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**IMMIGRATION JUSTICE CLINIC**

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**INFORMATION ABOUT OBTAINING REPRESENTATION IN IMMIGRATION MATTERS**

In addition to reading the message below about choosing a lawyer, you may want to look at this United States Citizenship and Immigration Services Webpage, "Finding Legal Counsel."

<http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnnextoid=f3bc9ddf801b3210VgnVCM100000b92ca60aRCRD&vgnnextchannel=f3bc9ddf801b3210VgnVCM100000b92ca60aRCRD>

You can find a list of free legal services maintained by another branch of the government, the Executive Office of Immigration Review at <http://www.usdoj.gov/eoir/probono/states.htm>. The government also lists licensed representatives who are NOT lawyers, but who are recognized by the government as qualified to provide representation at <http://www.usdoj.gov/eoir/statspub/raroster.htm>. You can also find a list of immigration representatives who have been punished by the government, mostly because they cheated their clients, at <http://www.usdoj.gov/eoir/profcond/chart.htm>. However, do not assume that just because people are NOT on that list, that means that they are honest or competent. The government might just not have caught them yet.

On request, John Jay Legal Services can suggest private attorneys and public interest legal services offices which offer immigration representation, based on your location and the nature of your immigration problem. Note: certain nonlawyers, known as "qualified immigration representatives," are permitted to represent clients in immigration proceedings, but they should follow the same steps described below for lawyers, in terms of giving clients complete information and quality services, and everything said here about choosing a lawyer applies to choosing a representative. Just like attorneys, some of these qualified representatives are quite good, but many are very bad. You should be even more cautious about hiring a representative than a lawyer -- especially if the representative uses the title "notario," which is a term intended to confuse and mislead immigrants from certain countries, or if the representative tries to avoid telling you whether s/he is really an attorney or not. The fees quoted by lawyers will sound very expensive, so you'll be tempted to try to find someone cheaper, and again, some qualified representatives are very good, but be extremely careful - and sure that you have in writing a clear unambiguous statement of the complete fee that will be charged and what it covers.

PLEASE NOTE: NEITHER VANESSA MERTON NOR JOHN JAY LEGAL SERVICES, INC. CAN PROMISE THAT ANY ATTORNEY OR REPRESENTATIVE WE TELL YOU ABOUT IS QUALIFIED, COMPETENT, HONEST, AND RELIABLE OR WILL DELIVER A SPECIFIC RESULT IN A PARTICULAR CASE. INFORMATION ABOUT ANY OFFICE, ATTORNEY, OR REPRESENTATIVE IS PROVIDED STRICTLY AS A FREE SERVICE, AND NOT AS A REFERRAL OR SUGGESTION THAT YOU SHOULD CONSULT ANY OF THEM.

WHAT FOLLOWS IS GENERAL INFORMATION THAT YOU MAY WISH TO CONSIDER WHEN HIRING A LAWYER OR OTHER REPRESENTATIVE.

Each lawyer or other provider of legal services or representation has strengths and weaknesses. No lawyer or qualified representative is perfect.

A good lawyer-client relationship depends on good chemistry, and in immigration practice, trust and rapport between client and lawyer are paramount. Don't hesitate to consult several different lawyers before deciding whom to choose. It might cost a little more, in time and effort and maybe

money, but it will be well worth it in the long run. As you probably know, you are likely to spend quite a bit on your representation before you are done. Depending on your situation, you may have to pay \$1000 - \$2500 per person to the government in application fees, plus additional fees for certification of documents from your home country, transcripts of other court decisions, medical records, translations, expert witnesses, etc. It is sometimes possible to get a “waiver” (excuse from paying) of government fees, and this possibility should be discussed with any lawyer you select. However, remember to ask the lawyer whether seeking waiver of a fee may cause problems for the application or petition or defense that you are trying to use.

Please be very wary and investigate thoroughly before you hire, or “retain,” a lawyer. There are hordes of unlicensed, unregulated “representatives” who will tell you whatever you want to hear, just to extract a “retainer” [initial fee for representation] from you. There are also ignorant, incompetent, and/or dishonest lawyers who shamelessly take advantage of clients, extort improper payments from them, and neglect to file important documents on time or ever. Some also demand that you sign documents that you cannot or have not read or forms with blanks that are not filled in. These documents often contain false information and statements that will get you into serious trouble or may even constitute a crime if submitted to any government agency. You may lose your eligibility for legal status if a false statement is made on your behalf, even if you did not know about it, which is another reason you must insist on getting copies of all papers submitted to the government (more about that below).

### **CHECKING REFERENCES and BAR MEMBERSHIP**

At an absolute minimum, be sure before retaining any private attorney that s/he REALLY has a license to practice law in the State of New York. Don't be shy about asking the lawyer where s/he attended law school and the year of his/her admission to the bar. That information can be checked on the Website of the New York Office of Court Administration under “Attorney Directory.” <http://iapps.courts.state.ny.us/attorney/AttorneySearch> . Remember, you can also check to see whether someone is on the list of attorneys who have been found unethical by immigration authorities at <http://www.justice.gov/eoir/profcond/chart.htm> . See also <http://www.justice.gov/eoir/press/2010/ImmigrationPractitionerComplaintFormRelease07192010.htm> .

A good immigration lawyer will also be a member of AILA, the American Immigration Lawyers Association (which can be checked on the AILA Website, [www.aila.com](http://www.aila.com)). Ideally, before retaining any lawyer, insist on several prior client references -- including some from four or five years ago, long enough for problems to have surfaced -- and try to check out the references to be sure they're not just friends or associates of the lawyer posing as former clients. If these satisfied former clients claim to have received “green cards,” ask to see them (originals, not copies) and look carefully at the dates. Remember, getting an Employment Authorization Card (work permit) means NOTHING -- only an actual Lawful Permanent Resident I-551 visa (“green card” – but it is not green) indicates that a case was successfully handled. And there are a huge number of phony, although quite professionally produced, “green cards” in circulation.

If anyone offers to “guarantee” a particular outcome, cease contact with that person immediately -- no one in the practice of immigration law can honestly do that, and no one responsible does.

### **WRITTEN AGREEMENTS, RECEIPTS, and COPIES OF EVERYTHING IN YOUR FILE**

No matter which lawyer you choose, always get from the lawyer a clear written statement listing the objectives of the representation – what is supposed to happen as a result of the lawyer's work -- and the lawyer's plan to achieve those objectives. A lawyer who requests payment of any kind, in any amount, should be glad to provide, immediately, a complete written statement of the amount received and the legal services it is intended to pay for, to be followed shortly with the original official “receipt” that is issued from a government agency whenever it collects a fee. You should

**never pay fees or expenses in cash, but even if you pay by check or money order, always get a receipt from the lawyer, right away!**

**Before signing a formal “Retainer Agreement” (contract of employment) with a lawyer (which is different from, e.g., an authorization to obtain or review records or to discuss your case with other people), ask to see a blank version of the lawyer’s standard or form Retainer Agreement. (The Retainer Agreement, like other internal office forms that the lawyer gives you or asks you to sign, should be completely translated into your preferred language. Since the lawyer has to communicate fully with you and you have to make all the important decisions about your representation, adequate interpretation/translation services must be available if you are not entirely comfortable in English. In the State of New York, lawyers have an ethical obligation to arrange for proper interpretation or translation. See NYC Bar Association Formal Opinion 1995-12 (1995). Attached is a sample Retainer Agreement used by this office, in English and Spanish.**

**Take the time to read the lawyer’s Retainer Agreement carefully -- it might take half an hour or more (which is why it’s good to ask to see a standard form in advance, before the lawyer prepares an individualized one for you to sign). The lawyer should be willing to send you a copy in advance so you can read it at home, at your leisure (although the lawyer might not have a translation at that point, depending on what is your preferred language). Make sure that the Retainer Agreement is detailed and specific, stating clearly and exactly what legal services the lawyer agrees to perform, how much each service is estimated to cost, and on what basis the cost will be calculated (for example, will you be billed for each hour of work by the lawyer, or billed a certain percentage of a flat fee after a particular stage of the process).**

**Clarify anything in the Retainer Agreement that you do not fully understand. If the lawyer can’t write a contract with you that is clear and easy to understand, how can the lawyer do a good job presenting your case to the government? Do not sign the Retainer Agreement until you are sure that you understand everything that it says and all your questions about your relationship with the lawyer have been answered. Get a trusted friend to help you read it if necessary. Make sure that the Retainer Agreement is signed by the lawyer as well as by you. It should be a mutual exchange of promises. And of course you should receive a complete copy with the original signature of the lawyer on it.**

**Through the Retainer Agreement or another written document, the lawyer should promise to provide you with copies of every document filed or received in connection with the case, at the time that the document is filed or received or very soon thereafter, and to give you a complete copy of the file for your case whenever you request it, with no additional charge unless it is a very large file of hundreds of pages, in which case, the lawyer should charge no more than ten cents/page for photocopying. You should be very suspicious if the lawyer is reluctant to make this commitment to you.**

### **STATEMENT OF CLIENT’S RIGHTS**

**Every lawyer practicing in the State of New York should have posted in his or her office the official Statement of Client’s Rights (English and Spanish copies are attached to this memo). Take a copy of this with you to the office and ask the lawyer if she or he agrees with all of its requirements for good practice. Notice especially the statement in Paragraph No. 6 that all clients are entitled to receive copies of all papers related to their cases. You should ask to see where in the office the lawyer has posted the Statement of Client’s Rights. If it is not posted, that is not a good sign.**

**Please understand that once a lawyer has “entered an appearance”, that is, filed a paper with the Immigration Court, with the Board of Immigration Appeals, or with a federal or state judicial court, saying that the lawyer has agreed to represent you in a case before that court, the lawyer is not allowed to simply withdraw from representing you even though the case is not yet over.**

The lawyer must get permission from the court to stop representing you, and if you do not want the lawyer to withdraw, the lawyer has to have some kind of good reason. If you and the lawyer agreed on a certain payment for the lawyer's services, and you have not made the agreed payment, the judge may allow the lawyer to withdraw. But the lawyer cannot simply change the agreement, for example, by asking for more money to continue representation if you have already paid what the lawyer had agreed to accept as payment for a particular service, such as handling all court appearances at a particular level of the immigration process.

To complain about a lawyer's unethical, deceptive, or unprofessional conduct, start with government agencies that will investigate at no charge to you. Probably the best place to start is the Attorney General of the State of New York (<http://www.ag.ny.gov/feature/immigration-services-fraud>) -- Immigration Services Fraud Unit Hotline (866) 390-2992. You can also try the District Attorney ("DA") of the county where the lawyer is located, but unfortunately, often the DA cannot or will not investigate bad lawyers. Sometimes the fact that a lawyer deceived you or didn't perform well allows you to re-open an unfavorable immigration decision, but to qualify for that, you may have to file a complaint about the lawyer (often called a "grievance") with one of the Committees listed below (choose based on where the lawyer's office is located). These Committees are supposed to help you if a lawyer lies to you, takes your money but doesn't do anything, or refuses to communicate with you or explain what is happening in your case and your legal options:

### [First Department Disciplinary Committee](#)

New York & Bronx Counties

#### **Departmental Disciplinary Committee for the First Department**

61 Broadway, 2nd Floor, New York, NY 10006

(212) 401-0800

### [Second Department Grievance Committees](#)

Kings, Queens & Richmond Counties

#### **Grievance Committee for 2d, 11th & 13th Judicial Districts**

Renaissance Plaza, 335 Adams Street, Suite 2400, Brooklyn, NY 11201-3745

(718) 923-6300

Dutchess, Orange, Putnam, Rockland & Westchester Counties

#### **Grievance Committee for 9th Judicial District**, 399 Knollwood Road, Suite 200, White Plains, NY 10603

(914) 824-5070

Nassau & Suffolk Counties

#### **Grievance Committee for 10th Judicial District**, 150 Motor Parkway, Suite 102, Hauppauge, NY 11788

(631) 231-3775

### [Third Department Committee on Professional Standards](#)

Albany, Broome, Chemung, Chenango, Clinton, Columbia, Cortland, Delaware, Essex, Franklin, Fulton, Greene, Hamilton, Madison, Montgomery, Otsego, Rensselaer, St. Lawrence, Saratoga, Schenectady, Schoharie, Schuyler, Sullivan, Tioga, Tompkins, Ulster, Warren & Washington Counties

**Committee on Professional Standards**, 40 Steuben Street, Suite 502, Albany, NY 12207

(518) 285-8350

### [Fourth Department Disciplinary Committees](#)

Herkimer, Jefferson, Lewis, Oneida, Onondaga & Oswego Counties

#### **Grievance Committee for 5th Judicial District**

Syracuse Square, 224 Harrison Street, Suite 408, Syracuse, NY 13202-3066

(315) 471-1835

Cayuga, Livingston, Monroe, Ontario, Seneca, Steuben, Wayne & Yates Counties

#### **Grievance Committee for 7th Judicial District - Attorney Grievance Committee**

50 East Avenue, Suite 404, Rochester, NY 14604-2206

(585) 530-3180

Allegany, Cattaraugus, Chautauqua, Erie, Genesee, Niagara, Orleans & Wyoming Counties

#### **Grievance Committee for the Eighth Judicial District**

438 Main Street, Suite 800, Buffalo, NY 14202-3212

(716) 845-3630

**You can find more information about filing a complaint about a lawyer at this Website:**

<http://www.courts.state.ny.us/ip/attorneygrievance/complaints.shtml>