

TALES OF AN UNNECESSARY LAWYER

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"You mean people actually pay you to complete immigration forms?" My relative articulated these words slowly, for maximum effect. He then laughed, amused at the notion that anyone would be included to hire me to assist them with a family-based immigration case. His unintentional mockery of my profession effectively anointed me as the lawyer version of Herman Melville's pallid, law-copyist anti-hero in *Bartleby the Scrivener*.

My mild defense was that the forms are only the tip of the iceberg in immigration cases and that an array of issues could torpedo such a case. These issues include proving a bona fide marital relationship, meeting the financial requirement, dealing with past immigration violations, and disclosing and addressing arrest and conviction

issues. Yet this defense served only to provoke a dismissive wave of his hand and further fits of laughter. The irony seemed to be lost to him when he later called for assistance with an immigration case involving one of his relatives. He expressed irritation that answers to his questions were not on the government website and that the family had encountered unanticipated issues and problems with what they had filed with the U.S. Embassy despite his guidance.

In the quarter century since then, despite rising challenge and denial rates owing to a governmental "culture of no" born of the aftermath of 9/11 and a stubborn recession, the skepticism of the general public regarding the need for an immigration lawyer to help them navigate the maze of laws, regulations and interpretations has, if anything, grown. Officials of the U.S. government fuel this questioning of the utility of lawyers. Both prospective and existing family and corporate clients often report that U.S. Embassy officials and U.S. Citizenship and Immigration Services (CIS) officers have advised them that they do not need a lawyer.

The stance persists. Some self-represented prospective clients have reported that upon having their visa application refused and having protested the to the U.S. Embassy Officer who denied the case that the U.S. Embassy previously advised them that immigration counsel was unnecessary, the Officer offered, in their view, a malevolent grin. On occasion, I have received a call from a prospective client who followed the alleged advice of a U.S. Consular officer who suggested that they enter the U.S. on a visitor visa and then switch to a work visa once there. Federal officials then charged them with committing immigration fraud owing to their improper use of a visitor visa. Periodically, encouraged by complaints from the American Immigration Lawyers Association, U.S. government agencies have issued notices to field officers not to denigrate immigration lawyers. However, clients continue to report, on occasion, receiving salty comments centered on the evidence presented and whether the applicant really needed a lawyer to put the material together - typically uttered while the officer is approving the application.

It is not uncommon for a prospective client to ask me if they really need to hire me. My consistent, unequivocal answer is "no!" I note that the U.S. government does not require and cannot require them to hire an immigration lawyer. However, I remark that while it is not necessary that they fire me or any other lawyer to help them to advance their planned immigration case, they might find retention of an immigration lawyer to be valuable. Some puzzled prospective clients will then ask me what I mean by indicating that I am unnecessary but potentially valuable.

The answer is that some clients, with relatively straightforward cases, who are careful researchers and detail oriented, may be able to leverage publicly available information and government resources to navigate the process themselves. They may enjoy a comparatively lower likelihood of being snared by unseen immigration traps and be less apt to experience case delays or complications. However, others, including those careful researchers and detail-oriented sponsors applicants, might wind up running into issues and problems they did not

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anticipate. The law involves interpretation by U.S. government officials. Not all that is relevant to a case is written in publicly available sources or are things that an applicant may anticipate as an issue. Even if an applicant were to be aware of all relevant issues and provisions of the law and rules that impact his or her case, they do not have the experience that a seasoned attorney may lend in interpreting how an adjudicating officer might react to case evidence, how the case will likely unfold, and how to reverse engineer the case to avoid problems or delays.

I typically advise such prospective clients to investigate the government website and publicly available sources, and also search for articles about cases gone wrong since they can help the prospective client to determine if the expenditure of hard-earned money on an immigration lawyer would be value-added in their view or not. Each prospective client must make that decision on his or her own.

To be clear, there are many cases I have handled over my career where the chances are that an intelligent, detail-oriented sponsor or applicant might have managed to navigate the immigration maze successfully without having engaged my services. Even for them, though my services might have proved in final analysis unnecessary, they may nonetheless have been valuable. The same type of value as having a cab driver take you safely from your home to airport when you could have driven yourself; like having had an accountant ably prepare and file the tax returns you hate preparing but could have slogged through preparing yourself; or like having a gardener mow your lawn and trim your hedges, so that you could apply your time elsewhere. After all, the time one spends handling an immigration case on one's own behalf is not entirely "free." Further, one never knows in advance of handling any legal case whether professional representation might anticipate and avoid a problem. If a problem does arise, the lawyer's fees may be considerably higher than if one had just retained a lawyer at the outset.

Accordingly it is not necessary for a sponsor or an applicant seeking immigration benefits to hire an immigration lawyer any more than the law can require one to hire an electrician or a plumber. However, the applicant who represents himself or herself might find the immigration case catching fire in an unfortunate way, springing a legal leak, or, worse yet, winding up in the denied-case bin-akin to the "Dead Letter Office" where Bartleby worked his earlier years.

[To read the full article, including examples of three immigration cases, follow the link below.]

Source: [Lawyers as Economic Drivers: The Business Case for Legal Services](#)

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