

# SPRING NEWSLETTER

Issue #25 | April, 2008

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## IN THIS ISSUE

CRIMINAL LAW.....	1
LITIGATION.....	2
EMPLOYMENT LAW.....	2
IMMIGRATION.....	2

We are a New York City based law firm focusing on personalized, cost-efficient service for our clients. Our clients include entrepreneurs, corporations, medium and small sized companies and individuals from all over the world. Our primary practice areas are:

- Immigration
- Business and Employment
- Criminal Defense
- Real Estate

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## CRIMINAL LAW

### DETENTION OF US CITIZENS AT BORDER UPHELD

In December of 2004, five U.S. citizens were detained in Lewiston, New York on their way back from a religious conference in Toronto, Canada. During an extended detention which lasted between four and six hours, each individual was photographed, fingerprinted and questioned while their vehicles were searched.



The five citizens filed a lawsuit, *Tabbaa v. Chertoff*, claiming a violation of their Constitutional right to assembly and protection against unreasonable searches and seizures. In ruling against them, Western District Judge William Skretny said that while the detention was “unfortunate” it was not unconstitutional, calling the inspections narrowly tailored to accommodate the government’s intelligence that the conference might be a meeting place for terrorists.

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In their appeal, the citizens questioned whether their attendance at a conference was sufficient to warrant a suspicion of criminal activity. Citing the U.S. government's compelling interest in "protecting the nation from terrorism," the U.S. Court of Appeals stated that it is within the plenary powers of U.S. customs officials to detain and search Americans at borders even if there is no direct suspicion of criminal activity.

## LITIGATION

### BLIND SHOPPERS MUST BE ACCOMODATED ONLINE



The National Federation for the Blind (NFB) has brought a lawsuit against Target.com claiming that because their Web sites are not adapted for the blind, they violated the Americans with Disabilities Act (ADA). Although there are currently no federal standards for Web site accessibility, this case has other retailers closely monitoring events. Larry Paradis, attorney for NFB argued that "a whole range of online activities have become components of modern life. The thrust of the battle is whether or not the Web should be free from civil rights regulation."

Target moved to dismiss the case against them arguing that the laws in question only apply to physical spaces, not cyberspace. However, San Francisco Judge Marilyn Hall Patel found a link between website inaccessibility and in-store shopping experience. The case was filed in California, but can have national ramifications after Judge Patel certified both state and federal ADA class actions against Target.com.



## EMPLOYMENT LAW

### EMPLOYEE HANDBOOKS

When an employee makes a complaint with the EEOC or NY State Division of Human Rights, the government agency will typically ask the company to turn over its manual as evidence that it has informed its employees about proper workplace behavior. An employee handbook serves as a beneficial tool for employers to avoid potential liability. Employee handbooks should include comprehensive statements about employment policies and practices, such as policies on performance reviews, paid time off, benefits, and termination. Most importantly, handbooks should discuss policies on sexual harassment, disability and discrimination.

Katona & Mir's attorneys regularly prepare employee handbooks that can help protect against claims involving harassment, discrimination or unlawful termination. We regularly counsel our clients on regulatory compliance and risk management procedures and practices. Feel free to contact our office for further information.

## IMMIGRATION

### H-1B UPDATE

Citizenship and Immigration Services (CIS) reported receiving approximately 163,000 petitions against the H-1B bachelors and masters caps. Approximately 31,200 of those petitions were filed under the cap for US Masters degree holders. This means that all H-1B quotas have now been filled. On April 14, 2008, CIS ran its lottery and is now in the process of receipting in cases chosen in the lottery and rejecting petitions not selected. CIS has set June 2, 2008 as the deadline by which it will receipt in all cases. For those F-1 students who are selected in the lottery but whose grace periods end prior to 10/1/08, CIS has agreed to allow these students to change their status in the country without having to travel. Also, CIS has announced that students who graduated and are currently in a degree program related to science, technology, engineering or mathematics and who are not selected in the lottery, may extend their OPT by up to 17 months. For more information about any of these developments, please contact our office.

### RECENT CASES & NEWS

- *Katona & Mir recently settled an employment discrimination suit involving claims including religious and national origin discrimination.*
- *We recently assisted a NYC restaurant with incorporation documents, shareholder agreements, and licensing agreements.*
- *We obtained a dismissal in a criminal case where our client was charged with harassment and assault.*
- *We successfully terminated deportation proceedings for a client who unknowingly derived citizenship when he was under 18.*
- *David Katona recently wrote a chapter in the Immigration Legal Series publication entitled "Understanding Modern Immigration Politics, Laws and Attorney Practices."*
- *Simi Mir was recently featured in the book "Life Entrepreneurs" along with her husband, the founder of Adirondack Creamery.*

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