IMMIGRANTS, LAWYERS AND BIAS
TOP FIVE CONSIDERATIONS WHEN WORKING WITH FOREIGN NATIONALS

1) Just because a person is not a citizen, doesn’t mean they are out of status
2) The 14th Amendment guarantees all “persons”, not “citizens” rights guaranteed by the Constitution.
3) Immigration laws are federal and thus consistent throughout the nation
4) California laws regarding standing make no reference to a person’s immigration status
5) California laws provide further protections and access to legal documentation and processes beyond that of the federal government or most other states
WHO ARE IMMIGRANTS? WHAT IS AN IMMIGRANT?

- Immigrants are foreign nationals who seek to permanently work, study, and live in another country.

**What's the Difference?**

**Some commonly used terms in immigration law**

**Citizen**
A citizen is a legally recognized member of a state. In the United States, anyone who is born in the country is a citizen. People can also gain citizenship through the lengthy and complex naturalization process. Only citizens can vote in federal elections and be elected to national office. Citizenship is generally permanent and irrevocable.

**Green Card**
This term refers to the plastic, credit-card sized card issued to Lawful Permanent Residents ("LPR’s") of the United States. LPR’s are non-citizens who are permitted to live and work indefinitely in the United States. LPR’s may join the military, apply for federal financial aid and travel internationally as Residents of the USA. Being an LPR is generally a required prerequisite for applying for US Citizenship.

**Asylum**
Protection granted by a nation to someone who has left their home country in fear that their country’s government cannot or will not protect them from violence on the basis of their race, religion, nationality, membership in a particular social group or political opinion. From outside a nation, a person may apply to the United Nations for Refugee status. Once at the border or from within a new country, an individual may apply for Asylee status.

**Deferred Action for Childhood Arrivals (DACA)**
A program introduced in 2012 under President Obama administration which grants certain individuals present without status in the United States a temporary protection from removal and lawful permission to work. The program was terminated on September 5, 2017 by subsequent President Trump, but a web of lawsuits currently permits those who have had DACA to continue to renew. New applications are NOT permitted. Many DACA recipients arrived in the United States as children and have lived here for most of their lives.

**Undocumented**
A person who is present in the United States without currently valid immigration status. Undocumented people cannot vote and are not eligible to receive aid from most government programs. Legislation over the past 30 years has imposed ever-more stringent penalties for this behavior, precluding most undocumented people from ever securing lawful status in the United States.

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HOW DO PEOPLE COME IN LEGALLY?

- Immigrant or Nonimmigrant
- Alphabet Soup
- Limitations:
  - Duration of Stay
  - Work Authorization
  - Eligibility to Study
  - Eligibility of family accompaniment
HOW ARE PEOPLE HERE UNLAWFULLY?

- Lawful visas which lapse
- Fraud at border
- Covert entries at border
WHAT ARE THE LAWYER’S OBLIGATIONS TOWARDS A NON-CITIZEN CLIENT?

- Does client have lawful status or no?
- If they have status, what are the conditions of that status?
- If no status, work with immigration attorney to determine
  - Potential avenues for status
  - Potential immigration consequences of present legal representation/outcomes of matter
WHAT IF MY CLIENT DID NOT ENTER LAWFULLY OR THEIR STATUS HAS EXPIRED?

- Duty of loyalty and confidentiality to client

- Rule 3.3b: A lawyer who represents a client in a proceeding before a tribunal and who knows that a person intends to engage, is engaging or has engaged in criminal or fraudulent conduct related to the proceeding shall take reasonable remedial measures to the extent permitted by Business and Professions Code section 6068, subdivision (e) and rule 1.6.

- Rule 1.1: Duty of Competence: associate with or consult an expert, acquire sufficient learning and skill or refer to competent outside counsel.

- Refer to immigration counsel to determine potential avenues for status
<table>
<thead>
<tr>
<th></th>
<th>U.S. Citizens</th>
<th>Lawful Permanent Residents</th>
<th>DACA Recipients</th>
<th>Undocumented People</th>
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<tbody>
<tr>
<td>Work Authorization</td>
<td><strong>X</strong></td>
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<td>Free Public K-12 Education</td>
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<td>Federal Financial Aid</td>
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<td>Come and go from the U.S.</td>
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<td>Petition family members for immigration</td>
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<td>Eligible for public assistance</td>
<td><strong>X</strong></td>
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<tr>
<td>May reside in the U.S. permanently</td>
<td><strong>X</strong></td>
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<td>Not subject to deportation or detention by ICE</td>
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<td>May vote in elections/serve on juries</td>
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<td>Social Security</td>
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<td><strong>X</strong></td>
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<tr>
<td>Pathway to Citizenship</td>
<td><strong>X</strong></td>
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* With restrictions
** While DACA recipients may obtain a Social Security number for employment purposes, they are not eligible to receive Social Security benefits.
POSSIBLE WAYS TO GET A GREEN CARD

John Oliver’s 4-Fold Path to Lawful Permanent Residency*:

1) Family
2) Employment
3) Good Luck
4) Bad Luck

* “Last Week Tonight,” original air date 09/15/2019
What Part of Legal Immigration Don’t You Understand?

Opponents of illegal immigration are fond of telling foreigners to “get in line” before coming to work in America. But what does that line actually look like, and how many years (or decades) does it take to get through? Try it yourself!

**United States Citizen**
- Are you that relative’s parent, spouse, or minor child? Yes
- Wait time depends on home country and marital status.
- Single adult children: six to ten years.
- Married adult children: seven to ten years.
- Siblings of U.S. citizens: fifteen to twenty years.

**Lawful Permanent Resident**
- Are you the sponsor or child of a lawful permanent resident? Yes
- Wait time depends on home country.
- Single adult children: six to ten years.
- Married adult children: seven to ten years.
- Siblings of lawful permanent residents: nine to ten years.

**Temporary Worker**
- Do you have a college degree in a specialty occupation? Yes
- Wait time for a single adult child of a lawful permanent resident: nine to ten years.

**Applicant**
- Are you skilled? Yes
- Convince employer to sponsor you for a labor certification.
- Wait time for a labor certification: six to twelve months.

- Are you a student? Yes
- Wait time for a student visa: six to ten years.

- Are you in temporary legal status? Yes
- Total time to immigrate and become a citizen: six to seven years.

- Are you out of luck? No
- After five years (three if you’re a spouse), a green card holder is eligible to become a citizen.
- After nine years (seven if you’re a spouse), a green card holder is eligible to become a citizen.
- Total time to immigrate and become a citizen: nine to ten years.

- Are you a citizen? Yes
- After five years (six for a child), you may apply for citizenship.
- Total time to become a citizen: six to seven years.

- Are you a green card holder? Yes
- After five years (three if you’re a spouse), you may apply for citizenship.
- Total time to become a citizen: nine to ten years.

- Are you out of luck? No
- Total time to immigrate and become a citizen: nine to ten years.
REQUIREMENTS FOR NATURALIZATION

- Lawful Permanent Resident over 18
- Lawful Permanent Resident for 3 or 5 years, and physically present in the United States for at least half of that time
- Read, write, and speak English
- Pass a test on U.S. history and civics
- Demonstrate “good moral character”
WHAT IS DEPORTATION?

Deportation: the lawful expulsion of a person from a state
DEPORTATION: THE ELEPHANT IN THE ROOM

- Since 1996, this process is now called “Removal”
- Lawful expulsion of a person from a state
- Cancellation of Removal
STORIES FROM THE FRONT LINES

- Current surge of asylum-seekers
- California grants of professional licenses
- California Dream Act
- DACA litigation
- Crimmigration: DUI’s
- Special Immigrant Juvenile Status
Volunteer Opportunities
In the Ventura County Immigrant Community

MICOP
Volunteer at the monthly Community Meetings, where food and information is shared, and items like diapers and school supplies are distributed
www.Mixteco.org
(805) 483-1166

El Concilio Family Services
Provides direct assistance and educational programs to the underserved Latino community. Contribute to educational programs and organizing.
www.ElConcilioFS.org
(805) 486-9777

CAUSE
Contribute to grassroots organizing that is meant to invoke social, economic, and environmental justice for all people living along California’s Central Coast
www.CAUSENow.org
(805) 658-0810

SWAP MEET JUSTICE
Volunteer on the last Sunday of every month at Oxnard College Swap Meet anytime from 8am-3pm to help prepare Citizenship, green card and DACA applications for free.
www.indivisible.org/events

LAW ENFORCEMENT ACCOUNTABILITY
Participate in regular accountability sessions with Sheriff to end collaboration with ICE in Ventura County. Advocate for just law enforcement for all.
https://www.indivisibleconejo.org/
casaartearch@att.net

CLUE-Ventura County
Coalition of advocates from diverse religious traditions raising awareness of congregations on issues of economic justice and the moral imperative to act.
www.cluevc.org
clue@cluevc.org

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SWAP MEET JUSTICE: GET INVOLVED, MAKE A DIFFERENCE

ABOGADOS GRATIS!

Renovar su DACA o MICA
Registrar para votar
Aplazar para Ciudadanía
Registrar para Servicios Selectivos

EVERY LAST SUNDAY - EL ÚLTIMO DOMINGO DE CADA MES
Dates in 2020/fechas en 2020:
8:00 am - 3:00 pm
Oxnard College Community Marketplace
Mercado Comunitario en Oxnard College

Free assistance on filling out your citizenship application (N-400),
DACA & green card renewal, Selective Service, voter registration forms.
Ayuda de forma gratuita en llenar la solicitud de ciudadanía (N-400), renovar su DACA o MICA, registrar para Servicios Selectivos y para votar.

No appointment needed/No se requiere cita
Volunteer Training /Entrenamiento para Voluntarios
8:30 am at each fair/a las 8:30 en cada feria
Teens welcome/Estudiantes son bienvenidos
We need bilingual speakers, but "English-only" welcome & necessary too!
However, we reserve the right to refuse services from any volunteer.

To obtain more information, call (805) 486-9777, Ext. 227
Para más información: (805) 486-9777, Ext. 227 (Hablamos español)

What information to bring -Qué información aportar
Please see other side/ Por favor vea el otro lado