

Working with an Immigration Attorney

At some point it may be necessary for you to seek the assistance of an immigration attorney. As with all professions, there are many qualified, competent immigration attorneys, and there are some that are not very good. Unfortunately, there is no reliable directory to assist you in determining which ones are great and which are not. This handout is intended only to provide you with some general tips in deciding which attorney is right for you and to give guidance in working with the attorney and his or her staff.

Do your Homework

Gather all your immigration documents. Gather any documents relating to your education, accomplishments, marriages, divorces, birth of children, any arrests or convictions, etc.

Know what your goals are and do some basic research. For example, if you need an attorney to assist you in obtaining a waiver of a J-1 two year home residency requirement, then find out some basic information about the J-1 waiver process so 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 Form I-129 is used for this, do not retain him or her. Do not think, however, that you need to be experts. Immigration law can be very complex and a little bit of knowledge is a dangerous thing. There is a lot of information out there, but not all of it is accurate.

Be honest in your dealings with the attorney who needs to have a clear, accurate picture of your situation. If you've worked without permission, neglected to file tax forms, been arrested – even for silly things – the lawyer needs to know this as it may affect your immigration options. Your discussions with the attorney and his or her staff are confidential.

The Initial Consultation and the Consultation Fee

The first step in hiring an attorney is the setting up an initial consultation. Consultations can be in person at the attorney's office or over the telephone. Prior to the consultation, you will be asked to complete an initial intake form and send copies of current immigration documents. To make the most of your consultation, you should get these documents to the attorney prior to the consultation so they can be reviewed and analyzed ahead of time. Consultations may range anywhere from 30 minutes to an hour.

The attorney should be able to provide you with a preliminary analysis of your case and a plan for achieving your goals. They may not be able to provide this immediately particularly if some specific research is required. If an attorney informs you that he or

she must do some preliminary research, do not assume that they are not up to the task of representing you, particularly if your case is unusual or complicated or if there have recently been changes in regulations.

Many attorneys do charge for the initial consultation. This is not unusual. It does take an attorney time to read your documentation and to provide a 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.

Expertise and Staffing

It is important that you find the right attorney for your needs. Attorneys, like physicians, specialize in certain areas of law – immigration, tax, criminal, contracts, etc. Since many areas of U.S. law are very complex, most attorneys do not practice in all areas of law and gain an expertise in one or two. Immigration law is an area of administrative law that lends itself easily to considerable sub-specialization some attorneys specialize in asylum, some in family based immigration, employment, etc. It is important to choose an attorney with expertise with 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. Determining expertise can be a tricky thing.

Unfortunately, there are no guaranteed methods for doing a background check on an attorney. 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. Please remember, though, that any attorney can become a member of this association – even those that are not very skilled in immigration law. Look at the attorney's website for any information about your type of case. Talk to any friends who have used an immigration attorney for a similar case. Finally, it is 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 and 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've 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 the bulk of the work may be done by paralegals and legal assistants. This is not necessarily a bad thing, if they 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 the status of your case. Solo practitioners generally make arrangements with colleagues for them to cover the cases when they are away.

Location

Immigration law is a form of federal law that can be practiced to some extent anywhere in the U.S. Indeed, many attorneys have what is known as a national practice. 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. Most of your communications will occur via email or the telephone and fax machine anyway rather than through in-person meetings.

It is recommended that you get a local immigration attorney if your case involves appearances before local immigration judges or the local CIS district office. In these cases, local attorneys know the personalities and procedures of the local immigration office 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.

A word of caution about choosing an attorney: scrutinize any attorney closely. All communities have attorneys who are not very good who can unintentionally do more harm than good. Bad attorneys come from all backgrounds – even from your home country. Take the time to find a good attorney. It's important that you are comfortable with the lawyer. But be careful in your choices.

Pricing: Attorney Fees

Another important factor in choosing an attorney is his or her pricing structure. The temptation is often to seek the least expensive attorney possible. While your bank account may appreciate this strategy, it could prove to be short-sighted if this is the main factor in choosing your attorney. Attorneys' fees vary greatly. Some outstanding attorneys are costly, some are not. Some really, really bad attorneys are very inexpensive, some are expensive. You cannot rely on cost in determining who you will hire.

There are two primary methods of pricing: an hourly rate or a flat fee. Occasionally, a mixed pricing structure may be proposed by the attorney. It is important that you understand how you will be charged for work on your case.

Hourly Fees: Many attorneys charge by the hour, charging you for the time they and their staff spend working on your case. If your case is very simple and does not require much time, this may be appealing to you. However, if your case is labor intensive the hourly fees will add up quickly. You will pay not just for the time the attorney spends working on the case, but also for the time each paralegal and legal assistant works the case as well, including time when they are discussing your case amongst themselves and all the time you spend on the phone with them. Some lawyers charge different rate for their time as opposed to the time of their support staff.

Flat Fee: Many attorneys use a flat fee for fairly "routine" cases such as H-1B, Labor Certification, etc. In this pricing model, you and the

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attorney agree on the price ahead of time, regardless of how long the case may take to work. In this model, it is to 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.

Combination: With some complicated cases, an attorney may not be able to assess a flat fee up front as it may not be certain how much work is involved in the case. The attorney may suggest that the case be handled on an hourly basis. Since some cases can result in 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 and deter the firm from running up your fees. However, if your case involves considerable amount of court time and preparation, this may not be an option.

If your attorney charged an initial consultation fee, does the amount of the fee get “discounted” or deducted from the total legal fees if you decide to retain the firm?

Other Costs: Filing Fees, Copies, etc.

In addition to the legal fees, it is important to understand what other costs you may be expected to pay. Ask about these costs up front as they may add significantly to the cost of your case:

Photocopies: How much does the firm charge for copies? Since you should receive copies of all documents filed with the government, the per-page cost, if any, could quickly add up, particularly if the type of petition or application files involves considerable supporting documentation. Are there separate charges for getting a copy of your file after the case is closed?

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

**Translations
Evaluations,
Etc:**

Does your case require documents to be translated? Do your credentials need to be evaluated? Are DNA tests needed to establish relationships for family-based immigration? If so, who pays them and when are these costs payable?

The Retainer

After the initial consultation, the attorneys should send you a retainer agreement to sign. This agreement formalizes your relationship with the attorney, establishing the scope of the case – what is the case – an H-1B, a J-1 waiver, a case for permanent residency? What are legal fees will be charged? What are the costs you will pay and, importantly,

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when are you expected to pay? Read this carefully. Understand the terms of the representation agreement.

Working with the Attorney and staff

Remember that you are responsible for your immigration status. Keep track of your expiration dates and deadlines. A good lawyer will also track these things, but they are human and can sometimes overlook an important date.

The attorney and his or her staff work for you. They should provide you with updates on the status of your case in a timely manner. If you do not hear from them for an extended period of time, follow up with them. Ask about the status of your case. Document your attempts to reach them. However, do not harass them. Calling them ten times in twenty minutes and getting angry at not getting an immediate answer to your question is not helpful. Do not shout and curse at the attorney and/or any person working on your case. Treat them as professionally and courteously as you want to be treated.

They should provide you with copies of everything that is filed on your behalf with the government. You should receive copies of receipt notices, approval notices, etc. If you do not receive them, you should insist on it.

You should never let an attorney retain your original passport. This belongs to you and your government.