

Scott
& Associates 
ATTORNEYS AT LAW, PLLC

www.scottimmigration.net

713-467-5800

Free online chat every Wednesday at 11 am Central Time at
<http://www.scottimmigration.net/chatroom.html>

All attorneys at Scott and Associates are licensed in either
Texas or New York.
Principal place of business is Houston, TX.

Whether you are deciding to enter into the foreign-filed waiver process or you have made the decision to do so. Attempting this arduous process is for many immigrants their best chance at resolving the immigration problems that have plagued them for years. The immigrants look forward to lawful permanent residence in the United States because they know it is important for securing a bright future for their families. But understand that applying for a waiver of inadmissibility is an odyssey. This process is not cheap, fast, or easy. You may encounter complex legal issues, government error, unannounced changes in procedure, and other unexpected challenges. Regardless of the effort you put in, victory is not a foregone conclusion. With such a difficult road ahead, you need a guide who has gone through travelled this road hundreds of times before. Scott and Associates is here to be your guide.

OVERVIEW OF THE PROCESS

Your case has three main steps: petition, application and waiver. The petition has to be approved before the application is made. The application step itself has two parts: NVC processing in the US and the consular interview abroad. The waiver is filed at or after the consular interview. The timelines and procedural details for each step are constantly being changed by the government. Each step requires a separate government filing fee, as well as a wide variety of supporting documents (e.g. birth certificate, photos, etc.) and supplementary forms (e.g. I-864, G-325A, etc.).

STEP ONE: The I-130 petition

Form I-130 is the petition. The petition packet and filing fee are usually filed by mail in the US. It can take 3-9 months or longer for the petition to be approved. While the pending or approved petition does not give the alien any right to remain in the US, there is usually no legal advantage to having the alien depart the US prior to the consular interview.

STEP TWO: The DS-230 application

Following petition approval, about one month later the alien will receive an invitation from the National Visa Center (NVC) to apply for a visa using form DS-230. The immigrant visa fees are paid online. The application packet is mailed to the NVC. About 1-3 months after everything is submitted to the NVC, the alien will be scheduled for a consular interview. 1-2 days before the consular interview, there will be a medical exam abroad.

THE I-601 WAIVER STEP

Form I-601 is used to apply for most types of immigrant waivers. With rare exception, it is required that the waiver application be filed in person by the alien at the consulate at or after the consular interview. Some consulates require the alien to make another appointment to submit the waiver packet. The waiver packet will be sent by the consulate to a CIS office where it will take 3-12 months *or more* to be decided. The alien must remain outside the US while the waiver application is pending. After a waiver is approved, the visa is usually issued by the consulate within 1-3 months. If a year has lapsed since the last consular interview, the alien will have to refresh the application materials, i.e. do 'STEP TWO' over again, except that everything is provided to the consulate, not NVC and the immigrant visa bill does not have to be paid again. Once the alien has the visa, he can then enter the US, immediately becoming a permanent resident upon entry.

THE PILOT PROGRAM IN MEXICO

The rapid waiver adjudication program in Mexico, also called 'the pilot program', generally follows the steps described to the left, but has some key differences. After the consular interview, the alien will be asked to make a subsequent waiver appointment by contacting a 'call-in center'. The waiver appointment will take place at the consulate probably 4-8 weeks after the immigrant visa appointment. At that appointment the alien will submit the completed waiver packet. He then leaves and receives the decision via DHL a few weeks later. He will have to pay a small fee for this service. In the packet will either be his passport with a visa inside, or a referral notice.

If the case is referred, it means that the adjudicator is unable to make a rapid decision and the case has been sent elsewhere – usually Anaheim, CA – for a decision. Once the case is referred, it will be another four to fifteen months for a decision. The alien will not be able to enter the country while the case is pending. Mexican clients should always be emotionally and financially prepared for a referral regardless of the strength of the case.

TRAVEL TO THE CONSULATE

Rarely, the consulate is not satisfied with the documents presented, even when presented with all the documents requested. In our experience, it usually takes a few days to supply whatever additional supplementary documents the consulate requires. We therefore recommend that if the client does not reside in the city where the consulate is located, that the client obtain a fully refundable or changeable ticket and be prepared for the possibility that it may be necessary to remain in the consulate city for up to several days following the consular interview. Client should also be warned that even at consulates where it is normal to accept the waiver packet on the date of the consular interview, consular officers have the authority to decline to immediately accept the waiver packet and may require the alien to return to the consulate at a later date – often weeks after the consular interview – to file the waiver packet.

DOCUMENTS

Through the steps of the process we will assign you documents to collect. Some records you can collect early while others you should not. For each step, it is best to send us all the documents for that step at the same time.

VITAL RECORDS – order now

At some point in the process, we will need a certified/official copy of all of the following: alien's birth certificate, petitioner's birth certificate, alien and petitioner's marriage certificate, all divorce decrees, annulment certificates and death certificates for all prior spouses of both the alien and the petitioner. You should order three certified/official copies of all vital records when we start the case and hang on to them until we request them. Birth certificates must be the full, long-form birth certificate issued by a government office and not an 'abstract of birth', 'birth record', 'short-form', or hospital-issued copy. US marriage certificates should be issued by the State Bureau of Vital Records and not by the county, except in Texas.

CRIMINAL RECORDS AND ARREST RECORDS – order now

If the alien has ever been arrested anywhere in the world, even if the charges are dropped, you should get 2-3 certified/official copies of all conviction records, court records and transcripts, and police records and reports. Order these as soon we start the case, send us one copy as soon as you receive it and hang on to the other copies until we tell you what to do.

IMMIGRATION RECORDS – order now

If you have ever applied for asylum, attempted to adjust status, been in removal proceedings, or had any other major events or filings that would create an immigration record for you with the government, we need a copy of those records. Send them to us all in one packet when you have them.

PASSPORT – order now

When we process through the NVC, we will need to submit a copy of your passport, which should be valid for at least six months into the future at that time. If you have never had a passport before, apply now.

VACCINATION RECORDS – order now

When you do your medical exam abroad just before the consular interview, you will need to provide all of your vaccination records. Start collecting those now to bring with you when you leave the US.

WAIVER DOCUMENTS – after I-130 approval we will give you a list

Waiver documents are specific to each case. Do not collect any waiver documents until we tell you what to get. We will be requesting a number of items from you within two to three months of when we expect to file your waiver packet. We need to receive these documents from you no less than three weeks before the waiver is due. We truly need those three weeks in case we decide we need additional documents, after reviewing what you've sent us. Any letters for the waiver must be signed, dated originals.

POLICE CERTIFICATES and OTHER DOCUMENTS – collect later

The alien will need a police certificate from every country lived in for at least a year since reaching the age of 16 and every country where the alien has ever been arrested, EXCEPT it is not necessary to get police certificates from the US or Mexico. The police certificate must be submitted to the NVC, but must be less than six months old at the time of the consular interview, so it is best to order the police certificates right after the petition is approved and no sooner. In addition to the above, we will need additional items, such as photos, and other documents. We will ask for each item as it is needed.

ABOUT CERTIFIED/OFFICIAL COPIES

A certified/official copy of a record is one that is issued by a government office. It should bear the original signature or seal of that government office. A photocopy of an original is not a certified/official copy unless it bears the original seal or signature of that government office. A photocopy with a notary seal or signature is not a certified/official copy.

ABOUT TRANSLATIONS

We will need translations of all documents not in English EXCEPT we usually do not need a translation of the alien's birth certificate, passport or police certificates unless the waiver is going to be filed in Central or South America. Translations should not be done by the alien, the petitioner nor anyone related to you by blood, adoption or marriage. The translation can be done by a friend. The translation must include the statement, "I certify that I am fluent in both English and _____ and the attached is a true and complete translation of the original." The translation should be signed and dated by the translator. It does not have to be notarized. Summary translations are not acceptable; every word on the page must be translated.

COMMUNICATIONS

Consolidate questions

How we respond to a seemingly simple question may depend on the facts of your case. While we'd like to tell the client that we can recite the details of every case from memory, it's just not humanly possible. Before answering any question, it is good practice to go back over the information in the file, the database and client emails. If you send 10 questions at once, we may spend 15 minutes reviewing and then one minute typing each answer, for a total of 25 minutes. If you send one question a week for ten weeks, then we may spend 5 minutes reviewing the case each time and then one minute typing the response, for a total of 60 minutes. Sending one email instead of ten allows us to spend that extra 35 minutes doing other work on your case.

Consolidate information

All of the attorneys at the firm have experienced the time-consuming challenge of searching many dozens of client messages for one piece of data. We can serve our clients better if you send fewer messages with more information, e.g. if we send 10 questions, it's best to send one complete response, instead of answering a few questions now, a few the next day, etc.

Use the database

There are always at least five people who want to know what's happening in your case: petitioner, beneficiary, lead attorney, paralegal and founding attorney. Using the database for communication, as opposed to phone, email, or fax, allows *everyone* to review what's been communicated. This cuts down on confusion, and avoids repetition

Send waiver documents in a single mailing

For the waiver, the documents complement each other and are therefore best reviewed together. We recommend sending them together in one mailing.

Response time

The attorneys and paralegals at the firm usually allocate a few hours a day to respond to questions from clients. The typing of the emails does not take long, but we need to review the file before responding. When there is a deadline in another case, responding to non-urgent questions may be delayed a day. If you have not received a response within two business days, we invite you to send a friendly reminder.

OTHER THINGS TO KNOW

Money Matters

We would love to tell our clients that they can pay our fees when it's not too much trouble, but our policy is to require final payment of legal fees before we file the I-601. Additionally, you will be charged other fees, most notably Federal Express charges. It is all described in your contract.

Chances of Approval

During the consultation the attorney assesses the chances of approval. While this assessment usually remains constant during the representation, we sometimes change our assessment as we learn more details about the case. Also note that we NEVER give a 100% chance of approval. Even if the attorney says the case has a 99% chance of approval, there is always a risk that you will fall into that unfortunate 1%.

After We File

The contract is complete when we file the last item described in the contract, usually the I-601. We are still your attorneys after that date, but the work that has been paid for is complete and additional work will require additional fees. As a courtesy, we will usually do a limited amount of work for no charge after filing the I-601, such as responding to two or three questions from the client, filing a single inquiry with the government, or doing an update to the case that is only a few pages in length. However, if the client wants than these limited free services, we will have to charge more legal fees for the unexpected additional time.

The Language of Referral Notices

The standard referral notice in Juarez *should* have a box that states, "we are unable to reach a decision in your case in the time allotted". Instead the referral notice states that there is not enough proof of extreme hardship. Do not be alarmed by the language of the notice. We see high approval rates in referred cases where this box was checked and nothing more was later sent.

If there is a denial

Denial notices are always nasty and understandably cause negative emotions. Globally, we do get around eight or more denials every year. When this happens, we urge clients to release some of their negative emotions prior to talking to us about what to do next so that we can approach the appeal or re-file with a spirit of cooperation.