

IMMIGRATION ATTORNEY PARTICIPATION INVITED IN USCIS E-FILING INITIATIVES Position Paper November 21, 2004

ABSTRACT

The purpose of this paper is to invite the involvement of immigration lawyers in E-Filing initiatives. The initial effort, as noted below, will involve liaison between the US Citizenship and Immigration Services (USCIS) and the E-Filing Standards for Immigration Group (ESIG). Later initiatives will involve other government agencies involved in immigration-related E-Filing programs.

INTRODUCTION

ESIG is a voluntary consortium of established US immigration law firms and electronic immigration software and online applications service providers¹. ESIG was established for the purpose of sharing knowledge and providing a consensus position on the Department of Homeland Security (DHS) and its immigration-related bureaus and units (USCIS, ICE, CBP and the Office of the USCIS Ombudsman), Department of Labor (DOL) and Department of State (DOS) e-filing initiatives. ESIG intends to provide useful stakeholder input into e-filing decision-making and to promote technology growth within the USCIS and DOL as a means of better serving petitioners and applicants for immigration benefits.

ISSUES

ESIG's research suggests that tax preparers now face a variety of issues due to their lack of early involvement in the development of the IRS E-Filing system. As the USCIS has already begun to offer limited E-Filing, it is especially critical that attorneys recognize their stake in the process, and work with the USCIS in the implementation of a comprehensive solution.

1. **Time and Cost** – Lack of attorney involvement in the development of government E-Filing will place increased cost and time constraints on already strained law firm resources.
2. **Reliance on Information Systems** – Data-intensiveness of the immigration process must be taken into consideration for the E-Filing process.
3. **Large-Volume Petitioners** - Current systems are focused on individual applicants and ignore the needs of petitioners.
4. **Security and Reliability** – A robust and secure system must be created to maintain the confidentiality and storage of information.
5. **Attorney Involvement** – Attorneys must persuade USCIS to include them in the decision-making process.

Position

Through the collaborative work of attorneys, their clients, software providers, and associations, ESIG proposes the following cooperative objectives:

1. **Attorneys need to recognize that they are stakeholders in the E-Filing process.**
Lack of attorney involvement in the development of government E-Filing will place increased cost and time constraints on already strained law firm resources.
2. **USCIS Needs to Recognize Attorneys are Vital to the Process.**
Attorneys file the bulk of work-related visas but are effectively being ignored in the process.

¹ See attached member list.

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3. ESIG and AILA Need to Lobby Congress.

The American Immigration Lawyers Association (AILA) needs to utilize its position to influence members of Congress to include attorneys in the E-Filing process. ESIG, with its participating AILA members and software experts, can facilitate AILA's efforts.

4. Attorneys and Their Clients Must Make the Difference.

Attorneys must educate their corporate and individual clients on the advantages of a well-conceived E-Filing system, and leverage their support in influencing the USCIS.

JUSTIFICATION

Issue 1 – Time and Cost

E-Filing is a great opportunity for the USCIS as it saves millions of person-hours, decreases backlogs, and drastically reduces costs associated with processing and storing paper forms. Attorneys, petitioners and applicants for immigration benefits should recognize that E-Filing can help them as well.

Great progress has been made in recent years with the adoption of forms programs, case-management software and other technology-enhanced efficiencies. These developments have helped law firms improve data quality, streamline internal processes, reduce costs (and in some cases, speed collection of revenue), and ultimately increase client satisfaction. Corporate clients have long recognized the value of technology in refining their internal processes, and now use technological competency in assessing prospective immigration providers.

While progress has been made, many attorneys have been slow to embrace new technologies and abandon time-trusted methods. The future of these processes, however, and the time and cost required to prepare cases, rests largely on the success of E-Filing. Without action, immigration attorneys will ultimately bear needless costs and find themselves stuck between clients demanding streamlined processes and government mandates imposed by the USCIS. Unless attorneys assist in the development of e-filing, they will find their processes made obsolete which will only result in increased filing times and costs.

Higher costs for attorneys ultimately mean higher costs for clients.

Issue 2 – Reliance on Information Systems

The practice of immigration law is extremely data-intensive and demands efficient systems to organize, access and apply this information. As mentioned above, many law firms now rely on some form of case management technology, whether third-party or in-house systems, that allow attorneys to track information, store client data, and generate forms and reports. These systems have made it easier for petitioners to prepare cases quickly and accurately.

Again, immigration attorneys can either let the government choose a system, or influence the development of a system that allows the various law firm databases to connect to USCIS.

Issue 3 – Large-Volume Petitioners

The current E-Filing system is a “closed” arrangement that requires all electronic return data to enter through a single method – the USCIS website. This system is apparently structured to accommodate the USCIS's two main constituencies, Congress and individual applicants, and does not address the needs of large-volume users. Due to these restrictions and the high costs of accommodating them, high-volume users, who require the ability to process large numbers of petitions and applications at once, are unlikely to move to the current system and will be penalized over the long-term.

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By focusing on the needs of individuals without consideration for businesses or individuals assisted by legal representatives already using software and online processing applications, USCIS will be creating a major barrier to the widespread adoption of its e-filing system. Attorneys must be proactive in promoting an “open” system which enables petitioners (as well as their case management/database solutions) to act as liaisons between applicants and the government. In this way, law firms can effectively “plug in” to the USCIS system and deliver large volumes of electronic filing and payment data.

Issue 4 – Security and Reliability

Security of personal and financial information may be the number one barrier for applicants and petitioners in deciding whether to submit materials via the Internet. To be sure, concerns about creating an open system are legitimate, but robust and secure processes have already been achieved in other areas of the law. Attorneys, software providers, and the USCIS can create an XML² compliant interface that would allow back-end systems to connect to Web-based e-filing systems. The USCIS and petitioners need to create specifications that commercial software developers should use to integrate software packages with the E-Filing system.

Issue 5 – Attorney Involvement

Tax preparers currently face a number of barriers related to E-Filing due to federal and state mandates. Had tax-return preparers become involved in the process earlier, they would currently be working with the government to implement deadlines, not against it. The USCIS is now making decisions regarding E-Filing that will shape how immigration law is practiced in the future. USCIS has expressed a desire to work with attorneys in building and implementing its systems, but they have no compelling motivation to accommodate attorney concerns. Attorneys must work with the USCIS.

CONCLUSION

Attorneys can no longer blithely disregard immigration E-Filing – it already exists in the current problematic system. There are two choices, E-Filing controlled solely by the government, or E-Filing developed jointly by the government *and* the stakeholders.

A system that is not designed with the high-volume users, attorneys and other stakeholders in mind will result in an increased need by corporate clients, individuals, and law firms for more transactional costs, which in turn lead to greater inefficiencies and increased user frustration. A user-friendly system that allows the applicant and petitioner to access and edit information will reduce the resources dedicated to customer support and is more likely to draw widespread adoption. A cooperative effort by software developers, clients, associations, and attorneys will ensure the development of a secure, flexible XML-based system that will benefit everyone involved while saving time and money for all involved parties. In addition, the cooperative relationship will facilitate the development of new legislation and the reduction of burden to small business and government agencies.

The benefits of influencing the development of this system are many. E-Filing can reduce paperwork, reduce costs and not only help retain customers but attract new ones. Attorneys must be energetic and steadfast in lobbying Congress and the USCIS for an E-Filing system that considers petitioners’ needs. These changes not only affect attorneys, but their clients as well. To increase influence and strengthen political advocacy, we encourage immigration attorneys to join ESIG and assist us in contacting and meeting with Members of Congress and their staff to educate policymakers on the importance of E-Filing. By leveraging the power of corporate and individual clients and attorneys we can make a difference.

² Extensible Markup Language (XML) is a simple, very flexible text format. Originally designed to meet the challenges of large-scale electronic publishing, XML is viewed by many as the standard way information will be exchanged in environments that do not share common platforms.

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