

## **Summary of Supreme Court Order Reinstating Trump's Travel Ban**

On June 26, 2017, the Supreme Court unanimously found that components of Trump's travel ban could take effect, despite lower court rulings that had previously blocked implementation of two different Executive Orders. The ruling, however, is not a full victory for the Administration. Furthermore, the Court will review its decision, suggesting that the travel ban could once again be changed or rescinded.

### **Trump's Executive Orders**

The Court did not uphold President Trump's first Executive Order, which was a much broader ban that prohibited entry of foreign nationals from seven countries and excluded these individuals even if they had already obtained a valid visa. The Administration withdrew this order after a three-judge panel of the 9th U.S. Circuit Court of Appeals ruled unanimously against it.

Rather, the Supreme Court focused on President Trump's second Executive Order that:

- Establishes a 90-day ban on the issuance of new visas to people from six countries— Iran, Sudan, Somalia, Libya, Yemen and Syria;
- Places a 120-day suspension on U.S. refugee admissions; and
- Caps the total number of refugees for FY 2017.

### **Ruling permits entry for those with a “bona fide relationship”**

The Court ruled that the Administration could implement the second Executive Order but only where those seeking entry “lack any bona fide relationship with a person or entity in the United States.” While the Court did not fully define what constitutes a “bona fide relationship” it cited concrete examples. The Court found close familial relationships, such as a spouse or mother-in-law, would qualify as a bona fide relationship. The Court also highlighted that individuals accepted to American universities, those with offers of employment with a U.S. company, and lecturers invited to address an American audience, should be allowed to enter. Individuals that could fall under the ban include those with no explicit ties and those who enter into a relationship simply to avoid the ban; for example, an immigration nonprofit group may not add foreign nationals to their client lists simply to secure their entry into the U.S.

Following the ruling, the State Department and the Department of Homeland Security issued [guidance](#) further clarifying who may fall under the ban. In particular, the State Department supports allowing entry for students, workers, and lecturers but simply having hotel reservations and car rental contracts would not be sufficient. Regarding family relationships, the State Department noted that an individual would need to prove a relationship with a parent, spouse, child, adult son or daughter, son-in-law/daughter-in-law or sibling already in the U.S. to enter the country and later added fiancées as well. Grandparents, grandchildren, aunts, uncles, nieces,

nephews, or other extended family members are not considered to be close relationships, according to this guidance.

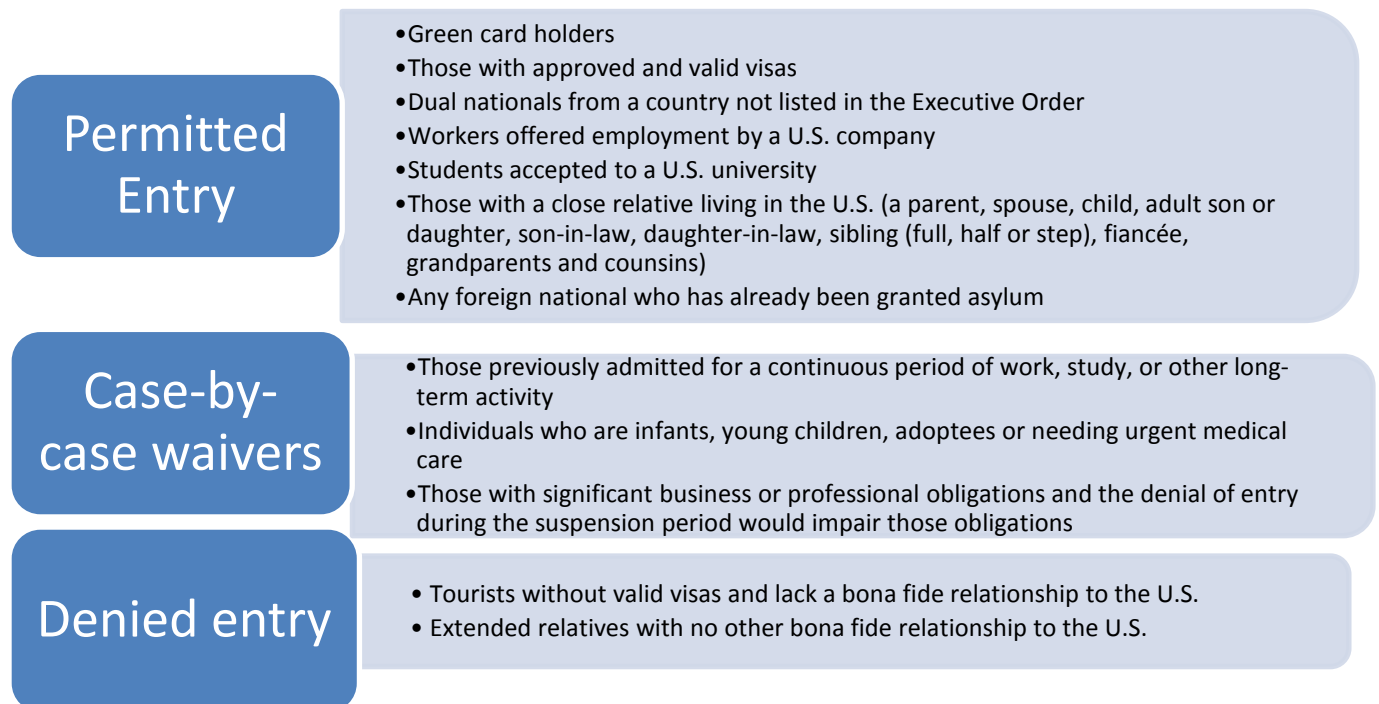
### Subsequent Court Challenges

Following the additional guidance issued by the State and Homeland Security Departments, a federal court in Hawaii ruled that this interpretation was too narrow and should be broadened to include additional relationships, such as grandparents and cousins. Again, the Supreme Court weighed in and agreed with the Hawaii Court that these relationships should qualify and permit entry into the United States. Accordingly, the State Department has updated its information to now more broadly allow entry for these individuals.

### Current Standing

In summary, the current guidance regarding how individuals would be impacted by the travel ban is depicted in the following graphic.

The Executive Order also permits waivers of the travel ban on a case-by-case basis. Examples of these potential waivers include if entry would be in the national interest, will not pose a threat to national security, and will cause undue hardship.



Importantly, the ruling does not support a permanent ban. It refers to the Executive Order's stated purpose to study the issue of immigration and its 90 to 120-day timelines. Similarly, refugees with a bona fide relationship to a person or entity in the U.S. would not be subject to the

cap. Guidance has also stated that current visas will not be revoked based on the Executive Order.

The AMA is continuing to monitor the travel ban and address any impact on patient access to timely medical treatment. We are also working to clarify the waiver process to fully protect physicians, patients, and those who are seeking to train, practice, or attend medical conferences in the United States.