

United States: District Court Judge Issues Opinion Upholding \$100,000 H-1B Fee

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Country / Territory

 United States

At a glance

- A federal district court judge in Washington, D.C. has rejected the U.S. Chamber of Commerce's challenge to the legality of the September 19 Presidential Proclamation and related federal agency policies that impose a \$100,000 fee on certain H-1B petitions.
- As a result of the decision, the fee remains in effect, though other legal challenges to the Proclamation and fee remain to be decided.

The issue

Yesterday, a D.C. federal district court judge issued an opinion upholding the legality of the \$100,000 fee imposed by President Trump's September 19 Proclamation on certain H-1B petitions.

In rejecting a challenge from the U.S. Chamber of Commerce and its co-plaintiff, the Association of American Universities, the district court ruled that the Proclamation fell within the President's authority under Section 212(f) of the Immigration and Nationality Act. That provision authorizes the President to impose any restrictions he may deem appropriate on the entry of aliens if he finds that such entry would be detrimental to U.S. interests. It is not known yet whether the plaintiffs intend to appeal the decision.

The case is *Chamber of Commerce v. DHS*, Case No. 1:25-cv-03675 (D.D.C., filed October 16, 2025).

Background

The September 19 proclamation, as implemented, prohibits the approval of H-1B petitions filed after September 20, 2025 if the petition is filed for, or only approvable for, consular notification, unless their employer has paid a \$100,000 fee for each subject employee, the employer has been granted a national interest exception to the entry restrictions, or the employee is otherwise not subject to the fee.

What's next

As a result of yesterday's court decision, the \$100,000 fee remains in effect. However, two other legal challenges to the fee remain pending in other courts – a suit filed by twenty U.S. states earlier this month in federal district court in Massachusetts (*State of California, et al. v Kristi Noem, et al.*, 1:25-cv-13829 (D. Mass., filed December 12, 2025)), and an earlier action filed in federal district court in California (*Global Nurse Force v. Trump*, Case No. 3:25-cv-08454 (N.D. Ca., filed October 3, 2025)).

Employers and foreign nationals should stay on top of developments in the lawsuits because court orders, government guidance, or both could mean new instructions with little notice. Fragomen is closely following the litigation and other matters related to the proclamation and will provide further updates as they occur.

This alert is for informational purposes only. If you have any questions, please contact the immigration professional with whom you work at Fragomen.