

# **WORKING WITH AN IMMIGRATION ATTORNEY: WHAT YOU CAN EXPECT.**

By: David H. Nachman, Esq., Michael Phulwani, Esq. and Ridhima Goyal of the Nachman Phulwani Zimovcak (NPZ) Law Group, P.C. with offices in New York, New Jersey and with an affiliated office in Mumbai, India.

You may encounter a situation in which you need the assistance of an immigration attorney and you may realize that despite the number of qualified and competent immigration attorneys, there are also some that are not as good. But how do you determine this? This article will serve as a guide to help you with your task by providing some general tips in deciding which attorney is right for you as well as by giving guidance in what to expect in working with that attorney and his or her staff.

## **1. Do Some Research on Your Own.**

Gather all of your immigration documents and any documents relating to your education, accomplishments, marriages, divorces, birth of children, and any arrests or convictions you may have faced.

Be clear about your goals and the steps needed to accomplish them.

For example, if you need an attorney to assist you in obtaining a waiver of a J-1 two year home residency requirement, find out some basic information about the J-1 waiver process so that you can better evaluate the basic knowledge of the attorney you choose to retain to assist you with this matter. Does the attorney seem to know how to initiate the process? Does he or she know what needs to be filed in order to obtain the immigration benefit desired? If you are seeking to have an H-1B processed and the attorney does not know that a Form I-129 is used for this, do not retain him or her.

Do not think, however, that you need to be an expert on the matter.

Immigration law can be very complex and a little bit of knowledge is can be a dangerous thing. There is a lot of information available out there and not all of it is accurate. It is imperative that you are honest in your dealings with the attorney; he or she needs to have a clear and accurate picture of your situation. If you have worked without permission, neglected to file tax forms, been arrested for anything,

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VISASERVE Plaza 487 Goffle Road Ridgewood, NJ 07450  
Tel: 201.670.0006 Fax: 201.670.0009 info@visaserve.com  
www.visaserve.com & www.visaserve-entertainment.com

the lawyer needs to know this information as it can affect your immigration options. Your discussions with the attorney and his or her staff will always be confidential and it is therefore in your best interest to be completely honest as your situation may be more delicate than you initially perceived.

## **2. The Initial Consultation and the Initial Consultation Fee.**

Once you have done your research and prepared your documents, you should set up an initial consultation, whether it is an in-person consultation or a consultation over the phone, with the attorney that you have decided to hire.

Prior to your consultation, you will be asked to complete and initial intake form and send copies of your current immigration documents. This is where your preparation will have paid off, as it will help speed up the process.

To make the most of your consultation, you should get these documents to the attorney before the consultation so that they can be reviewed and analyzed ahead of time.

The consultation may range anywhere from 30 minutes to an hour. During the consultation, you should expect to leave with a preliminary analysis of your case and a plan for achieving your goals. The attorney may not be able to provide this information to you immediately in cases where specific research is required. If the attorney informs you that he or she must do some preliminary research, do not assume that he or she is not up to the task of representing you, especially if your case is unusual or complicated or if there have recently been changes in regulations pertaining to cases such as yours.

Many attorneys charge for initial consultations. This is not unusual as it does take an attorney time to read your documentation and provide legal analysis. Time spent on your case in these initial stages is time not spent working on cases for other clients. Some attorneys will deduct the price of the consultation from their legal fees if you decide to retain them for your case within a certain period of time.

## **3. Expertise and Staffing of the Case By the Law Office.**

Like most disciplines, immigration law has a considerable number of sub-specializations. Some attorneys may specialize in asylum, others may specialize in family-based immigration, while yet others may specialize in employment and so on. Since many areas of U.S. law are very complex, most attorneys do not practice in all areas or law gaining expertise in one or two. It is important to choose an attorney with expertise in your type of case. For example, physicians needing a waiver of a J-1 two year home residency requirement should seek attorneys who have successfully filed such cases.

Many immigration attorneys are members of the American Immigration Lawyers Association. Determining whether your attorney is a member of AILA can be a starting point in finding an attorney with expertise. Please remember, though, that any attorney can become a member of this association - even those that are not very skilled in immigration law. You should look at the attorney's website for any information about your type of case. Speak to friends who have used an immigration attorney for a similar case. Finally, it is also all right to ask the attorney or his or her staff about the firm's experience. You might actually want to ask about this before setting up a paying for an initial consultation. A good immigration attorney will refer you to another attorney if he or she lacks the relevant experience.

Once you have established that the attorney has experience with your type of case, you need to know who will actually be working on your case and whether you can easily reach these individuals. In many law firms paralegals and legal assistants may do the bulk of the work. This not necessarily a bad thing if the individuals are well trained, organized and responsible. Can you meet or talk to these individuals ahead of time to establish a rapport?

Large firms have the advantage of resources - if your attorney is on vacation, someone else on staff will work the case until his or her return.

Small firms have the advantage of more personalized service where the attorney is more likely to know that status of your case. Solo practitioners generally make arrangements with colleagues for them to cover the cases when they are away.

#### **4. Location of the Case: Does my Lawyer have to be in my Backyard?**

Immigration law is a form of federal law that can be practiced, to some extent, anywhere in the U.S. Many attorneys have what is known as a national practice. This means that an attorney in Washington, D.C. can file cases for clients in California and vice versa. You are able to choose attorneys from almost anywhere in the U.S. since most of your communications will occur via email or telephone and fax machine rather than through in-person meetings.

In cases where appearances before local immigration judges or the local CIS district office are involved, it is recommended that you get a local attorney. In these cases, local attorneys know the personalities and procedures of the local immigration better than someone across the country.

If your case involves filings at the regional service center or dealings with consulates, then it doesn't matter where your attorney's office is.

## **5. Pricing and Attorney Fees.**

The two most common methods of pricing are either an hourly rate or a flat fee. In some cases, an attorney will incorporate a mixture of the two into his or her pricing structure. It is up to you to decide which sort of structure you prefer and to consider it when choosing an attorney. One rule of thumb, however, is to avoid choosing an attorney simply given the amount he or she charges. Some attorneys who are not very good at all can also be very inexpensive and when choosing an attorney, it is important to choose the best.

### **a. One Option - Hourly Rate Billing:**

Attorneys who charge by the hour are essentially charging you for the time that they and their staff spend working on your case. If you have a case that is simple and does not require a great deal of time, you will be charged less than if your case is labor intensive and time consuming. The fee that you will pay will not just be for the time that the attorney spends working on the case but also for the time each paralegal and legal assistant works on the case as well. This includes the time that they spend discussing your case amongst themselves as well the time that you spend on the phone with them. Some lawyers will charge a different rate for their time as opposed to the time of their support staff.

b. A Second Option - Flat Fees Pricing:

Some attorneys will price things according to the case type. For instance, many attorneys use a flat fee for 'routine' cases such as H-1B, Labor Certification, etc. In this pricing model, you and the attorney agree on the price ahead of time, regardless of how lengthy the case might be to work. In this model, it is the advantage of the attorney to work your case as efficiently as possible. If unexpected complications arise that change the nature of your case, it may be necessary to re-negotiate the contract.

c. A Third Option - Hourly Rate and Flat Fee Combination:

With cases where determining the amount of work that will be involved is a bit more complex, it may not be possible for the attorney to assess a flat fee up front. In such cases, the attorney may suggest that the case be handled on an hourly basis. However, since some cases can result in a significant number of billable hours, you may wish to explore the possibility of converting the case to a flat fee after the legal fees have reached a certain figure. This would serve to limit the expense from your end by deterring the firm from running up your fees. But, if your case involves a considerable amount of court time and preparation, this may not be an option.

**6. Administrative Costs (Disbursements), i.e. filing, copies, etc.**

Remember to ask about the admin costs involved in your case as they can significantly increase your fee.

a. Photocopies:

Questions you ought to ask regarding the cost of photocopies will be the per page cost, if there is any (since given that you should receive copies of all documents filed with the government, the per page cost can add up very quickly especially if the type of petition or application files involve a considerable amount of supporting documentation) as well as if there will be separate charges for getting a copy of your file after the case is closed.

b. Filing Fees:

Are you responsible for paying any government filing fees? How much are they?  
When must they be paid?

c. Translations, Advertisements, Evaluations, etc.:

Other components to consider which may add to your fees include whether or not your documents need to be translated, whether or not your credentials need to be evaluated, whether or not DNA tests are needed to establish relationships for family-based immigration and if so who pays them and when are these costs payable, etc.

**7. The Retainer.**

After the initial consultation, the attorney should send you a retainer agreement to sign. The purpose of this agreement is to formalize your relationship with the attorney and establish the scope of the case. That is, what the case is (ex. An H-1B, a J-1 waiver, a case for permanent residency, etc.). It should also establish the rate of the legal fees to be charged, including what costs you will pay and when you are expected to pay them.

Be sure to read the agreement carefully and to understand all of terms of the representation agreement.

**8. Working with the Attorney and His or Her Staff.**

You must remember that it is ultimately you who is responsible for your immigration status. It is imperative that you keep track of your expiration dates and deadlines. A good lawyer will also track these things but, like anyone else, they are also susceptible to human error and can sometimes overlook an important date by mistake. The attorney and his or her staff work for you and should provide you with updates on the status of your case in a timely manner. Make sure to follow up on the status of your case periodically, especially if you realize that you haven't heard from them for an extended period of time. This does not mean that you harass them.

Treat them professionally and courteously and they will do the same. You should expect them to provide you with copies of everything that is filed on your behalf with the government. This also includes copies of receipt notices, approval notices, etc. If you do not receive copies of these important documents, then you should insist on it. Another key thing to keep in mind is that you should never let an attorney retain your original passport as this belongs to you and your government.

For more information about, or to work with, an immigration attorney please feel free to contact the immigration and nationality lawyers at the NPZ Law Group at 201-670-0006 (x100) or by e-mailing us at [info@visaserve.com](mailto:info@visaserve.com).