



Q&A With Austin T. Fragomen, Jr.

Fragomen, Del Rey, Bernsen & Loewy, LLP

2020 "Law Firm of the Year"
in **Immigration Law**

There has been a lot of talk over the past 20 years about changing immigration law, but not much sweeping change has actually taken place. How do you adjust to the policy memos that are often passed down in place of a change in the law?

With both the ongoing gridlock in Congress and policy issues being so complex from a legislative standpoint, Congress hasn't been able to pass any comprehensive immigration changes since the Immigration Act of 1990. One of the ways to move policy when you cannot do it legislatively is through administrative processes, and there are various ways to do that. For example, you can publish a formal rule for review during a public comment period. This method is not popular as it can also be very controversial and time-consuming. Another option is through a policy memo, which can provide analysis and/or recommendations with respect to an issue. A third method is through an executive order, but that tends to lead to litigation. To adjust to these changes, you must be observant. At Fragomen, we have extensive resources that monitor new legislative and regulatory developments and emerging trends worldwide, so we can help our clients anticipate and prepare for changes accordingly.

What do you feel are the biggest misconceptions about immigration currently in the United States?

There are many misconceptions about immigration in the United States, but I believe the most significant one relates to the effect of

immigration on the economy. The U.S., like most other developed nations, has a relatively low fertility rate, and the demographic reality is that the population primarily grows through immigration. The fact is that reducing immigration would negatively impact economic development in the U.S. because we would have an even greater shortage of workers than we do now. With unemployment at a low level, our economy needs more workers, particularly in fields that require a high level of education or skill, such as those in the disciplines of science, technology, engineering, and math. To reduce the number of immigrants entering the U.S. would be hugely problematic over time.

It doesn't get a lot of headlines, but there is a skill gap between employer needs and the workforce. Employers turn to foreign labor to fill these needs for their businesses. How do you help in that process?

The primary focus of our firm is representing businesses and employers who have a need to hire foreign nationals because of the skills gap and are seeking to select the most qualified person for a specific job. Companies are committed to hiring the best talent they can. There's a global competition for that talent, so immigration systems must be designed to enable employers to attract entrepreneurs and persons willing to make significant contributions to society, such as Nobel Prize winners. As reported in *Forbes*, immigrants have been awarded nearly 40 percent of the Nobel Prizes won by Americans in

Chemistry, Medicine, and Physics since 2000.

We help in that process by advising companies on immigration procedures, processes, and qualifications. We are trusted advisors in immigration strategy, so not only do we assist with individual cases, but we also help with future planning and other strategic needs. For example, if a company wants to establish a new research facility, we can advise its leadership on which countries would be most attractive from an immigration perspective, providing them with assurance that they will be able to hire the global talent they need to be successful.

What are some cases that you have worked on in the past year that you found to be most rewarding?

There is a wide array of cases that we find rewarding. For instance, providing pro bono support to unaccompanied minors from Central America and helping them to obtain asylum or Special Immigrant Juvenile Status is particularly rewarding. On the other side of the spectrum, working with persons who are well known, in the arts for instance, can be extremely rewarding. In these kinds of cases, we help these individuals navigate the immigration process and ultimately convince the immigration examiner that they are, in fact, a person of extraordinary ability. It really is a broad range of matters that has been rewarding to us. One of the things that we all enjoy in the immigration practice is that ultimately, the beneficiaries of our work are the individual immigrants, whether they're CEOs of companies or pro bono clients.