Permanent Residence in the U.S. - How and When

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Immigration Basics

- U.S. citizens
- Permanent residents
- Nonimmigrants (temporary status)
- Unauthorized aliens ("illegals")
H-1B Visas

- Specialty Occupations – Professionals
- Bachelor’s degree minimum
- Right type of degree
- Prevailing Wage
- 6 year limit, but possible to extend beyond if permanent residence process pending
**J-1 Visas**

- **Exchange Visitors** – several categories
  - Including students, research scholars, trainees, professors

- Understand the two-year foreign residence requirement (2YFRR)
J-1 - 2YFRR- How it attaches

- Home government funding
- U.S. government funding
- Skills List of Home Country
- Foreign Medical Graduates seeking post graduate training
J-1 2YFRR – Waiver options

- Hardship
- Persecution
- “No objection” letter
- Interested Government Agency (IGA)
O-1 (Extraordinary Ability)

- Demonstrated Extraordinary Ability
- 3 years, then annual extensions
- Evidenced by objective standards
  - Scholarly articles
  - Presentations
  - Elite memberships
  - Judge of the work of others
  - Original contributions to the field
  - Articles written about the individual
Paths to Permanent Residence

- Refugee/Asylum
- Diversity Lottery
- Family based immigration
- Employment based immigration
Refugees/Asylum

- Well founded fear of persecution
- Political overtones
- Strict timelines for filing
Diversity Lottery Program

- 50,000 annual “winners”
- Specific countries only
- Electronic submission of applications
- Digital photo required
- www.travel.state.gov
Family Based Immigration

- Limited circle of family
- Spouses and children of USCs
  - regardless of age or marital status
- Spouses and unmarried children of PRs
- Siblings of USCs
- Parents of USCs
Employment Based Immigration – Basics

- Broad principles
  - Protecting the US labor market
    - Labor Certification process
  - Having sufficiently strong skills that it doesn’t matter
    - Fitting within an exemption to Labor Certification
Employment Based Immigration

- Labor Certification Process
  - University or college teachers
    - Special handling
    - “Best qualified” standard
  - Non-teaching positions (in universities or elsewhere)
    - “Only person left standing”
P.R. through Labor Certification

1. Labor Certification

2. I-140 Employment Based (EB) Petition
   - EB-2 – Job requires minimum of a Masters or a Bachelor’s + 5 years experience
   - EB-3 – Job requires less than above

3. I-485 Application for Permanent Residence
P.R. through Labor Certification

- Understanding the Visa Bulletin and its impact on the wait for permanent residence
Employment Based Immigration

- Possible Exemptions from Labor Certification process:
  - Outstanding researcher/professor
  - Extraordinary Ability
  - Intracompany managers/executives
  - National interest Waiver
P.R. through the Employment Based Route via exemption

1. I-140 petition
   - EB-1 if Outstanding Researcher, Person of Extraordinary Ability or Intracompany Manager
   - EB-2 if National Interest Waiver

2. I-485 application for Permanent Residence
Plan the work & work the Plan

- Planning is critical
- Understanding the time it might take
- Reviewing your individual options
- Deciding what is driving the train
  - Immigration?
  - Professional development?
The End