



Fredrick W. Voigtmann received his B.A. in English from Ohio State University (1990) and his J.D. from Capital University Law School in Columbus, Ohio (1993). Voigtmann practiced immigration law in Taipei, Taiwan and represented clients before the American Institute in Taiwan, the U.S. Embassies in Hong Kong, Singapore, Jakarta, Shanghai, Beijing, Guangzhou and before the U.S. Immigration and Naturalization Service in addition to INS offices in the United States.

Using his Mandarin speaking ability, he assisted non-English speaking clients in U.S. immigration matters providing legal services to a dozen different nationalities. Services ranged from business and contractual matters to family and criminal law and helped establish the first foreign pro bono/legal assistance referral service in Taiwan. He practices immigration law in Beverly Hills, concentrating on U.S. immigration matters, employment creation/alien entrepreneur visas, non-immigrant investors, intracompany transferees, multinational executives and aliens of extraordinary ability. A member of the American Immigration Lawyers' Assn, he served as co-chair of AILA's Investor Committee. He is a member of the Los Angeles County Bar Association, American Bar Association and Ohio State Bar Association.

Fredrick W. Voigtmann
301 North Canon Drive, Suite 215
Beverly Hills, CA 90210
(310) 205-3500 ext. 15
fred@iglaw.com

Immigration: Political & Social Firestorm

BY FRED VOIGTMANN

The din of immigration chatter is at the steps of the U.S. Capitol, but like "lonely old Bill" of the "School House Rock" cartoon, that is all the farther it has gotten. Our immigration system is broken. Some see "immigration reform" as code words for an unwise amnesty policy that rewards lawbreakers and undermines the rule of law. Others see it as a humane way to deal with a growing social problem. Although the system is broken, the basic process of becoming a permanent resident and getting a "green card" is easy to understand; details, exceptions and changing rules are what makes attorneys and applicants go crazy. Reviewing U.S. immigration laws and policy can be like, "The Good, the Bad, and the Ugly."

FAMILY-BASED IMMIGRATION:

The Good: If you have an immediate family member who is a U.S. citizen or lawful permanent resident, they can petition for you to get your green card.

The Bad: Be prepared to wait from two to twelve years depending upon the category.

The Ugly: In most cases, while you wait, you can't live or work in the U.S. if you want to immigrate to the U.S. You need a different visa, perhaps a non-immigrant visa with work authorization. If you want to immigrate to the U.S. you are disqualified from most non-immigrant working visas.

MARRIAGE TO U.S. CITIZEN:

The Good: Cases are processed in four to five months.

The Bad: The green card is conditional and valid only for two years. You basically have to apply again, showing that you are still married or, if divorced, that the marriage was valid and not just for immigration purposes.

The Ugly: Don't even think about committing marriage fraud, although many do because of the lack of other options. The penalty for marriage fraud, in addition to being a crime, is a bar to any future immigrant petition and could result in deportation.

EMPLOYMENT-BASED IMMIGRATION:

The Good: If you have a job offer and are a skilled or professional worker (at least two years of experience or a bachelor's degree) your employer may petition for you to get a green card to go to work for them.

The Bad: Be prepared to wait five to six years while your prospective employer tests the labor market for U.S. workers and waits for the quota backlog to get you your green card status. In most cases, you cannot live and work here while you wait. In this category, your employer would hold an empty job opening for you for about six years; not very realistic, but sup-

posedly over 40,000 jobs per year in this country are filled this way. If you have a master's degree, you're in better shape, maybe an 18-month wait, unless you were born in China or India, then the wait is four years.

The Ugly: If your employer reports a loss on its income tax return for only one year during this period, the case probably will be denied, and you will have to start over from scratch.

ASYLUM:

The Good: Asylum denial rates are the lowest they've been in years. If you have a credible fear of persecution in your home country due to political or religious beliefs or are a member of a particular social group, you can obtain work authorization and eventually permanent residence in the U.S. after you have had asylum status for more than one year.

The Bad: You must apply within one year of entry into the U.S. or you must show that your home country conditions have changed significantly.

The Ugly: If your asylum case is denied, you end up in immigration court removal proceedings, which is only one small step away from deportation.

DIVERSITY LOTTERY:

The Good: It costs nothing to apply and the form is one page. If your home country qualifies, why not apply?

The Bad: It is based upon the luck of the draw and many more people apply each year, making the odds pretty low that your entry will be selected.

The Ugly: If you don't fill out the form properly or can't complete processing by September 30th (the end of the U.S. government's fiscal year) you lose your visa number and you are out of luck.

INVESTMENT:

The Good: The EB-5 investment program is attractive, if you have the money, either \$1 million or \$500,000 if you make an investment in a high unemployment area.

The Bad: If you don't have a million dollars or \$500,000, or if your investment is passive or does not create at least 10 jobs for U.S. workers, you won't qualify.

The Ugly: After making your investment, if you can't create ten new jobs for U.S. workers within two years, they will take the green card away from you.

So, what's an immigrant to do? While waiting for his/her green card, a prospective immigrant may want to take a spoonful of the "alphabet soup" that is our convoluted and confusing system of non-immigrant (temporary) visas. In my next article, I'll discuss non-immigrant visas, issues related to work authorization, and common misconceptions about U.S. immigration. ●