

Q&A With Mayer Brown's Elizabeth Stern

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Elizabeth E. Stern, a partner in Mayer Brown LLP's Washington, D.C., office, leads the firm's global mobility and migration practice, which forms part of the employment and benefits group. Stern has over 25 years of experience advising on U.S. and global immigration, human resources and mobility services. She spearheads Mayer Brown's new global worksite management initiative. This "Global People Solution" offers multinational clients in a variety of sectors, including financial services, information technology, defense, telecommunications and multimedia, a comprehensive compliance and risk management program in connection with their mobile workforce.

Liz focuses on issues unique to dynamic commercial entities with a global workforce. She helps companies establish global compliance and management programs to move their executive and professional workforces to various locations around the world. She is knowledgeable in global HR disciplines and transactions, including visas, work permits and compliance and how immigration transactions interface with tax, employment, compensation and benefits, corporate formation, data privacy, export controls and anti-corruption and anti-bribery regulation.



Elizabeth E. Stern

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

A: My career has been focused on helping companies mobilize their talent across borders, and as a result many of the challenges have arisen when the real-world exigencies of business are at odds with agency adjudication mindsets or schedules. These types of challenges require close management, diplomacy and a substantive command over the governing regulatory framework.

On a more personal level, you as the attorney have to gain a genuine understanding of the talent behind the visa candidate — what is it about this particular individual that will advance the goals of the business? A key example of that in my career involved a case for the son of the chairman of a foreign bank, who was pursuing filmmaking. That young man, only recently graduated from a U.S. college, needed an O-1 visa requiring proof of extraordinary ability (i.e., that he was one of the rare few at the pinnacle of his field). His case had already been denied once, and the family was in distress about the fact that he might never realize his dream of launching a U.S.-based filming career.

We worked closely with him on every movie set he'd worked on, and we watched his one short film. It had something and, as a movie buff, I recognized it. We spent months developing a portfolio to demonstrate his talent to the U.S. Citizenship and Immigration Services. Against the odds, we succeeded and celebrated because it was such a personal victory and an example of significant talent burgeoning at the "indie" level.

I am proud to say that young man today is the executive producer of the hit series "Homeland." Gideon Raff, the Israeli filmmaker who stood out as a unique talent even in his earliest endeavors, was invited to work in the U.S. as a person of extraordinary ability because we were willing to take a chance and develop his portfolio. Today, he is a U.S. permanent resident in the immigrant category for extraordinary ability, and a great friend of our firm and practice.

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

A: Our society has changed from one that considered foreign professionals to be persons of distinguished merit and ability, to one that restricts U.S. hiring, imposes unrealistic quotas and assumes abuses even when multinational companies rotate talent through America — a longstanding preferred category in virtually any major economic state. Whether by deliberation or reactivity, our leaders are granting a dramatically greater pool of admissions to workers who have no legal basis for entry while keeping legal entrants in the highly skilled jobs market at limited levels that date back three decades. Rather than recognizing the best practices of top commercial entities who seek to marshal the best talent from around the world, our Congress is hesitant to develop meaningful reform even for the coveted top tier of science, technology, engineering and mathematics jobs.

This inaction reflects a government taxed by the complexity of dealing with a southern border and unaccompanied minors flooding the country. But the reforms for U.S. companies have little to do with the 5 million to 18 million humanitarian cases — these are issues that drive competitive advantage and growth. No matter how many Elon Musks, Sergey Brins or Indra Nooyis establish and lead the most successful companies in America, the political debate still seems to view imports of talent as a displacement, as if innovation and jobs were a zero-sum game. That artificiality is sharpened by the reality that companies have more dynamic mobility programs for top talent than ever.

As the daughter of a Latin American diplomat and employer on a team that includes first, second and third-generation talent from Asia, the Middle East and Europe, I am distressed that the U.S., once the beacon for immigrants, is discouraging entrepreneurs, organizations and innovators from choosing America as a home. We must change this trend and restore the welcome for the most important resource we need: talent.

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

A: The pace, volume and type of mobility has changed dramatically. Today's companies compete across regions, and there is a fluid movement of business travelers, multiregion executives and short-term assignees, not simply long-term expatriates. This movement across borders creates great risk, not simply of having the right visa, but in employment law, compensation and benefits structure, taxation, anti-corruption, export controls, data privacy and security and insurance issues. A well-executed compliance program that integrates the company leadership and agile systems, is essential.

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

A: Essential to the function of immigration is the leadership within the governmental agencies administering it. The late Steve Fischel, who contributed to U.S. Department of State policy and legal review for the bulk of his career, was a perfect example of a reasonable, receptive leader, who created transparency and pragmatism in the oversight of consular affairs and application of governing legislation and regulation. A genuine expert who could have imposed his viewpoint, he used humor and intellect to establish a rapport and achieve stronger compliance by the user community. It was a great loss to our bar in the U.S. to lose him to a sudden and tragic heart failure.

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

A: I did not recognize the importance of the right team. Even talented lawyers who don't share the same core values or commitment to the service model will create barriers to success. Jim Collins (Good to Great, Built to Last) said it best: Get the right people on the bus and in the right seats. No success is sustainable without that fundamental foundation of talent.

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