10 KEYS TO THE KINGDOM OF PERMANENT RESIDENCE FOR POSTDOCTORAL SCHOLARS AND RESEARCHERS:
(GUIDELINES LEADING TO THE “GREEN CARD”)

NATIONAL POSTDOCTORAL ASSOCIATION
March 14, 2015

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OR...
GOING IT KIND OF ALONE TOWARD PERMANENT RESIDENCE
Focus of Program:

Providing Postdocs and Junior Scientists with Tools to Seek Permanent Residence Based on their Professional Work
What are the Basic Challenges:

1) Absence of Employer Sponsorship

2) Evolving rather than Demonstrated Skill Set

3) Junior in Careers (Lack of Metrics)

4) Doing Important, Cutting-Edge Work
THE FIVE BASICS TO IMMIGRATION:

1. All Foreign Nationals Need Visa Permission

2. Goal: Match Up Your Position to Appropriate Visa Status

3. Counterintuitive Issues in Immigration

4. Employer Normally Controls the Process

5. Narrow Right to Self-Sponsor for Permanent Residence
BASIC STRATEGY OPTIONS FOR PERMANENT RESIDENCE

- Family-Based
- Employment-Based
- Fear of Persecution
- Miscellaneous
Fundamentals of Employment-Based Permanent Residence:

- Employer Sponsored
- Self-Sponsored
EMPLOYMENT–BASED PATHWAYS

• Employer–Sponsored
  • Labor Certification Application
  • Outstanding Professor & Researcher (EB–1/2)
EMPLOYMENT–BASED PATHWAYS (CONT )

- Self–Sponsored
  - Alien of Extraordinary Abilities (EB–1)
  - National Interest Waiver (Non–Clinician) (EB–2)
  - National Interest Waiver (Clinical Physician) (EB–2)
The Three Basic Structural Challenges:

• Meeting Legal Criteria: Extraordinary Ability or National Interest

• Dealing with the Quotas

• Dealing with USCIS Discretion
A Few Words on the U.S. Quota System
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VISA BULLETIN:
Updates Available Monthly

Two Basic Self-Petitioned Filing Options:

- EB-1 Alien of Extraordinary Ability
- EB-2 National Interest Waiver
4 Basic Concepts to EB1 Extraordinary Ability (3/10 Rule)

- Sustained national or international acclaim in professional area
- Risen to the top of the professional field/small percentage of experts
- Will continue to work in area of professional expertise
- Prospective Benefit to the United States
3 Basic Concepts to National Interest Waiver

- National in Scope
- Intrinsically Meritorious
- Applicant so Outstanding as to be able to make a Significant National Impact
How do These Two Filing Theories Differ?

EB-1: Inwardly Directed
- 75%: Ability of Applicant
- 25%: National Benefit

EB-2: Outwardly Directed
- 40%: Ability of Applicant
- 60%: National Benefit
How Do These Two Filing Theories Coalesce?

• Applicant Needs to Show Superior Professional Achievement

• Significant Benefit to U.S. National Interests
Architecture of Self-Petitioned Filing:

What Documents/Materials are Presented to Immigration Examiner?
• I-140 Immigrant Visa Petition (Self-Signed)

• Main Letter of Support (Recommended: External Signature)

• Outside Letters of Support

• Alien’s C.V.
• Indicia of Extraordinary Ability
  • Citations to Work
  • Publications
  • Awards & Commendations
  • Reports on Work

• National Importance of Work
10 Essential Keys to Successful Self-Petitioned Immigration Cases
Essential Key #1:

Understanding the Immigration Examiner
WHO IS THE USCIS EXAMINER?
Basic Assumptions:

- Is a Lay Reader
- Not Professional Peer
- Lack of Subject Matter Familiarity & (Perhaps) Interest
- Constrained in Time
Essential Key #2:

Get Involved in Your Case
Roles of Applicant and Attorney:
Creating a Focus–Driven Professional Collaboration
Essential Key #3:

Critical Role of Mentor
Basic Role:

- Most Important Single Component of Case
- Credibility, Knowledge, Insight
- Primary Advocate for Approval
- Attorney is Alter Ego
Substantive Elements:

- Comprehensive Statement
- Address Implicitly Legal Points
- Preserving Credibility
- Demystify the Subject Matter
- Drafted with End in Sight
- Transparent Structure
Drafting Suggestions:

- Use of Bulleted Points
- Get Main Points at Outset of Letter
- Define Terms and Concepts
- Avoid Hyperbolic Language
- Guide USCIS Examiner through Merits of Case
- Create Overall Framework for Entire Submission
Essential Key #4:

Importance of Outside Letters
Role of Outside Support Letters

3 Goals:

- Substantiate Central Points of Mentor’s Letter
- Provide Additional Perspective
- Suggest National Recognition of Applicant
Importance of Geographical & Institutional Diversity:

- Counterintuitive Bias Against Letters from Work Colleagues
- Appearance/Reality of Arms Length Relationships
Role/Involvement of Mentor –

Getting Outside Support Letters
Sources of Letters/Role of Letterhead:

- Professional Colleagues
- Professional Journals
- Scientific Associations/Societies
- Government Bodies
Miscellaneous Pointers:

- 7-10 Letters
- Issue of CV’s
Essential Key #5:

Making CV into an Advocacy Piece
What is the Purpose of a CV?
Drafting Tips:

- Introductory, Framing Description
- Defining Research Interests
- Stressing Metrics
- Contextualizing Scientific Work
- National Benefit
Essential Key #6: Preeminence of Employing Institution
“Guilt by Association”
Factors Relevant to Institutional Stature:

- Ranking of Specific Program
- Overall Institutional Stature/Ranking
- Special Achievements
- Preeminent Faculty/Research Staff
- Level of Research Grant Funding
- Other Factors
Essential Key #7:

Important Role of Metrics
Why Metrics?

- Amorphous Terminology: Extraordinary Ability/National Interest
- Subjective Judgment
- Counterbalance to Complexity/Incomprehension
- Hard Data in a Soft World
What Metrics?

- Publications & Citations
- Funding Support
- Laboratory
- High Impact Factor of Journals
- Speculation on Commercial/Scientific Success
- Patents
- National Cost Savings
Essential Key #8:

Defining Professional Field
Legal Requirement:

- Risen to the Top of Professional Field
- Outstanding Abilities in the Profession
DEFINING THE PROFESSIONAL FIELD:

A Golden Opportunity to Establish Self-Preeminence
BASIC GOAL: Limiting and Molding the Control Group
Essential Key #9:

National Importance of Field of Endeavor
ESSENTIAL QUESTION:

Why will the U.S. Benefit from Conferral of Permanent Residence?
How to Create the National Benefit Piece?
Essential Key #10:

Applicant has Burden of Proof
Who Has Responsibility to Do What?

- Applicant: Burden to Convince USCIS Examiner

- Important: The USCIS Examiner Does not have to Disprove Your Entitlement

Sports Analogy:
Need of Applicant to Push Case Over the Goal Line
Do All Postdocs Qualify for Permanent Residence?
CONCLUSION

- Teamwork
- Advance planning
- Realistic assessments
- Good sense of humor
Robert Aronson  
1221 Nicollet Mall  
Suite 506  
Minneapolis, MN  55403  
Tel: 612–339–0517  
Fax: 612–349–6059  
Email: Info@aronsonimmigration.com  
Web: www.aronsonimmigration.com