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# **Litigation under the Trafficking Victims Protection Act (TVPA)**

**National Academy of Arbitrators  
Annual Meeting**

**Toronto, Canada  
May 12, 2022**

**Aaron Halegua  
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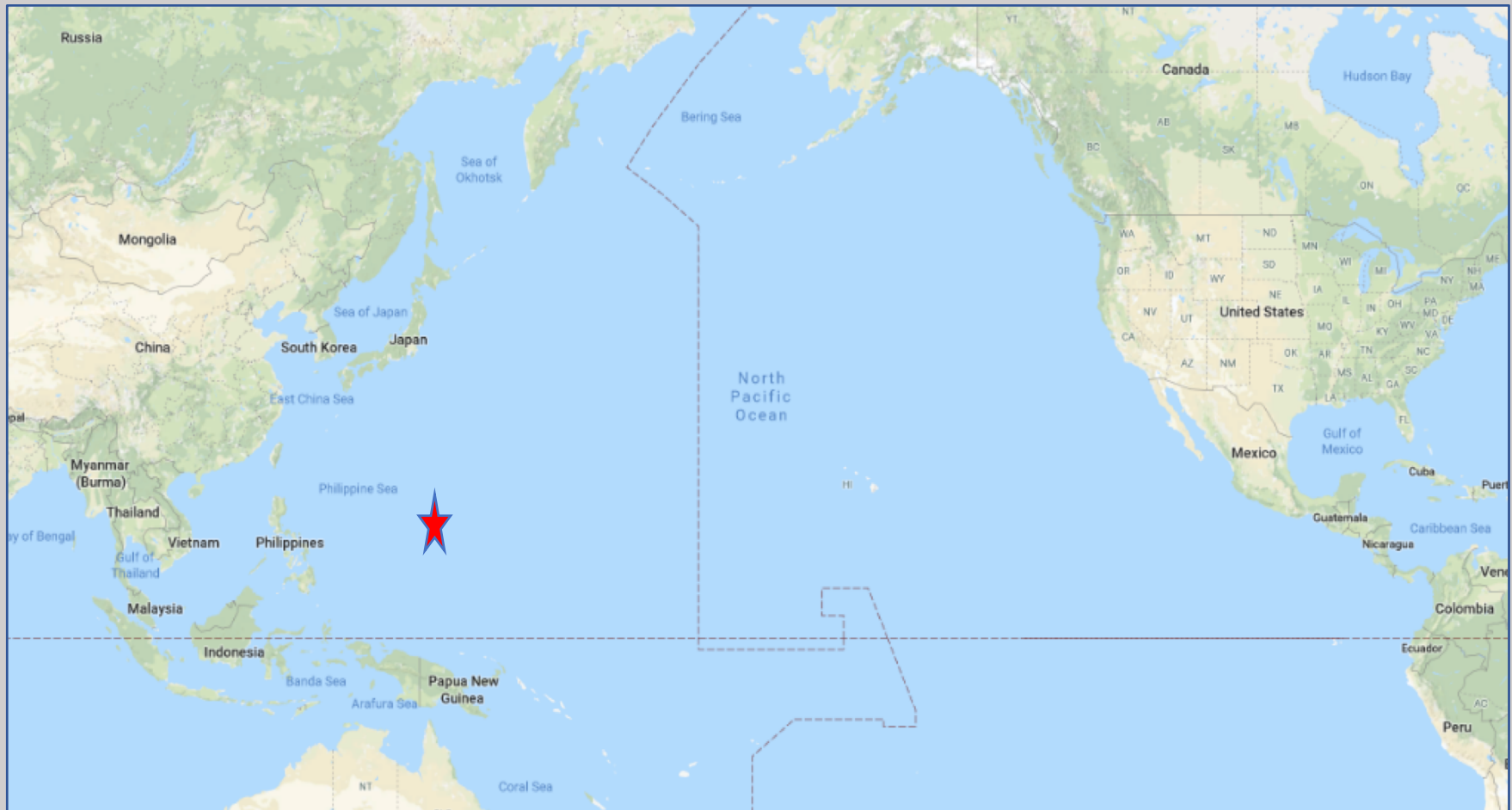
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## SAIPAN: 1998

- “Made in the USA” garments: Gap, Polo, Levi’s, etc.
- Local control over immigration.
- ABC News program on worker abuse:
  - Shadow contracts; forced abortions; undrinkable water.
- Class action lawsuits (on behalf of 30,000 workers).
  - Two in federal court: RICO, FLSA, forced labor.
  - State court: unfair business practices (“sweatshop free”) (UNITE)
  - 2004: \$20 million settlement.
- Monitoring mechanism, federal control.
- Death of garment industry...



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## SAIPAN: 1998



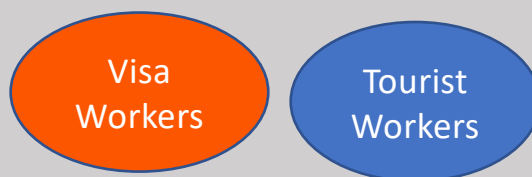
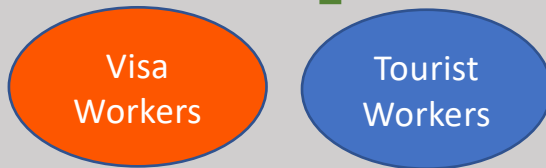
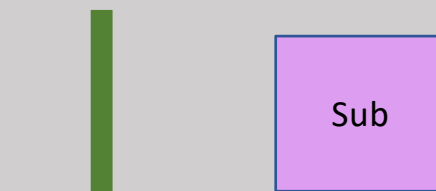
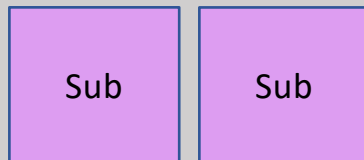
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SAIPAN: 2017



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## 海外工程项目经理

南京倍立达新材料系统工程股份有限公司中山分公司

刷新日期：2016-07-25

有效日期至：2018年04月14日

浏览：13次

简历投递：0

月薪：面议

经验：4年以上

招聘：1-2人

城市：广东-中山

学历：大专

性质：全职

年龄：18-25岁

性别：男

Age: 18-25 yrs

Sex: Male

到岗：不限

婚姻：不限

### 职位描述

有4年以上幕墙或GRC工程安装管理经验，担任过1~2个项目的项目经理。

具备一定的英语口语能力。

待遇优厚。

工作地点：美国塞班岛。

分享到：

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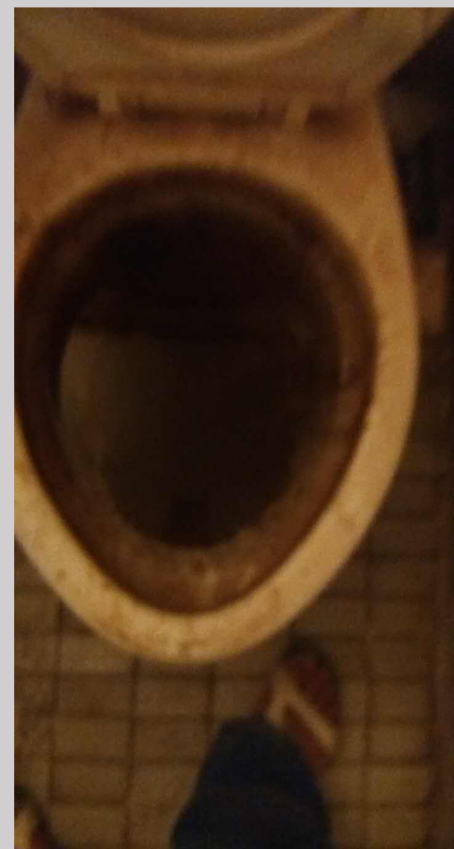


职位描述	公司介绍	公司其它职位	申请记录
<p>一、塞班岛概况塞班岛及邻岛靠近亚洲，属太平洋边缘地带。北马里塞班岛美景亚纳群岛气候舒适宜人，全年阳光充沛，空气清新，水清沙幼。年平均温度在摄氏27度左右，是旅游度假的天堂。塞班岛因其"四季常夏"、"七色海水"、"美属海岛"、"4小时直飞"、"免签入境"、"免税购物"等众多特有旅游资源，在中国出境旅游的众多海岛目的地中异军突起，成为中国游客"家门口"最喜爱的太平洋海岛度假乐园。</p> <p>二、工程概况度假村项目</p> <p>三、招聘条件年龄28—48岁 合同期2年 具有五年以上工作经验，技能熟练，吃苦耐劳，无犯罪记录和不良行为。身体健康，无肢体残缺、内脏功能正常、无高血压、心脏病、胆结石、肾结石、肾病、性病等不适合出国工作的疾病。遵守用工方所规定的各项劳动纪律和规章制度，服从用工方的工作安排、劳动分工及统一调动。遵守项目所在地的各项法律法规要求和风俗习惯等，不得有任何有损我公司声誉的行为，不得缺勤，不得打架斗殴，不得擅自外出，不得消极怠工。体检结果要真实，弄虚作假者一经查出，将不予派出，由此造成的损失自负。</p> <p>四、招收工种 项目经理、生产经理、大工长、施工员、木工工长、钢筋工长、瓦工工长、水电工长、木工、 钢筋工、瓦工等五、合同期及待遇 工资每月统一结算，并签订当月工资结算单，每年统一支付两次，分别为每年的1月和8月，支付比例为当期累计应付结算工资的60%。剩余的40%工资支付将在乙方回国后的60天内一次性完成。工资实行计件承包制多劳多得，两年合同期内收入在18-35万。公司提供免费住宿，统一购买人身保险及免费发放劳保用品。</p> <p>六、所需材料：</p>			



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## PROFILE OF WORKERS

- Defrauded about conditions
- Recruitment fees / debt
- 13 hours/day; no rest days
- Wages – paid late (if ever), to account in China, no paystub, below MW
- Workplace injuries
- Confiscate passports
- Threats of deportation if poor work performance



## **Worker falls to his death at under-construction Saipan casino**

👤 Adam Morgan 🕒 March 23, 2017

📁 Latest Casino and Gambling News, Casino project updates, Saipan, Licenses, Northern Mariana Islands

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**The New York Times**



**REUTERS**

**Bloomberg**



**South China Morning Post**

**saipantribune.com**  
CNMI'S DAILY *ONLINE* NEWSPAPER



**CHINA CHANGE**

News and commentary from those who work for change



***Marianas Variety***  
MICRONESIA'S LEADING NEWSPAPER SINCE 1972

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## GOVERNMENT ENFORCEMENT:

- Record-level OSHA fines
- Criminal convictions
- USDOL settlements
- (Most) workers return to China

### Chinese firms to pay \$14 million back wages in Saipan



Sophia Yan, Associated Press

⌚ Mar. 5, 2018, 10:02 PM 🔒 15

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## *Tianming Wang v. Gold Mantis* (D. N. Mar. I., 2018)

- **Plaintiffs:** 7 men, all in China
- **Defendants:**
  - MCC (CNMI)
  - Gold Mantis (CNMI)
  - IPI (CNMI)
- **Claims (against all Defendants):**
  - **(1) Trafficking (TVPRA)**
  - (2) Trafficking (CNMI statute)
  - (3) Negligence (related to work injuries)
  - (4) Violation of Workers' Comp Statute



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## TRAFFICKING VICTIMS PROTECTION ACT

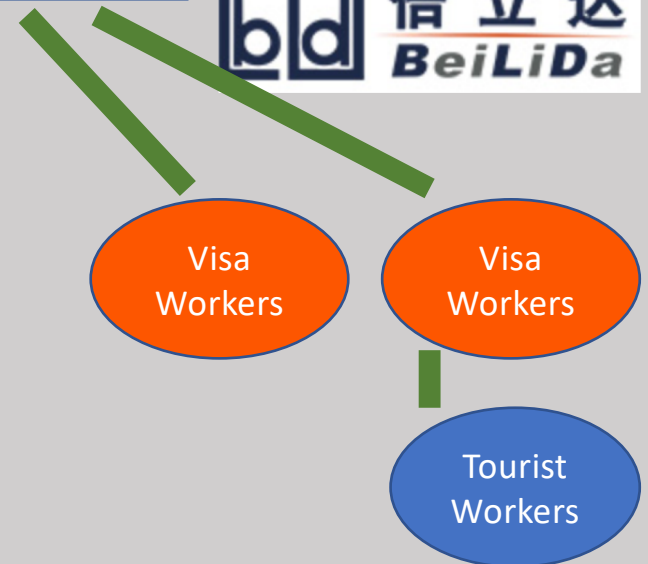
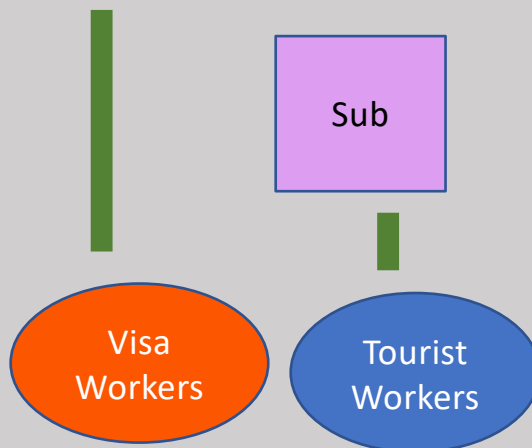
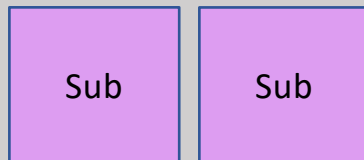
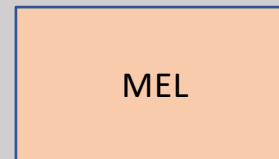
18 U.S. Code § 1595

*An individual who is a victim of a violation of this chapter may bring a civil action against the perpetrator (or whoever knowingly benefits, financially or by receiving anything of value from participation in a venture which that person knew or should have known has engaged in an act in violation of this chapter) in an appropriate district court of the United States and may recover damages and reasonable attorneys fees.*

- Criminal statute
- Civil remedy (18 U.S.C. § 1595)
- “knowingly benefit” – uses a negligence standard

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## *Tianming Wang v. Gold Mantis* (D. N. Mar. I., 2018)

- **Default judgment**

- Plaintiffs subjected to “forced labor”
- IPI was perpetrator, or at least, “should have known” based on the red flags


- **Damages**

- \$2.95 million in compensatory damages
  - Emotional distress (\$400/day)
  - Lost past/future income, ED for physical injuries
- \$2.95 million in punitive damages
- \$600K in attorneys’ fees – to be issued separately

- **IPI’s Appeal to 9th Circuit**

- Was default properly entered in light of COVID?
- Does IPI contract with MCC absolve them of liability?
- Fair to have damages against IPI that are 11x what the contractors paid in settlement?

Case 1:18-cv-00030 Document 322 Filed 05/24/21 Page 1 of 40

FILED  
Clerk  
District Court  
MAY 24 2021  
for the Northern Mariana Islands  
By  (Deputy Clerk)

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN MARIANA ISLANDS

TIANMING WANG, *et al.*,  
Plaintiffs,  
vs.  
GOLD MANTIS CONSTRUCTION  
DECORATION (CNMI), LLC; MCC  
INTERNATIONAL SAIPAN LTD., CO.; and  
IMPERIAL PACIFIC INTERNATIONAL  
(CNMI), LLC,  
Defendants.

Case No.: 1:18-cv-00030

**DECISION AND ORDER  
ENTERING DEFAULT JUDGMENT  
AGAINST DEFENDANT IPI**

**I. INTRODUCTION**

On June 12, 2020, the Court entered default against Defendant Imperial Pacific International (CNMI), LLC (“IPI”) after an order to show cause hearing for IPI’s repeated failure to comply with discovery orders and sanctions. (Min., ECF No. 157.) Before the Court is Plaintiffs’ petition for damages (ECF No. 172) in support of the entry of default judgment against IPI pursuant to Federal Rule of Civil Procedure 55(b)(2). Plaintiffs also filed a supplemental memorandum in support of a

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*Keo Ratha, et al. v. Phattana Seafoods, Co. Ltd. et al.*



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## TRAFFICKING VICTIMS PROTECTION ACT

18 U.S. Code § 1595

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- Extraterritorial application (18 U.S.C. § 1596)
- “Attempt” to benefit from importing forced labor goods

# THANK YOU



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