ON EXTENSIONS OF STAY OR CHANGES OF STATUS.....	225
Changes of Status and Extensions of Stay.....	225
CONCLUSION.....	226
 Third Country National Visa Processing for Nonimmigrant and Immigrant Applications	 227
NONIMMIGRANT TCN PROCESSING.....	227
Exceptions to the TCN Rule	229
TCN PROCESSING IN MEXICO AND CANADA	231
CHANGING POSTS FOR NIVs	231
IMMIGRANT TCN PROCESSING.....	231
Post Closures and Unavailability	232
Elective Change of Venue.....	233
CONCLUSION.....	234
 Bringing the Family: Accompanying or Following-to-Join Principal Visa Applicants	 235
IMMIGRANT VISA DERIVATIVES	235
Which Visa Categories Permit Derivative Beneficiaries?	235
Standard Definitions of “Spouse” and “Child” Apply	235
Acquired?.....	236
Accompanying or Following to Join.....	236
IMMIGRANT VISA EXCEPTIONS	238
Loss of Principal’s Status	238
Babe in Arms—No Visa Required	238
NONIMMIGRANT VISA DERIVATIVES.....	239
How to Initiate an Accompanying or Following-to-Join Derivative Nonimmigrant Visa Application	239

Expediting Consular Cases.....	241
EXPEDITING NONIMMIGRANT VISA (NIV) APPLICATIONS	241
Consular Autonomy	241
The NIV Appointment System	242
Request Strategy	243
Expedite Requests and the Interview Waiver Program.....	244
EXPEDITING IMMIGRANT VISA (IV) APPLICATIONS	245
Cases at the National Visa Center.....	245
Cases at the Consulate	245
HOW TO DEAL WITH REQUEST DENIALS	246
NIV Cases	246
IV Cases	247
CONGRESSIONAL INQUIRIES.....	247
“SPECIAL REQUESTS”	247
 Preparing Your Clients for Their Nonimmigrant Visa Interview.....	 249
THE INITIAL CONSULTATION.....	249
Welcome ... It’s a Pleasure to Meet You ... Have You Ever Been Arrested?	249
INADMISSIBILITY	251
You Did WHAT? Say It Isn’t So!.....	251
2025 Update Under the Trump Administration.....	252
PACKAGING APPLICATION DOCUMENTS—BIGGER IS NOT ALWAYS BETTER	252
PREPARING THE CLIENT FOR THE CONSULAR INTERVIEW	253
Good Morning ... Lovely Day ... Your Outfit Is Quite Becoming.....	253
DENIAL	256
Don’t Let the Door Hit You on the Way Out.....	256
MISCELLANEOUS (IN CASE I FORGET TO REMIND YOU LATER)	257
Consular Posts and Embassies Around the World	257
Communication with Consular Officers and Embassy Personnel	257
Form DS-160, Nonimmigrant Visa Electronic Application	257
Scheduling	258
Expedited Visa Processing and Visa Interview Waivers	258
Applying in Country of Residence	259
CONCLUSION	259

Security Checks and Administrative Processing	261
WHAT IS ADMINISTRATIVE PROCESSING?	261
VISA VETTING PROGRAMS	263
A Database “HIT”	263
Technology Alert List	264
Legal Advisory Opinions (LAOs)	264
Security Advisory Opinions (SAOs)	264
Challenges with SAO and “Visas” Programs.....	265
EXTREME VETTING AND THE DS-5535	266
Implications of DS-5535 for F-1, J-1, and H-1B Nonimmigrants.....	267
National Vetting Enterprise.....	269
HOW DO YOU AVOID ALL OF THIS?	270
PRELOADING	271
WHAT IF A CASE IS ALREADY STUCK IN ADMINISTRATIVE PROCESSING?	272
Why Is It Stuck?	272
MANDAMUS AND UNREASONABLE-DELAY LITIGATION	273
TRAC Factors and “Reasonable” Timelines.....	274
Competing Priorities (TRAC Factor 4)	274
Venue	275
Consular Nonreviewability (CNR)	275
FOIA CONSIDERATIONS	276
MANAGING CLIENT EXPECTATIONS AND ASSUAGING ANXIETY	277
 The Impact of INTERPOL Notices on U.S. Visa Petitions: What Every Immigration Attorney Needs to Know to Best Advocate for Their Clients.	279
INTRODUCTION	279
WHAT IS INTERPOL?.....	280
WHAT IS THE CCF?.....	282
WHAT ARE RED NOTICES AND DIFFUSIONS?.....	282
Notices and Diffusions Task Force (NDTF)	285
HOW CONSULAR OFFICERS TREAT RED NOTICES AND WHAT ATTORNEYS CAN DO TO PREPARE THEIR CLIENTS FOR INTERVIEWS	287
CHALLENGING A PERSECUTORY RED NOTICE THROUGH THE CCF/INTERPOL TO AFFECT DOS DECISIONMAKING	290

THE STATE DEPARTMENT CAN DO MORE TO HELP CURB INTERPOL ABUSE	292
CONCLUSION	293
Common Reasons for an INA §214(b) Denial	295
INTRODUCTION	295
Visitors for Business or Pleasure and Student Applicants	295
Expanded Use of INA §214(b) Refusal in Other Visa Categories	296
LEGAL BACKGROUND	297
EXPLANATIONS FOR DENIALS	299
General Factors	299
Individual Circumstances and Profiling	301
Specific Denial Rationales	302
PRACTICE ADVICE	311
First-Time Applicant	312
Dealing with a Denial	313
CONCLUSION	316
Postapproval Processing: Visa Approval Is Not the End of the Case	317
INTRODUCTION	317
NONIMMIGRANT VISAS	317
Internal Consular Processing	317
Client Legwork	320
Attorney Responsibilities	323
Keep in Mind	324
IMMIGRANT VISAS	326
Internal Consular Processing	326
Client Legwork	331
Attorney Responsibilities	334
Keep in Mind	334
VISA ERRORS	335
Simple Typographical Errors	336
Errors with Legal Implications	336
Other Considerations	338
CONCLUSION	339

Working with Consular Posts on Unique Applications: Returning Resident Visas, In-Country I-130 Filings, and Passport Applications.....	341
LPRs RETURNING AFTER EXTENDED STAY ABROAD	341
IN-COUNTRY I-130 FILINGS	343
Generally.....	343
Blanket Authorization for Petitions from Military Personnel and Certain U.S. Government Employees	347
APPLYING FOR A U.S. PASSPORT ABROAD	347
Generally.....	347
U.S. Passport Applications in Canada Are Special	349
CONCLUSION	350
 U.S. Citizen Filings from Consular Posts	351
INTRODUCTION	351
RENEWAL OF U.S. PASSPORTS WHEN THERE ARE ISSUES OR PROBLEMS	352
FILING CONSULAR REPORT OF BIRTH ABROAD	353
LOSS OF U.S. NATIONALITY, INCLUDING RENUNCIATION	355
CONSULAR NOTARIAL SERVICES: WHEN YOU CAN USE THIS SERVICE, AND FOR WHAT DOCUMENTS	361
CONSULAR ASSISTANCE WITH IN-COUNTRY ISSUES	363
EMERGENCY ASSISTANCE, AND WHEN IT IS MOST USEFUL	365
CONCLUSION	370