



By the order of the court, Judge David A Wiseman

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CNMI SUPERIOR COURT
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FOR PUBLICATION

IN THE SUPERIOR COURT

OF THE

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

CHANG, ZHENG HUA et al.,
Complainants/Appellants,
vs.
CONCORDE GARMENT
MANUFACTURING CORPORATION,
et al.,
Respondents/Appellees.

Civil Action No. 09-0236

ORDER GRANTING ISSUANCE OF
UMBRELLA PERMITS

A question has arisen with respect to the issuance of two-year “umbrella” permits for persons who have judicial review cases from the Department of Labor which are currently pending in the Commonwealth Superior Court. This Order is the result of a consensus between the Department of Labor, the Administrative Hearing Officer of the Department of Labor, the Attorney General’s Office, and Counsel for the above named Complainants, as well as other counsel for Complainants similarly situated, that recognizes the necessity of the issuance of said permits for aliens who have pending judicial review cases or administrative appeals involving the Department of Labor before this Court.

1 Based on the application of the Complainants-workers, the record herein, and the following, the
2 Secretary of the Department of Labor is hereby ordered and requested to issue category 240K umbrella
3 permits to eligible Complainant-workers who have judicial review cases currently pending before this
4 Court.

5 Public Law 15-108 § 4956(a) provides:

6 A foreign national worker who is required to exit the
7 Commonwealth shall be permitted to remain in the Commonwealth
8 for a period not to exceed thirty (30) days in order to pursue a civil
9 or criminal claim, or to pursue violations of any Commonwealth
labor law. After the filing of an action, this period may be
extended and departure stayed by a hearing officer or court of
competent jurisdiction as necessary to ensure due process rights
are protected.

10 PL 15-108, § 4956(a).

11 This Court has authority to issue “all other writs and orders necessary and appropriate to the full
12 exercise of its jurisdiction.” 1 CMC § 3203. Public Law 15-108 gives the Department of Labor
13 jurisdiction over employment authorization of most aliens in the CNMI and to

14 Pursuant to Title VII of the Consolidated Natural Resources Act of 2008, U.S. Public Law 110-
15 229, the United States is scheduled to assume immigration authority over the Commonwealth at 12:01
16 a.m., Saturday, November 28, 2009, and pursuant to § 702 [sec. 6(e)(1) & (2)] of said Act must honor
17 CNMI determinations of lawful presence and employment authorization of aliens present in the
18 Commonwealth at that time. Any foreign worker who does not have an “umbrella” permit before the
19 transition program effective date will not have the protection offered by Public Law 110-229, § 702(e).

20 The CNMI has adopted a Protocol for Transition and related programs and procedures for
21 documenting the status of aliens in the CNMI prior to the scheduled transfer of immigration control to
22 the Federal government, including the “umbrella” permit program. Further, an alien has a recognized
23 due process right under CNMI law to remain in the Commonwealth as necessary to meaningfully pursue
24 his case, and is thus “lawfully present” in the Commonwealth during that time. *E.g., Office of the*
25 *Attorney General v. Rivera*, 3 N.M.I. 436, 445-46 (1993).

1 Thus, Pursuant to 3 CMC §4949 of the Commonwealth Employment Act of 2007, the
2 Complainants/Appellants filed their Petition for Judicial Review now pending before this Court. There
3 is no suggestion or indication that their claims are frivolous or made in bad faith. The parties' request is
4 made for the issuance by the Court of such umbrella permits on behalf of the abovementioned
5 Complainants/Appellants. Temporary work authorization for aliens with pending matters in the courts
6 is consistent with Public Law 15-108 and it is desirable that these aliens' lawful presence and lawful
7 employment authorization in the Commonwealth appear clearly of record prior to November 28, 2009.

8
9 **IT IS HEREBY ORDERED:**

10 (1) That aliens lawfully admitted to the CNMI and who now hold or formerly held an entry
11 permit issued under Immigration Category 240K (or formerly 706K) and who, as of the date of this
12 Order or hereafter until November 27, 2009, have a pending petition for judicial review stemming from
13 a decision from the Department of Labor which is pending final adjudication before this Court in which
14 property or other interests of the alien are to be determined, shall be issued an umbrella permit under
15 Category 240K.

16 The CNMI Department of Labor shall issue to such aliens upon request and appropriate
17 documentation to that effect, including, specifically, a 240K "umbrella" permit.

18 The status and authorization granted by this Order is subject to revocation by the CNMI
19 Department of Labor in accordance with the law.

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21 **IT IS FURTHER ORDERED:**

22 (2) The Attorney General shall prepare and certify a list of persons eligible, under "(1)" above,
23 for an umbrella permit, by last name, first name, LIIDS number, and case number. The Attorney
24 General shall circulate that list to each lawyer who has entered an appearance in any case covered by
25 "(1)" above together with this Order. Any objections to the Attorney General's list will be heard at the

1 status conference to be scheduled.

2 (3) The final list shall be delivered by the Attorney General to the Department of Labor
3 Administrative Hearing Office no later than 2 p.m. on Monday, November 16, 2009 so that issuance of
4 these permits can proceed in an orderly manner before the November 27, 2009 deadline.

5 **The foregoing Order shall have no effect on the litigation of said pending judicial review**
6 **cases.**

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8 **So ORDERED** this 12th day of November, 2009.

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David A. Wiseman, Associate Judge

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