

The United States Supreme Court Temporarily Approves Part of Trump's Travel Ban

On June 26, 2017, the final day of its judicial term before summer recess, the United States Supreme Court addressed the Trump Administration's hotly contested travel ban. The Supreme Court issued a *per curiam* decision on June 26, 2017 allowing the federal government to implement a portion of the travel ban set forth in Executive Order 13780 (Protecting the Nation From Foreign Terrorist Entry Into the United States), which was signed on March 6, 2017. Recall, EO 13780 called for the suspension on the admission of all refugees for 120 days and also sought to impose a 90-day "temporary pause" on the admission of foreign nationals from six countries – Iran, Libya, Somalia, Sudan, Syria and Yemen.

The Supreme Court's June 26th decision marks the latest move in the game of legal ping pong regarding the Trump Administration's stated efforts to protect Americans and safeguard the nation's security interests. The Supreme Court will fully consider the legal arguments at stake when the fall session begins in October 2017. For now, the Supreme Court's decision will allow the Trump Administration to exclude foreign nationals from one of the six countries of concern, provided they have no "credible claim of a *bona fide* relationship with a person or entity in the United States". Stated differently, if a foreign national can establish the existence of a "close familial relationship" with someone already in the United States or a formal, documented relationship with an American entity, the travel ban will not apply. It is expected that enforcement of this limited travel ban will begin on June 29, 2017, just as the nation's peak summer travel season gets underway.

Not surprisingly, the Supreme Court's decision leaves a number of unanswered questions regarding the meaning of the "bona fide relationship" standard. In an effort to shed some light on this issue, the Supreme Court provided several examples of the circumstances that would satisfy the "*bona fide* relationship" standard:

- Individuals seeking to come to the United States to live or visit a family member (*i.e.*, spouse, mother-in-law), though it remains to be seen just how far the federal government will go to recognize a "close" familial relationships (*e.g.*, cousins, aunts, uncles, nieces, nephews, etc.);
- Students who have been admitted to an educational institution in the United States;
- Foreign nationals who have been extended, and have accepted, an offer of employment with a corporate entity in the United States;
- Foreign nationals who have been invited to temporarily address an American audience as lecturers; and
- Refugees who have family connections in the United States or who have connections with refugee resettlement agencies.

While the examples provided by the Supreme Court are helpful to a certain degree, they do not address all scenarios that may arise for foreign nationals seeking to enter into the United States in the immediate future. Nevertheless, it appears that individuals who currently hold valid immigrant and/or non-immigrant visas will not be subject to the travel ban.

In response to the Supreme Court's decision, the Department of Homeland Security issued a statement on June 27, 2017 noting that DHS' implementation of EO 13780 will be "done professionally, with clear and sufficient public notice, particularly to potentially affected travelers, and in coordination with partners in the travel industry".

We will continue to apprise clients regarding any developments as they unfold.

If you have questions, contact [Caroline M. Westover](#), any of the [attorneys](#) in our [Immigration Law Practice](#), or the attorney in the firm with whom you are regularly in contact.



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