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ASSISTING IMMIGRANTS IN SECURING EXTRAORDINARY ABILITY VISAS

by GERRI KNILANS



To work in the United States, immigrants must have a permanent resident card (green card), an employment authorization document (work permit), or an employment-related visa. There are more than twenty temporary worker (or nonimmigrant) and five permanent worker visa classifications. Each has a specific use, and necessary criteria that must be met. One option for immigrants is to pursue the “extraordinary ability” visa, which requires applicants to “demonstrate extraordinary ability in the sciences, arts, education,

business, or athletics through sustained national or international acclaim.”

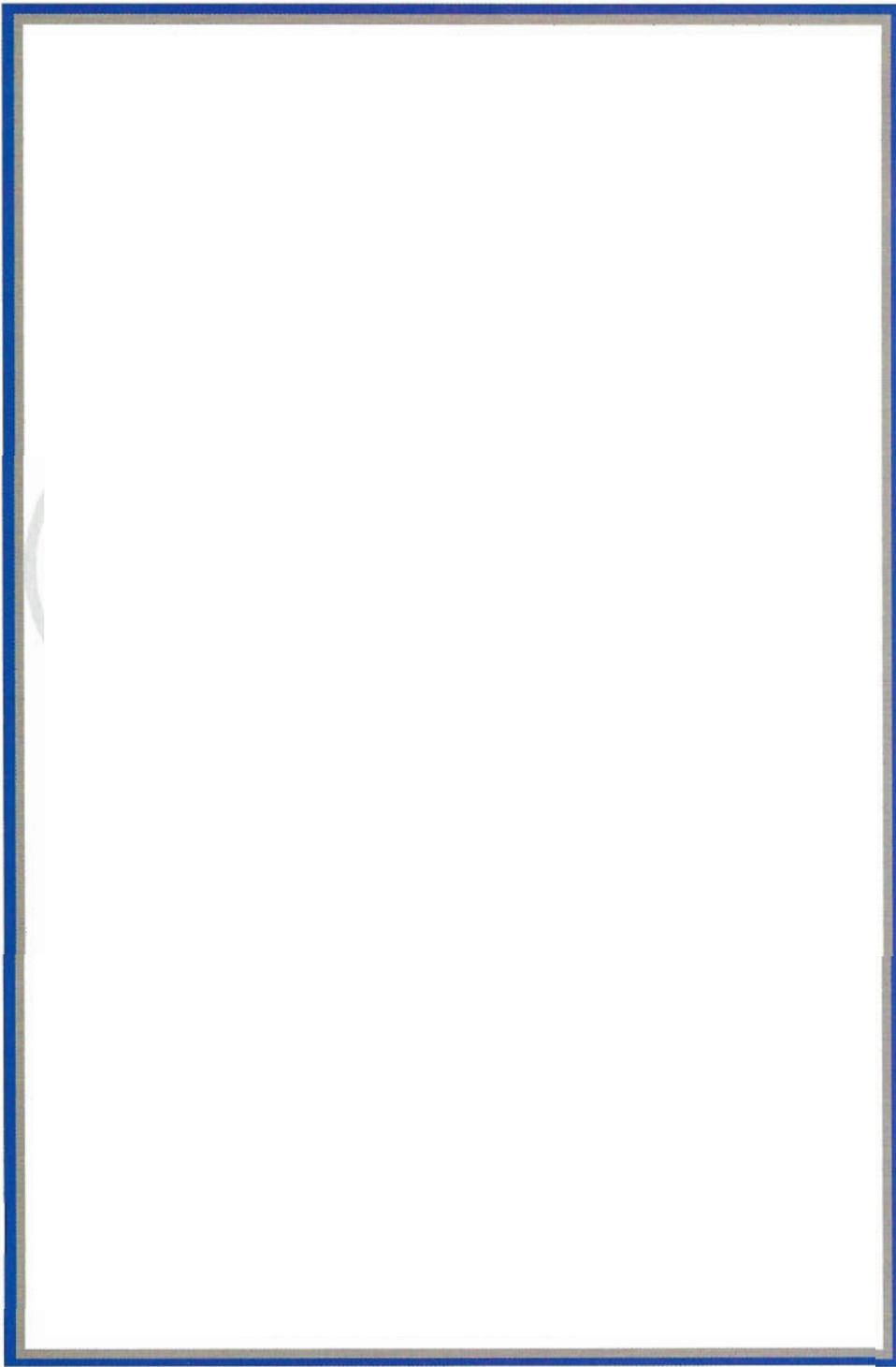
Extraordinary Ability Visas

There are two types of visas available for temporary and permanent immigrant workers with extraordinary abilities. Temporary workers applying for the O-1 nonimmigrant visa are allowed to stay in the United States only for the reason their nonimmigrant visa was issued, and they must be sponsored by their employer. With this visa, workers can stay for up to three years and may apply for unlimited extensions. Permanent workers are legally

approved to live and work permanently in the United States. The First Preference EB-1 visa is for persons of extraordinary ability in selected fields who have a specific combination of skills, education, and/or work experience. According to the U.S. Department of State-Bureau of Consular Affairs, 3,854 EB-1 and 16,094 O-1 visas were issued in 2018.

Demonstrating Extraordinary Ability Through Published Articles

Whether an immigrant is applying for an O-1 or EB-1 visa, evidence of at least three criteria proving extraordinary ability in the immigrant’s field of work must be established.



Authoring and publishing scholarly articles in professional or major trade magazines or other major media meet one of these criteria. Because of their highly specific nature, industry publications are considered especially credible by their targeted readerships, and published authors establish themselves as recognized experts and industry thought leaders.

While many lawyers understand the laws and requirements for demonstrating extraordinary ability, they may be unfamiliar with how to create articles and get them published. Here's a proven method that takes the mys-

tery out of the content development and editorial process.

1. Research publications. The starting point is to identify the most appropriate trade and professional publications that reach readers in the foreign professional's area of expertise. In addition to internet searches, some libraries, universities, and other organizations have access to publication databases, allowing for more targeted searches. Also, many industry-specific trade associations produce high-quality publications for their members.

2. Identify topics. With a list of publications

identified, the next step is to develop topics or story ideas to submit to editors. Before doing so, potential authors ought to review the editorial calendars of the publications along with past issues to understand the type of articles run by each publication. This way, they can see if their expertise translates into an article that is a good fit for the targeted publication. When developing topics, keep in mind that editors look for content that helps readers solve problems, become more efficient or effective, gain knowledge, or better understand industry trends.

3. Secure a placement confirmation. Once individuals have determined the target publications and developed three to five article ideas (a short description of proposed topics), follow-up is essential to ensure topics were received and to determine an editor's level of interest. When an editor selects a topic, he or she will provide the contributing author with an editorial due date, target publication date, word count (length of the article), graphic requirements, and any relevant author's guidelines. This represents the editor's commitment to review the article when it has been submitted and to publish it if the editor finds the content well-written and valuable.

4. Write the article. While many foreign nationals might have subject-matter expertise, they may not have the writing skills or grasp of the English language necessary to produce an article that is suitable for publication. When developing content, general suggestions include writing in active tense, using the third person, and writing short and straightforward sentences. Authors might find it helpful to review past issues of the publication to ensure that the writing style matches what is used by the publication. Each paragraph should contain information that is relevant to the publication's audience, address the topic thoroughly, and answer the question "So what?" Alternatively, the subject matter expert might want to consider hiring a professional, freelance writer to increase the likelihood of the article's publication.

5. Submit the article. Once the author is satisfied with the content of the article, it is time to submit it to the editor according to the editorial deadline. Late submissions can result in the rejection of an article. It is also important to note that submitting an article does not mean the process is complete. Typically, the article is reviewed by the publication's editorial staff. During this review, the editor may ask the author to make changes or provide additional content, or the editor may make changes to the article directly. It is

important for foreign nationals to stay in contact with the editor until the article publishes since publication delays may occur.

Many publications send authors complimentary issues of the publication containing their articles, or they have a reprint service through which professional copies of the articles can be purchased. These copies are used to provide proof of authorship during an immigration hearing.

What's Next?

The petition process for the EB-1 Visa for extraordinary ability starts with completing the required U.S. Citizenship and Immigration Services' (USCIS) Form I-140 (Petition for a Nonimmigrant Worker) and paying the appropriate filing fee. Eligibility documentation of extraordinary ability must be included with this petition. The USCIS uses a two-part approach to evaluate this documentation. The first part is determining whether the documentation provides the evidence of meeting three of the ten criteria for establishing extraordinary ability. The second part is a thorough review of this evidence to determine whether the immigrant qualifies for the

extraordinary classification. Demonstrating a history of published articles in major trade publications satisfies one of these criteria and is standard practice in many scientific fields, including engineering, research, and medicine. According to immigration attorney Chris M. Ingram, the more prestigious the publication or the more publicity a published article receives, the easier it is to demonstrate the extraordinary qualifications of the immigrant. The petition process takes about two months to complete and another two weeks to two months for the USCIS review.

Working With a Partner

Writing articles for trade publications can be complicated and requires specialized experience, research, and resources. It can be challenging and time-consuming for immigrants who aren't accustomed to working with editors and the media. Mr. Ingram reminds his clients that these articles should add value to the publication's readers and be factually or technically accurate.

One solution is to partner with a professional resource with a proven history of helping others achieve success as published

authors. Ideally, the individual or group should have both writing expertise and experience working with publications and editors.

If an immigrant chooses to seek a partner to assist with the publishing process, attorneys can help them find one that knows how to: (1) research appropriate publications; (2) assist the immigrant in identifying good, sound, relevant story ideas that will be of interest to the publication's readers; (3) deliver solid content that is not self-promotional or self-serving; (4) create original content (with assistance from the immigrant) that is customized specifically for the publication; and (5) position the articles to be published. Working with a partner who knows and uses this process will help foreign nationals to secure their visas based on extraordinary ability.



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