relying on Fed. R. App. P. 28(a)(8)(A), found that the appellants had not offered "any... reason... to disturb the district court's evidentiary rulings." ***Letterman v. Does***, ___ F.3d ___ (8th Cir. 2017).

■ **Diversity jurisdiction; domicile; change in citizenship.** The 8th Circuit rejected an appeal premised on the lack of diversity jurisdiction brought by the Missouri defendant, finding that the plaintiff, formerly a citizen of Missouri, was domiciled in Florida when he commenced his action in spite of the fact that he owned real estate in Missouri. ***Eckerberg v. Inter-State Studio & Publishing***, ___ F.3d ___ (8th Cir. 2017).

■ **Discovery; documents not produced; affidavit required.** Where defendants moved to compel discovery of relevant documents described by Judge Nelson as "relevant" but not "critical," and plaintiffs had invested hundreds of hours attempting to locate the documents but ultimately failed to do so, Judge Nelson denied the defendants' motion to compel production of those documents but ordered the plaintiffs to provide an affidavit detailing their efforts to obtain and produce those documents. ***In Re: RFC and RESCAP Liquidating Trust Actions***, 2017 WL 2684106 (D. Minn. 6/21/2017).

■ **Motion to strike alleged confidential settlement information and for sanctions denied.** Adopting a Report and Recommendation by Magistrate Judge Bowbeer in its entirety, Judge Wright granted the plaintiff's motion to enforce the parties' settlement agreement, and denied the defendants' cross-motion to strike evidence of the settlement from the record and to sanction plaintiff's counsel for placing alleged confidential information on the public record. ***Larsen v. Capital One Bank, N.A.***, 2017 WL 2290072 (D. Minn. 4/12/2017), *Report and Recommendation adopted*, 2017 WL 2274470 (D. Minn. 5/23/2017).

JOSH JACOBSON
Law Office of Josh Jacobson
jacobsonlawoffice@att.net

IMMIGRATION LAW

JUDICIAL LAW

■ **Supreme Court grants *certiorari* on President Trump's travel ban.** *On June 26, 2017*, the U.S. Supreme Court granted *certiorari* and consolidated two federal court cases coming out of the 4th and 9th Circuits concerning President Trump's travel ban as outlined in his 3/6/2017 Executive Order No. 13780

(Protecting the Nation from Foreign Terrorist Entry Into the United States), a revised version of the earlier Executive Order issued on 1/27/2017. In brief, the 3/6/2017 Executive Order suspended the entry of foreign nationals from six predominantly Muslim countries—Iran, Libya, Somalia, Sudan, Syria, and Yemen—for 90 days from the effective date of the order, 3/16/2017. At the same time, the Executive Order suspended decisions on refugee applications and refugee travel to the United States for 120 days from the March 16 date. Over the course of several weeks, the lower courts issued preliminary injunctions staying enforcement of the provisions of the 3/6/2017 Executive Order. And, with the approach of the 90th day of the entry suspension, President Trump issued a memorandum on 6/14/2017 declaring the 90-day suspension would not go into effect until the date on which the injunctions were actually stayed or lifted.

The Court agreed to hear both cases during the first session of the October term. The Court also granted the government's applications to stay the injunctions "to the extent the injunctions prevent enforcement of §2(c) [of the Executive Order] with respect to foreign nationals who lack any bona fide relationship with a person or entity in the United States. We leave the injunctions entered by the lower courts in place with respect to respondents and those similarly situated, as specified in this opinion." (That is, foreign nationals having a bona fide "close familial relationship" with individuals in the United States. And foreign nationals having a bona fide formal, documented relationship with entities in the United States such as students "admitted" to attend school in the United States or "worker(s) who accepted an offer of employment" from a U.S. company or "lecturer(s) invited to a address an American audience.")

In similar fashion, the Court found, in the refugee context, that §6(a) [of the Executive Order] may not be enforced against individuals seeking admission as refugees with a credible claim of "a bona fide relationship with a person or entity in the United States" nor, under §6(b), may such person be excluded, "even if the 50,000 person cap has been reached or exceeded."

On June 28, 2017, one day before the Executive Order was to go into effect, the State Department, in its "Executive Order on Visas," further clarified what constituted a bona fide "close familial relationship": a parent (including parent-in-law), spouse, fiancé(e) (an about-face, after initially holding fiancé(e) was not a "close familial relationship"), child, adult son or daughter, son-in-law, daughter-in-law, sibling (half or whole), and step relationships. However, "close familial relationships" did not include grandparents, grandchildren, aunts, uncles, nieces, nephews, cousins, brothers-in-law, sisters-in-law, or other extended family members.

On July 7, 2017, plaintiffs State of Hawaii and Dr. Ismail Elshikh filed an emergency motion with the U.S. District Court (District of Hawaii) to enforce or, in the alternative, modify the preliminary injunction insofar as the Executive Order (1) is enforced against grandparents, grandchildren, aunts, uncles, nieces, nephews, cousins, brothers-in-law, and sisters-in-law of persons in the United States; (2) is enforced against refugees (i) with a formal assurance from a resettlement agency within the United States; (ii) with a bona fide client relationship with a U.S. legal services organization; or (iii) in the U.S. Refugee Admissions Program (USRAP) through the Iraqi Direct Access Program for "U.S.-affiliated Iraqis," the Central American Minors Program, or the Lautenberg Program; (3) is used to suspend any part of the refugee admissions process, including the "Advanced Booking" process, for individuals with a bona fide relationship with any individual or entity; and (4) is used as a presumption that an applicant lacks "a bona fide relationship with a person or entity in the United States."

On July 13, 2017, the U.S. District Court (District of Hawaii) issued its decision holding the plaintiffs had met their burden establishing that the requested injunctive relief was necessary to maintain the status quo pending appeal to the Court in the matter of the definition of "close familial relationship." The court further found the plaintiffs had met their burden with respect to refugees holding a formal assurance as related to the government's implementation of §6(a) and §6(b) [of the Executive Order], and participants in the Lautenberg Program.

On July 14, 2017, the government asked the Supreme Court to reverse the U.S. District Court's ruling.

On July 15, 2017, the Supreme Court asked the State of Hawaii to file a response by noon on Tuesday, July 18.

More to follow. ***Trump, et al. v. International Refugee Assistance Project, et al. and Trump, et al. v. Hawaii, et al.***, 582 U.S. ___ (2017). *https://www.supremecourt.gov/opinions/16pdf/16-1436_l6hc.pdf*

■ **Supreme Court finds acquisition of citizenship based on gender is unconstitutional.** On 6/12/2017, the U.S. Supreme Court found the gender-based distinction in §309(c) of the Immigration and Nationality Act to be unconstitutional—with a shorter period of parental physical presence in the United States required for acquisition of citizenship through an unwed citizen mother as opposed to that through an unwed citizen father. The Court declined to extend the shorter period of required physical presence to children of unwed citizen fathers, stating that until Congress provides for a uniform prescription not based on gender, the requirements of INA §301(g) should apply prospectively to children of unwed citizen mothers as well. ***Sessions v. Morales-Santana***, 582 U.S. ____ (2017). *https://www.supremecourt.gov/opinions/16pdf/15-1191_2a34.pdf*

R. MARK FREY
Frey Law Office
rmfrey@cs.com

INTELLECTUAL PROPERTY

JUDICIAL LAW

■ **Patent litigation; venue.** The U.S. Supreme Court recently held that personal jurisdiction over a domestic corporation may not give rise to proper venue in an action for patent infringement. The Court of Appeals for the Federal Circuit, which hears all patent-related appeals, had long held the opposite based on the general venue statute: that venue was proper if personal jurisdiction existed. Kraft Foods sued TC Heartland in the District of Delaware alleging patent infringement. TC Heartland moved to transfer venue to Indiana based on the patent-specific venue statute, 28 U.S.C. §1400(b), which provides that venue is only proper in a judicial district where (1) the defendant resides or (2) the defendant has committed acts of infringement and has a regular and established place of business. TC Heartland is organized under the laws of and maintains its principal place of business in Indiana. Apart from shipping the allegedly infringing products to Delaware, TC Heartland had no presence there. The district court denied the motion to transfer relying on the broader general venue statute's test based on personal jurisdiction. The federal circuit denied a petition for a writ of mandamus.

In reversing, the U.S. Supreme Court held that in an action for patent infringement against a domestic corporate defendant, the narrower patent-specific venue statute applies, not the broader general statute. The Court went on to hold that under the first prong of the patent venue statute (residence), venue is proper only