

Q&A With Mayer Brown's Paul Virtue

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Paul Virtue is a partner in Mayer Brown LLP's employment and benefits group, focusing on global immigration and mobility issues. He is based in the firm's Washington, D.C., office, where he represents clients on a broad range of employment-related immigration and compliance issues. He has more than 30 years of experience in immigration law and related policy, regulatory and legislative areas. He advises clients on a full range of employment-related immigration, worksite compliance and policy issues.

Prior to entering private practice, Paul served as general counsel of the U.S. Immigration and Naturalization Service. As general counsel, Paul was the agency's chief legal officer supervising a nationwide litigation staff of more than 600 lawyers and providing legal and policy advice to the INS commissioner and senior officials, the attorney general, White House and other federal agencies on issues under INS jurisdiction.

Paul has testified before Congress on more than a dozen occasions as a senior-level government official and more recently as an expert on immigration and compliance issues.



Paul Virtue

Q: What is the most challenging case you have worked on and what made it challenging?

A: In 2005, I assisted champion ice dancer Tanith Belbin to secure early U.S. citizenship to allow her to compete with her U.S. citizen partner, Ben Agosto, in the 2006 Winter Olympics on behalf of the U.S. What made the case challenging were the deadline for selection of the U.S. Olympic Team and the duel of persuading Congress to enact legislation allowing for early naturalization, while crafting language that did not constitute a private bill.

Working with lawyers at Akin Gump Strauss Hauer & Feld LLP and with the leadership of Sen. Carl Levin, D-Mich., we secured the necessary language as part of a defense appropriation bill. After languishing on his desk for more than a week, President Obama signed the bill on Dec. 30 and the special naturalization authority was scheduled to lapse on Jan. 1. We were able to have the U.S. Citizenship and Immigration Services conduct the necessary background check before the law was enacted and to open the office on Dec. 31 for completion of the interview and swearing-in. Two weeks later, Tanith and Ben finished first

at U.S. Nationals and went on to capture the silver medal in the 2006 Winter Games.

Q: What aspects of your practice area are in need of reform and why?

A: U.S. immigration law and policy is in serious need of reform to achieve a better balance among border security, humanitarian concerns and commercial realities. It has been nearly 30 years since Congress last addressed the U.S. undocumented immigrant population in a meaningful way. The current immigrant visa limits (both employment and family-based) and nonimmigrant visa caps have been in place for 25 years.

In the meantime, our undocumented population has grown to an estimated 12 million people, thousands of U.S. citizens and permanent residents are waiting years to be reunited with their close family members and U.S. employers are forced to enter a random lottery to try to fill critically needed high-skilled positions. The current guest worker programs fail to provide a predictable source of skilled and unskilled workers, especially in the agricultural and construction sectors. The system is broken.

In 2013, the Senate passed a comprehensive immigration reform bill which, while not perfect, would have addressed all of these issues and more, including protections for U.S. workers. Leadership in the House declined to consider the bill and it died with the adjournment of the 113th Congress. The 114th Congress really does need to take a serious look at this issue and work on striking a better balance than we have today.

Q: What is an important issue relevant to your practice area and why?

A: An important issue in the immigration field is the complete lack of notice and comment rule-making on a host of important interpretations by the U.S. Department of Labor, U.S. Department of Homeland Security and U.S. Department of State. The result is a lack of predictability and uniformity in decision-making that often leads to absurd results and backlogs in case processing.

One example is the lack of guidance for adjudicators and practitioners on the definition of “specialized knowledge” to qualify for an intracompany transfer visa. While the USCIS has very recently published a draft memorandum for public comment on this issue, a memorandum does not have the force and effect of law and can be changed at the whim of the agency. Such issues of significant importance to U.S. employers should be addressed in the rulemaking process.

Q: Outside your firm, name an attorney in your field who has impressed you and explain why.

A: My friend, David A. Martin, Warner-Booker Distinguished Professor of International Law and Joel B. Piassick Research Professor of Law, University of Virginia School of Law, has left an indelible impression on me as a lawyer and a human being.

While serving in a number of key positions within the federal government, David helped to shape U.S. law and policy related to refugees, removal of criminal aliens, detention and a host of immigration and human rights issues. He has always done so with compassion and the discipline and unwavering dedication of a consummate legal scholar. In terms of pure candle power, I am sure I have never met his equal in our field.

Q: What is a mistake you made early in your career and what did you learn from it?

A: In my early days, I had the inclination to “do it myself” rather than delegating work to staff attorneys and associates. I learned that my work was missing a diversity of thought that is critical to well-reasoned opinions and to serving the best interests of my clients. Having learned that lesson early, I have been able to evolve a practice of delegating that has led to a more balanced, refined and thoughtful work product in which I take great pride.

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