endorsement that required the insurer to "submit to the jurisdiction of any court of competent jurisdiction," Judge Kyle found that the language of the endorsement amended the underlying policy, and "unambiguously" permitted the insured to pursue its action in the District of Minnesota. Judge Kyle also noted continuing "uncertainty" as to whether a forum selection clause can be enforced by use of a Fed. R. Civ. P. 12(b)(6) motion. ***Rembrandt Enters., Inc. v. Illinois Union Ins. Co.***, 2015 WL 5450182 (D. Minn. 9/16/2015).

■ **Undisclosed witness barred from testifying at trial.** Rejecting "trial by ambush," Judge Magnuson granted the defendant's motion *in limine* to exclude the trial testimony of one of its employees, finding that the plaintiff had never disclosed the employee as a witness, and that the fact that the defendant may have known of the employee's potentially relevant testimony was "not dispositive." ***Loos v. BNSF Rwy. Co.***, 2015 WL 5165327 (D. Minn. 9/3/2015).

■ **Computerized legal research expenses again awarded.** While the 8th Circuit has never formally rejected its prior decisions that preclude the award of computerized legal research expenses as a component of an award of attorney's fees, the flat-out prohibition on the award of those expenses continues to weaken. Most recently, Judge Montgomery awarded legal research expenses as part of an award of attorney's fees in a patent case. ***Icon Health & Fitness, Inc. v. Octane Fitness, LLC***, 2015 WL 5122905 (D. Minn. 9/1/2015).

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IMMIGRATION LAW

JUDICIAL LAW

■ **Lack of credibility with inconsistent reports of persecution.** The 8th Circuit Court of Appeals held that the immigration judge and Board of Immigration Appeals did not commit error by finding the petitioner's reports of persecution were not supported by the record. Their adverse credibility findings were based on substantial evidence and supported by specific, cogent reasons—all fatal to his claims for asylum, withholding of removal, and CAT relief. Furthermore, there was no error when the board rejected the petitioner's claim of ineffective assistance of counsel since there is no 5th Amendment right to effective assistance of counsel in a removal proceeding. Nor, for that matter, had the petitioner showed how his counsel's performance prejudiced him with the adverse credibility findings. ***Singh v. Lynch***, No. 15-1285, *slip op.* (8th Cir. 10/14/2015). *http://media.ca8.uscourts.gov/opndir/15/10/151285P.pdf*

■ **No due process violation with failure to timely assert right to merits hearing.** The 8th Circuit Court of Appeals held that the petitioner forfeited his right to a merits hearing on the charge of falsely representing himself as a U.S. citizen in violation of INA §237(a)(3)(D) by his failure to timely assert that right. "Here, Muiruri requested the immigration judge to follow a certain course; the judge did so and Muiruri did not object. Because Muiruri forfeited his right to a hearing, his due process, statutory, and regulatory violation arguments fail." ***Muiruri v. Lynch***, No. 15-1099, *slip op.* (8th Cir. 10/14/2015). *http://media.ca8.uscourts.gov/opndir/15/10/151099P.pdf*

■ **Conviction for unauthorized use of SNAP food stamps is an aggravated felony.** The 8th Circuit Court of Appeals upheld the Board of Immigration Appeals' finding that the petitioner's conviction under 7 U.S.C. § 2024(b)(1) for knowing unauthorized use of SNAP food stamp benefits categorically involved fraud or deceit as construed by 8 U.S.C. §1101(a)(43)(M), and was thus an aggravated felony. As a result, the petitioner was subject to removal. ***Mowlana v. Lynch***, No. 14-1320, *slip op.* (8th Cir. 9/30/2015). *http://media.ca8.uscourts.gov/opndir/15/09/141320P.pdf*

■ **No judicial review of sua sponte motions to reopen.** The 8th Circuit Court of Appeals held that it lacked jurisdiction to review the Board of Immigration Appeals' denial of the petitioner's motion to reopen because he requested that it reopen his proceedings *sua sponte* pursuant to 8 C.F.R. §1003.2(a). "Because the decision to reopen *sua sponte* under §1003.2(a) is explicitly left to the BIA's discretion, with 'no meaningful standard' against which to judge the exercise of that discretion, we—like ten of our sister circuits—have held that we lack jurisdiction to review the denial of a motion asking the BIA to exercise its §1003.2(a) discretion and reopen a removal proceeding *sua sponte*." The court may only review a denial of a statutory motion to reopen. ***Shoyombo v. Lynch***, No. 14-2649, *slip op.* (8th Cir. 8/28/2015). *http://media.ca8.uscourts.gov/opndir/15/08/142649P.pdf*

■ **No permanent residence with a false claim to U.S. citizenship on a Form I-9.** The 8th Circuit Court of Appeals upheld the Board of Immigration Appeals' determination that the petitioner made a false claim to U.S. citizenship on a Form I-9 when applying for a job in 2009. The petitioner was, as a result, inadmissible and ineligible for adjustment of status to permanent residence. ***Etenyi v. Lynch***, No. 14-3397, *slip op.* (8th Cir. 8/21/2015). *http://media.ca8.uscourts.gov/opndir/15/08/143397P.pdf*

ADMINISTRATIVE ACTION

■ **E-Verify transaction records will be deleted from the system on 1/1/2016.** On 10/1/2015, U.S. Citizenship and Immigration Services announced that, effective 1/1/2016, E-Verify records more than 10 years old will be deleted from the system. As of that date, access to cases created prior to 12/31/2005 will no longer be available. Employers who wish to have a record of a case over 10 years old are encouraged to download the new Historic Records Report before 12/31/2015. E-Verify records more than 10 years old will be deleted annually with employers receiving notification when they may download a new Historic Records Report. *http://www.uscis.gov/sites/default/files/USCIS/Verification/E-Verify/E-Verify_Native_Documents/Fact-Sheet-E-Verify-NARA.pdf*

■ **Temporary protected status extended for Haiti.** After recent consultations with several federal agencies about conditions in Haiti following the major earthquake occurring there on 1/21/2010, Secretary of Homeland Security Jeh Johnson has extended Haiti's designation for temporary protected status for an additional 18 months, from 1/23/2016 through 7/22/2017. Current TPS Haiti beneficiaries are required to re-register within a 60-day period, 8/25/2015 through 10/26/2015. The secretary is authorized to designate a foreign state for TPS if (s)he finds that it is "experiencing extraordinary and temporary conditions that prevent its nationals from returning in safety and that permitting such aliens [*sic*] to remain temporarily in the United States is not contrary to the national interest." 80 *Fed. Reg.* 51582-88 (8/25/2015). *http://www.gpo.gov/fdsys/pkg/FR-2015-08-25/html/2015-21006.htm*

■ **Temporary protected status designated for nationals of Yemen.** Secretary of Homeland Security Jeh Johnson announced his designation of Yemen for temporary protected status for 18 months, running from 9/3/2015 to 3/3/2017. Eligibility for TPS is based on Yemeni nationals' ability to prove both their continuous physical presence and continuous residence in the United States since 9/3/2015. The registration period commenced on 9/3/2015 and will run through 3/1/2016. In announcing his designation, Secretary Johnson noted that "Yemen is experiencing widespread conflict and a resulting severe humanitarian emergency, and requiring Yemeni nationals in the United States to return to Yemen would pose a serious threat to their present safety." 80 *Fed. Reg.* 53319-23 (9/3/2015). *http://www.gpo.gov/fdsys/pkg/FR-2015-09-03/html/2015-21881.htm*

■ **Terrorist designation revoked for Revolutionary Organization 17 November.** U.S. Secretary of State John Kerry announced the revocation of the terrorist organization designation for Revolutionary Organization 17 November (also known as Epanastatiki Organosi 17 Noemvri and 17 Novembert) pursuant to Section 219 of the Immigration and Nationality Act (8 U.S.C. §1189). 80 *Fed. Reg.* 53382 (9/3/2015). *http://www.gpo.gov/fdsys/pkg/FR-2015-09-03/html/2015-21930.htm*

■ **Increased refugee admissions for 2016.** On 9/29/2015, and in accordance with Section 207 of the Immigration and Nationality Act (8 U.S.C. §1157), President Obama issued Determination No. 2015-14 increasing the number of FY 2016 refugee admissions to 85,000. The increase from the previous year's 70,000 is justified by "humanitarian concerns" or "in the national interest." The breakdown for refugee numbers by geographical area is Africa (25,000), East Asia (13,000), Europe and Central Asia (4,000), Latin America/Caribbean (3,000), Near East/South Asia (34,000), and Unallocated Reserve (6,000). The unallocated reserve will be apportioned as needed. Additionally, President Obama determined that the following persons may also, if otherwise qualified, be considered refugees for admission: Persons in Cuba; Persons in Eurasia and the Baltics; Persons in Iraq; Persons in Honduras, Guatemala, and El Salvador; and in exceptional circumstances, persons identified as such by a U.S. Embassy in any location in the world. 80 *Fed. Reg.* 62433-34 (10/16/2015). *http://www.gpo.gov/fdsys/pkg/FR-2015-10-16/html/2015-26493.htm*

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REAL PROPERTY

JUDICIAL LAW

■ **Statute of frauds; part performance.** Son sold his farm to his parents to help him pay off his debt. His parents obtained a mortgage to fund the purchase of the property. He alleged that the purchase price was about half of the property's value, and that he had an oral agreement with his father that he would get the property back once his parents paid off their mortgage on the property. After the sale, son leased the property back from his father and continued to farm the land. Father used rents to make the mortgage payments. Son also made payments on the mortgage to pay down the principal and eventually paid off the mortgage balance. By the time the mortgage was paid off, father was incapacitated. After his parents died, son sued his parents' estates alleging the oral agreement and claim to the property. After trial, the district court granted Judgment as a Matter of Law ("JMOL") in favor of the estates, concluding, in part, that the alleged oral agreement violated the statute of frauds and that the equitable doctrine of part performance was unavailable to son. The district court held that the son would not be irreparably injured as a result of the payments made after the alleged oral contract. Instead, the district court awarded equitable damages for unjust enrichment in the amount that son paid toward his parents' mortgage. Son appealed. The court of appeals, in a divided opinion, reversed and remanded. The court of appeals found that the district court, in its part performance analysis, relied only on evidence that occurred after the sale of the property and did not rely on the claims of detrimental reliance in transferring the property in the first instance. The court of appeals concluded there was no explanation in the record for why son would have sold the property at approximately half of its value *but for* the alleged oral contract. The court of appeals remanded back to the district court to consider the totality of son's detrimental reliance argument. ***Christie v. Estate of Christie***, 2015 WL 5825096 (Minn. Ct. App. 2015).

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TAX

JUDICIAL LAW

■ **Tax in the Act: 8th Circuit, 1st Federal Circuit to enjoin ACA's contraceptive coverage mandate.** The Affordable Care Act (ACA) requires insurers as well as companies that self-insure to provide