

Why Insist on an Immigration Attorney?

Immigrating to the U.S. is more difficult, during today's political climate, than it was only a couple of years ago. The U.S. Citizenship and Immigration Service (USCIS), formerly known as the Immigration and Naturalization Service (INS), scrutinizes each application and petition with an eye for declination, as opposed to acceptance. But these difficulties should not, and do not, stop immigrants from successfully entering the U.S. Indeed, a recent accounting of applications and petitions approved by USCIS shows that the number of immigrants approved for entry into the U.S. did not drastically decline since September, 2001 – contrary to popular belief. But, it is apparent that USCIS continues to investigate every detail of each application and petition submitted. Therefore, now more than ever, those seeking to immigrate to the U.S. require the specialized knowledge and skills of qualified immigration attorneys.

This article discusses why an immigration attorney is required when submitting any petition or application to USCIS, as well as during all immigration hearings and appeals. Next week's article will explain how to select a qualified immigration attorney to handle your legal matter.

Some people still believe that they can navigate their way through the U.S. immigration laws, regulations and procedures, and application and petition processes, simply by surfing certain internet websites, consulting friends and family, and then completing immigration forms. But, unfortunately, many people ultimately suffer serious consequences – both financially and legally – as a result of their insistence upon representing themselves in immigration applications, petitions and, incredibly, even hearings.

What most immigrants do not realize is that the questions contained in many immigration petitions and applications are designed to be simple and straightforward – encouraging a feeling of harmlessness. But, in fact, the answers to such questions often dramatically impact an immigrant's case, if it strikes at the heart of an important legal issue that the immigrant is unaware of.

U.S. immigration law is complex and voluminous. It has evolved over the years mainly because of political influences. Indeed, the Departments of Homeland Security, Labor, State, and Justice, as well as other government entities wield considerable power and discretion with regard to the creation and implementation of U.S. immigration laws. Moreover, statutory laws, federal regulations and case law change almost every day. A person who believes that they do not need the advice and guidance of a skilled attorney, to determine which immigration benefits are available to them, and how to obtain such benefits as quickly and legally as possible, is assuming unnecessary risks.

More often than not, individuals who represent themselves in these matters are unaware of all of the options available to them, are not granted the immigration benefits they seek and, sometimes, barred from obtaining benefits they could have easily received

had they retained legal counsel. Eventually, these people end up having to hire an attorney anyway – to clean up the mess they’ve made.

Similarly, some people choose to have so-called “immigration consultants” represent them in connection with their applications or petitions. You should know that, in most U.S. states, people who work as immigration consultants are actually practicing law without a license and, thus, breaking the law while representing you. Beware of “consultants” who claim to have “J.D.” (Juris Doctorate) degrees. Holding a J.D. degree means that he or she completed some type of study of law.

But, in order to legally practice law within the U.S., that person must (1) pass a U.S. state board certified legal bar exam; (2) pay the current required state attorney license fees; (3) take (if necessary) the required continuing legal education courses; and (4) be in “good standing” with the applicable U.S. state bar.

It is a good rule of thumb to initially assume that a person who calls herself an immigration consultant, or a “J.D.” degree holder -- but not a lawyer or attorney -- does not have a legitimate license to practice law in the U.S. These consultants’ work is not regulated and their methods and practices are in no way endorsed by U.S. state legal bar associations.

More importantly, USCIS does not recognize immigration consultants. Thus, the U.S. government will not allow any immigration consultant to represent an immigrant if a problem occurs in the immigrant’s legal matter. During such a problem, the immigrant will have to quickly hire a qualified attorney to clean up the immigration consultant’s mess.

A skilled immigration attorney will present you with the best immigration options available, and help you obtain your immigration benefits both expediently and legally. Next week we will discuss how to choose that qualified immigration attorney.

Attorney Rio M. Guerrero is the founding and managing partner of The Guerrero Law Firm. He is also an Adjunct Professor at The CUNY School of Professional Studies at The Graduate Center in Manhattan, where he teaches complex U.S. immigration law to other attorneys, paralegals and community leaders. He has also served as an immigration legal expert witness in the New Jersey State court system. During his many years of legal practice, Atty. Guerrero has successfully represented thousands of clients in a wide range of immigration and nationality matters. You may contact Atty. Guerrero directly at (212) 481-2744 or e-mail him at rio@guerrerolawfirm.com. The above information is not, nor intended to be, legal advice. Nothing within this publication creates an attorney-client relationship with the reader. Applicability of the legal principles discussed above differs upon individual facts and circumstances.