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IMMIGRATION FROM *A*LIENS TO *Z*OMBIES:

By Donna Scarlatelli

Those of us engaged in the practice of U.S. immigration law often talk about the "alphabet soup," that is the non-immigrant visas that are identified by a letter and a following number, such as a B-2 tourist visa.

What follows here is more than a recitation of the alphabet. Immigration, like any business, has its own terms and acronyms, and they seem to multiply daily. My aim here is to give the readers a glossary of these terms and, hopefully, educate along the way. However, nothing here should be taken at face-value and nothing should be acted on without further consultation with an experienced immigration attorney. Now, like Julie Andrews sang in The Sound of Music: "Let's start at the very beginning, a very good place to start."

A VISAS: These are 3 temporary, non-immigrant visas that are reserved for diplomats, officials and employees of foreign governments who are coming to the U.S. on official business. As most of you won't be using these visas soon, there are really just two interesting things to note about "A" visa holders: (1) their children who are born in the U.S. are not automatically U.S. citizens unlike most people born in the U.S., because they are "not subject to the sovereign laws of the U.S." These children are considered to be permanent residents of the U.S. unless they abandon their permanent residency by returning home with their parents; and (2) 50 people can get green cards on this basis each year, but if attempting to get permanent residence on any other basis, they must file a separate application to "waive their privileges and immunities."

ADJUSTMENT OF STATUS: In general, this term refers to a privilege granted to those foreign nationals physically present in the U.S. who are seeking permanent residence. It is typically available only if you are lawfully in the U.S. and have not "violated the terms and conditions of your lawful admission to the U.S." It is also regularly available to parents, spouses and minor children of American citizens, as long as these persons initially entered the U.S. legally, even if they have "violated the terms and conditions of their lawful admission to the U.S." by doing such things as overstaying their permission to be here or working without permission. Once one files for adjustment of status, one is able to obtain employment permission and permission to travel in and out of the U.S. without a visa.

ADMISSION: "Admission" is a term of art with a very specific meaning in immigration law. Since a change in the law in 1996, when one seeks to enter the U.S., such as when you are standing at the officer's desk at the international airport, you are not looking to "enter" the U.S. but are "applying for admission" to the U.S. Therefore, whether you are "admissible" is up to that officer to consider. There are numerous grounds of inadmissibility, things like criminal behavior or convictions, terrorist activities, drug abuse, communicable diseases, invalid passports or incorrect visas, and prior unlawful presence in the U.S. This little word is why people who have visas in their passports sometimes get turned away at the airport when their friends and relatives are left standing around in the lounge waiting for them.

ADVANCE PAROLE: This is the technical term for that permission to travel in and out of the U.S. as someone waiting for permanent residence and without a visa. Literally, you are being "paroled" (i.e. given permission contingent on your good behavior) into the U.S. in advance of being admitted to the U.S. in some sort of legal status. Just like prisoners who are on parole, you are in a limbo situation. That

said, this is not a bad thing, but a good thing. For those who have not been able to travel abroad for years because of a fear that an American Consular officer will not grant you a visa to return to the U.S., obtaining an advance parole is like a gift from the gods.

ALIENS: Webster's English Dictionary defines this term as "of another country or people; foreign." This is what the immigration authorities consider everyone who is not a citizen of the United States. Some of you may be old enough to remember comedian Robin Williams in one of his first big hits, the TV show "Mork and Mindy" where he plays an alien from the planet Ork. You may recall an episode where he is advised that all "aliens" must register with the immigration service. He becomes very excited and thrilled with anticipation that he is not alone on planet Earth. He appears at the local office of the now-defunct INS to register as an alien. It's truly a favorite of mine.

APPLICATION: Applications come in a variety of shapes and sizes. In my mind the two most important things to know about this term are: (1) when you are standing in front of that immigration officer at the airport or the border crossing point, you are making an application for admission (see above). That means your application can be accepted or rejected even if you think you have the correct visa in your passport; and (2) denials of many applications can not typically be appealed.

ASYLUM: Seeking asylum in the U.S. is a complicated procedure and one full of pitfalls. It is an entire body of law in and of itself and we won't go into great detail here. Essentially, asylum equals refuge; thus one may be classified as a refugee who seeks to enter the U.S. for asylum while he remains outside of the U.S. being processed; or one may be classified as an alien, who seeks asylum while he is in the U.S. and wishes to stay. Asylum-seekers must be doing so based on a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group or political opinion. There is a critical difference between prosecution by one's home government for the violation of its laws and persecution. The persecution must be by a government or persons whom the government is unable or unwilling to control. In my opinion, the most critical thing to be aware of for those seeking asylum after having entered the U.S. is that if the immigration service does not grant you asylum, you are "referred" to an immigration judge who will reconsider your application. However, this is a disingenuous term, "referred." Unless you are still in the U.S. in some sort of legal status when the immigration officer does not grant your asylum application, you are put into removal or deportation proceedings. There you may renew your application for asylum as a defense against being deported!

B VISAS: These visas are what we commonly call tourist or visitor visas. They come in 2 flavors: B-1, visitor for business and B-2, visitor for pleasure. They are sometimes the hardest visas to get because the U.S. Consul can deny these visas based on a "reason to believe" that the applicant has an "immigrant intent." This means that you have no true intention to simply come to the U.S. for a temporary visit but really intend to come and stay and live in the U.S. There is no appeal from a denial of a visa. Many people make the mistake of telling the Consul that you love the United States and that you want to live there, that you have good friends or family there that will take care of you and that you want to become an American citizen. Wrong. Many times the fewer connections you have to the U.S. the better. The Consul weighs your possibilities of disappearing into the crowd in the U.S. and working illegally or staying past the permission given to you vs. the life you have to return to in your home country. The stronger your ties to home, the better your chances of getting the visitor visa.

There is an entire range of permissible activities for visitors for business. The visa is usually given as the combination B-1/B-2 visa and how you are admitted to the U.S. will largely depend of what you tell the officer at the airport or the border crossing. For example, you can come to the U.S. to negotiate contracts, meet with doctors or lawyers, attend business meetings or conferences, go to court, compete in athletic tournaments, engage in training or missionary services, repair equipment bought abroad, or

look for suitable investments. What you can not do, with very few exceptions, is simply work. In many instances there is a fine line between business and employment so check this out before you decide to simply use the B-1 visa to engage in business activities.

CHILD: One would think that we all know what a child is; although we know plenty of people who are no longer children but behave as such. So, on second thought, maybe this term needs to be defined. A child under immigration law is defined as an unmarred person under 21 years of age who is: born in wedlock; a step-child whether born in wedlock or not, as long as he or she was under 18 when the marriage that creates the relationship was entered into; legally legitimated before 18 if in custody of the father at the time of legitimation; if born out-of-wedlock, if a bonafide parent-child relationship exists; if adopted before the age of 16 and having 2 years of legal custody and residence with the adopted parents (or under 18 if it's the second child adopted from the same family). Complicated? You better believe it- just in case you had any doubts as to why your immigration attorney has severe headaches. And that "simple" definition doesn't even include 2 complex pieces of law called the Child Citizenship Act and the Child Status Protection Act. The most important thing to remember here is that "children" over 21 are called "sons and daughters" and, in general, are considered to be separate and apart from their parents and the rest of the nuclear family. The immigration law has not caught up with the current phenomenon of adult children living at home.

CITIZENSHIP: Again, like asylum, this is an area of law that stands on its own. In fact, the practice of immigration law is sometimes known as immigration and nationality law. The nationality part principally refers to citizenship. Essentially there are 5 ways one is considered to be a citizen of the United States: (1) by birth in the U.S. or certain incorporated territories (like Puerto Rico, the Virgin Islands or Guam); (2) by acquisition at birth (being born outside of the U.S. but to U.S. citizen parents); (3) by derivation through the naturalization or U.S. birth of a parent; (4) by applying for a certificate of citizenship when you are under 18 and certain conditions apply (the Child Citizenship Act); or (5) through naturalization- a power granted to Congress by the U.S. Constitution.

CONDITIONAL PERMANENT RESIDENCE AND CONDITIONAL REMOVAL: Sometimes people refer to Conditional Permanent Residence as Temporary Residence, but that is a misnomer. Under the Marriage Fraud Act of 1986, when a foreign national marries a U.S. citizen and that marriage is less than 2 years old when the foreign national becomes a lawful permanent resident of the U.S., then the foreign national is granted permanent residence with a condition placed on that residency. That condition remains there for 2 years, meaning the person is given a green card that is good for 2 years. At the end of that 2 year period, the permanent resident must petition the government to have that condition removed. At this point, the immigration service gets to take a second look at the marriage and make sure they are convinced that you entered into this marriage "for love and affection" and not merely to obtain a green card. Sometimes people refer to this process as the "I-751" which is the number of the form one must file. Failure to timely file the Form I-751 automatically terminates permanent residence. Conversely, timely filing extends the permanent residence even though the evidence of that permanent residence expires, i.e. the "green card." Once you file and get a formal receipt, you can take that receipt to the immigration office and get a temporary stamp in your passport as proof that you remain a lawful permanent resident in the U.S. If the immigration service denies the petition to remove this two year condition on the green card, typically the foreign national is placed in deportation proceedings and can tell it to the judge. While fighting deportation, you remain a permanent resident of the U.S. until the immigration judge finds otherwise.

C VISAS: This group of visas is essentially for those "in transit" through the United States. People like crewmen joining a ship, business people from the Caribbean islands who can't get anywhere without first flying to the U.S., and certain United Nations representatives. Since 911 transiting without a visa

has been suspended and such people are required to get a C visa at the U.S. Consulate in their home country.

D VISAS: These non-immigrant visas apply only to crewmen required for normal operating and services aboard vessels. This includes people employed at concessions, like spas and salons but does not include people aboard fishing vessels.

DEPORTATION: Since 1996, what the world commonly thinks of as "deportation" has been renamed "removal." However, removal combines 2 concepts: deportation, i.e. the act of removing one who is physically present in the U.S. and exclusion, i.e. the act of prohibiting one from entering the U.S. in the first place. There are numerous grounds of deportation and not all of these have a corollary ground of exclusion or "inadmissibility" as it is now called. Almost always one will have an opportunity to challenge deportation before the immigration courts. However, one may be summarily removed at the border without the right to a deportation hearing. Almost from the beginning of our country deportation has been considered a civil and not a criminal penalty, although the severe consequences of deportation come pretty close to those of criminal penalties. Deportation and removal are complex areas of immigration law and should be treated as seriously as criminal trials and require structured and well-planned defenses.

DETENTION: Detention by the Immigration and Customs Enforcement (ICE) branch of the Department of Homeland Security (DHS) is a heart-wrenching situation for both the detainee and his or her family and friends. Someone who is illegally in the U.S. or has a criminal conviction may come to the attention of ICE is a variety of ways: from things as innocuous as a traffic violation to a violation of immigration status to criminal activity. When one is detained by ICE one is typically placed in a detention facility which may be a DHS facility exclusively for that purpose or may be a county jail with a contract to hold immigration detainees. Bond is typically available for release of a detainee pending a removal hearing, but some people are subject to "mandatory detention." These are people convicted of certain crimes as well as those accused of terrorist activities. Even lawful permanent residents may be mandatorily detained. The immigration court has no jurisdiction to release a person subject to mandatory detention but can hold a hearing to determine if one is properly included in the mandatory detention rules.

E VISAS: Many people refer to these visas as business visas. The E visas come in 2 flavors: E-1 which is a treaty trader and E-2 which is a treaty investor. These temporary non-immigrant visas require a treaty between the U.S. and one's country of nationality. There are now about 80 countries with treaties with the U.S. that allow for either the trader or investor visa or both. Since the visas are based on treaties, one should always check for the most current information because new treaties are negotiated all the time. As of now, the following countries have at least on of these treaties: Albania, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahrain, Bangladesh, Belgium, Bolivia, Bosnia and Herzegovina, Brunei, Bulgaria, Cameroon, Canada, Chile, China (Taiwan), Colombia, Congo, Costa Rica, Croatia, Czech Republic, Denmark, Ecuador, Egypt, Estonia, Ethiopia, Finland, France, Georgia, Germany, Greece, Grenada, Honduras, Iran, Ireland, Israel, Italy, Jamaica, Japan, Jordan, Kazakhstan, South Korea, Kyrgyzstan, Latvia, Liberia, Lithuania, Luxembourg, Macedonia, Mexico, Moldova, Mongolia, Morocco, Netherlands, Norway, Oman, Pakistan, Panama, Paraguay, Philippines, Poland, Romania, Senegal, Serbia and Montenegro, Singapore, Slovakia, Slovenia, Spain, Sri Lanka, Suriname, Sweden, Switzerland, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Ukraine, Uruguay, United Kingdom and the former Yugoslavia. Less one think that this is all the countries in the world, consider several notable absences, such as Brazil, India, Peru, Russia and mainland China.

The rules governing issuance of E-1 and/or E-2 visas are quite intricate. And unlike most non-immigrant visas the process does not depend on a prior petition filed with the immigration authorities in the U.S.

Since the visa is contingent upon a treaty and treaties are the purview of the Department of State and consulates represent the State Department abroad, applications are taken directly at the U.S. Consulate in one's home country. This can be both a blessing and a curse. A blessing in that the process can be shortened since there is no prior bureaucratic process in the U.S., but a curse in that the Consular officer is not bound by any prior decision of the U.S. immigration service and has full discretion to grant or deny the visa with no formal appeal process and little to no review of a decision. Also, as with "A" visa holders, those who apply for permanent residence must waive their rights and immunities under the relevant treaty. However, contrary to popular opinion that does not mean that an E visa holder can not become a permanent resident of the United States.

Both visas require that there be a U.S. commercial entity (normally a company) that is majority-owned and/or controlled by nationals of the treaty country and that the applicant holds the same nationality. The E-1 requires that at least 51% of the substantial volume of trade that the visa demands is between the U.S. and that treaty country; and the E-2 requires that there be a substantial commercial investment in the U.S. that will do more than merely support the investor and his family. Although these visas are subject to what may appear to be the whims and fancies of the Consul, they are immensely popular and have 2 added benefits: (1) spouses of these visa holders may apply for and obtain unrestricted employment permission and (2) there are essentially no limits on how long one may ultimately remain in the U.S. although the visa holders must have an absolute intent to eventually depart the U.S.

EMPLOYMENT: Many, many times I get calls from potential clients asking for an employment or work permit. There is no such thing. There are conditions that can carry employment authorization, most often related to specific visas. Sometimes this employment is specific to the sponsoring employer, sometimes it is incidental to that visa status or authorized stay in the U.S. and sometimes it is unrestricted. It is almost always granted for a specific period of time and may or may not be renewed.

EMPLOYMENT-BASED IMMIGRATION: All green cards based on employment situations are subject to a quota. There are 5 essential categories available and the first category or "preference," as they are called, is divided into 3 sub-classifications. The quota system is quite complicated and drops down at times allowing those unused in each category to become allocated to lower categories. The progression of the availability of these green cards is monitored by the State Department and published each month in the Visa Bulletin. In the higher categories the quota has historically been wide open, meaning that as quickly as one can qualify for the benefit, the green card can be granted. In the lower categories, except for the final fifth category which is based on a $500,000 to $1 Million commercial investment, one can be waiting anywhere from 3+ years on average to secure the green card. Jockeying for position among these preference classifications is a full-time job for both foreign applicants and immigration attorneys alike.

In sum, the employment-based green cards are set aside for: those foreigners with extraordinary ability n the sciences, arts, athletics, education, and business; outstanding professors and researchers; multi-national managers and executives; those professional holding advanced degrees where the work requires such a degree; professionals who hold bachelors degrees or their equivalent where the work requires such a degree; skilled workers where the job requires at least 2 years of experience and the applicant has that experience; unskilled workers; special immigrants such as religious workers and juveniles and million dollar investors who will be create jobs for American workers. The process to obtain green cards through employment often involves several different government agencies and is a specialty practice in immigration law in and of itself.

EWI: This acronym stands for Entry Without Inspection and essentially means that one has snuck across the border and entered the U.S. illegally. There are grave consequences of doing so, the most drastic of

which is that even if one marries a U.S. citizen, one is not permitted the privilege of "adjustment of status" (see above). That means that if you EWI you can not get your green card in the U.S. and must depart the U.S. and apply for that green card at the U.S. Consulate in your home country. In 1996, Congress placed a Catch-22 in the law. That law states that if you are unlawfully present in the U.S. for more than 180 days and then depart the U.S., you are barred from reentering the U.S. for at least 3 years. And if you are unlawfully present in the U.S. for more than one year and then depart the U.S., you can not reenter the U.S. for at least 10 years. So losing the privilege of being able to get the green card in the U.S. prohibits people who EWI from regularizing their immigration status despite close family relationships such as marriage that would normally solve their immigration problems. Not to mention the dangers of being smuggled into the U.S. or trekking through the desert.

F VISAS: F-1 visas are for Foreign Students. Foreign students have come under significant scrutiny since 911 and statistically only about 65% of those who apply for such visas at U.S. consulates around the world are granted. Additionally, restrictions have been placed on those who enter the U.S. with visitor visas from attending school unless and until the immigration service domestically approves an application for a change of non-immigrant visa status. Only those schools which have the authorization to issue an immigration service Form I-20 may allow students who attend their schools to get an immigration benefit by doing so. In other words, although the Supreme Court ruled back in the 1980s that all children under 16 years of age in the U.S. whether here legally or not are to be granted a public school education, the immigration regulations do not allow one to make oneself legal in the U.S. simply by attending school. This dichotomy is quite peculiar to most people- even to Consular officers who will strictly scour applications for non-immigrant visas when children have been attending public schools on visitor visas.

FAMILY IMMIGRATION: There are 4 basic ways to affirmatively seek permanent residence: (1) via family in the U.S.; (2) via the diversity visa lottery; (3) via asylum and (4) via employment sponsorships. Both U.S. citizens and lawful permanent residents may sponsor their family members but U.S. citizens have advantages, of course. Citizens can sponsor their parents, their minor children, their spouses, their adult sons and daughters, both married and unmarried, and their brothers and sisters. Permanent residents are not permitted to sponsor their parents, their siblings or their married children or sons and daughters. Certain relatives of U.S. citizens are outside of our immigration quota system, such as the spouses, parents and minor unmarried children. These people are considered to be "immediate relatives." As such, they are not only outside of the numerical limitations on immigration, but may also adjust status to permanent residence even if they have violated the terms and conditions of their lawful admission to the U.S., but not if they have entered the country illegally.

FIANCE(E): The K-1 visa is the correct non-immigrant visa for those who are engaged to be married to U.S. citizens. Permanent residents may not sponsor their fiancé(e)s. The regulations require that the couple have physically met within the past 2 years, that there be no legal impediment to marriage, and that the foreign national and the U.S. citizen have a firm intent to marry within 90 days after the foreigner enters the U.S. Warning: the marriage must occur within the 90 day period or the foreign national may not be allowed to remain in the United States. Also, if the marriage and/or the subsequent permanent residence sponsorship do not occur, then the foreigner will not be able to obtain the coveted green card- even if he or she marries a different American citizen.

G VISAS: These visas are reserved for numerous representatives of foreign governments, international organizations, and their families and staff. As with "A" and "E" visa holders, G visa recipients must waive their rights immunities under any operable treaties before they can become permanent residents of the United States.

GREEN CARDS: The terms "immigrant visa", "permanent resident", lawful permanent resident alien", and "green card" are all synonymous. They apply to anyone who is no longer a non-immigrant and has now obtained permission to reside permanently in the U.S., i.e. has "immigrated" to the U.S. and are one step below that of citizenship. One must hold a green card for 5 years before being eligible for naturalization to U.S. citizenship or 3 years if one acquires the green card through marriage to a U.S. citizen and is still living with that citizen. The actual card is no longer green and has not been for many years. Also, the actual card is now granted on a 10 year basis (unless it has a condition attached as described above). However, at the end of those 10 years one may apply for a new card as proof of that continued status, but the status itself does not automatically terminate after 10 years.

H VISAS: There are several types of H visas currently in use: H-1B for professionals or those engaged in 'specialty occupations;" H-1C limited to 500 nurses per federal fiscal year; H-2A reserved for seasonal agricultural workers; H-2B which apply to non-agricultural seasonal workers; and H-3 visas designed for those coming to the U.S. for training with U.S. companies.

Volumes have been written on the H-1B visa alone. This non-immigrant visa has become extremely controversial and is currently limited to 65,000 new visas each federal fiscal year. You may begin this process with the filing of a company's sponsorship petition 6 months ahead of when the job will start. Thus, as the federal fiscal year starts on October 1st the floodgates open on April 1st of each year. In the last few years the immigration service has received upwards of double the applications for the 65,000 spots in just the first few days. This quota makes this visa no longer a solid planning tool for immigrating to the U.S. based on a professional job offer. Nor does it serve the needs of U.S. employers who wish to remain globally competitive since one must plan so far ahead as to make it impractical to offer the job to a splendidly qualified foreign professional worker- and without guarantee that even a perfectly structured application will be approved. When more than the 65,000 applications are submitted, the immigration service holds a random selection or lottery to pick the lucky 65,000. Yes, there are some exemptions and those people who earn an advanced degree from an American college or university have an extra chance at 10,000 more H-1B visas. Whoopdy-doo.

Similarly, the H-2B visa is restricted to 66,000 new visas each federal fiscal year but since these are essentially temporary seasonal jobs the government divides these visas into 33,000 available from October to April and the remaining 33,000 from April to October. The employer must perform a supervised test of the U.S. labor market to show that U.S. workers are in short supply, and the work to be performed must be either seasonal in nature, a one-time type of contract or a peak-load situation. Frankly, this is the only non-immigrant visa that is available to skilled an unskilled workers. Not much to go on for people without university degrees looking to come and work in the U.S. on a temporary basis.

H-1C visas replace the defunct H-1A visas and are skimpily granted to foreign nurses to the tune of a grand 500 per year. Although nurses are on a labor department list of recognized shortage among American workers, nurses have a tough break. They do not typically even get to compete for the 65,000 H1B visas since that "specialty occupation" definition applied to H-1B visas typically means that the job should require a minimum of a bachelor's degree for an entry level position (There are exceptions for some things like fashion models but it's a good rule of thumb.) Since registered nurses do not earn 4 year bachelor's degrees and on average the minimum requirement for most nursing jobs is not a bachelor's degree, nurses don't qualify for the H-1B visa. The next time you are in the hospital and turn up your nose at a foreign nurse whose accent you may have to struggle to understand through your anesthesia-induced haze, take a moment o appreciate not only how lucky you are to have any nursing help at all but how much trouble your nurse went through to get here just to help you.

The H-3 visa has enjoyed more use of late given the failure of so many people to secure the coveted H-1B visa. At times this training visa is the only alternative to coming to the U.S., and because of this the immigration service has become suspicious about its ever-increasing popularity. The H-3 visa applicant must be coming to the U.S. for training that is not typically available in his home country and will benefit his career at home upon his return. The training does not permit productive employment and the foreign national must not be placed in a position in which American workers are routinely employed. This is a tall order and while many petitions are submitted, few are approved. And yet, creative lawyering requires that we all keep trying to squeeze people into the H-3 training category.

I VISAS: These non-immigrant visas are set aside for members of the international media. If one is truly engaged in reporting for a foreign media, be it written or broadcast, and will be in the U.S. reporting on events of interest to people back home, then this visa is relatively easy to obtain. There is no prior petition necessary to be filed with the immigration service in the U.S.; one can apply for this visa directly at the U.S. Consulate in your home country.

INADMISSIBILITY: This subject was treated, albeit briefly, above in the review of admission and again in deportation and removal. When one is standing outside of the U.S. and knocking on the proverbial door to come in, whether one is "admissible" or "inadmissible" to the U.S. is for the authorities to consider and determine. This is considered at multiple levels: (1) when one is applying at a Consulate for a visa to come to the U.S.; (2) when one is at the border whether it be a land border crossing post or an airport port of entry, and while obviously physically may be standing in the U.S., has not yet been granted permission to enter the U.S.; (4) and when one is seeking a green card based on an application for adjustment of status. A finding that you are inadmissible can have ever-lasting consequences.

INVESTORS: Investors come in 2 varieties: (1) E-2 non-immigrants and (2) green card investors. Technically, the green card investor program, known by the acronym EB5 (which stands for employment-based fifth preference) is not an "investor" situation, although it requires one to make a minimum of a $500,000 investment as part of a specific exception to the green card program, or more likely a $1 Million investment. The EB5 is actually an Employment-Creation Immigrant Visa category. This is because the investment, no matter how great, must lead to the creation of at least 10 jobs for U.S. workers over a period of 2 years. For those with this kind of money to put at risk and to tie up for several years, it is a good way to secure a green card and has become increasingly popular with people from those countries whose currencies remain strong against the American dollar. Just about everywhere at present.

J-1 VISAS: The J-1 visa is called an "exchange visitor" visa and serves as a catch-all visa that is available to a broad range of people like visiting scholars, students, trainees, foreign doctors, summer camp counselors, and au pairs. The J-1 visa is sponsored jointly by the State Department and another organization that seeks such joint co-operation with the State Department. Those organizations can be universities, non-profit organizations, or research groups, for example. The program is highly monitored and has numerous pitfalls for its participants. Notably, certain people may be subject to requirement that they must return home (not simply leave the U.S., but go home) and stay home for at least 2 years before they can return to the U.S. As with anything, there are exceptions, called "waivers" but one should not blithely jump into a J-1 visa situation until you know if this 2 year home residency requirement will apply to you and if so, is a waiver readily available. That all said, the visa does not go through the immigration service but the required papers to present for the visa at the U.S. Consulate are issued directly from the program sponsorship under the authority of the State Department. So, once you have decided that this visa will work for you and have found a suitable program in which to participate, the process can go fairly smoothly.

K VISAS: There are 2 K visas: (1) K-1 which we discussed above and is available for those engaged to be married to U.S. citizens and (2) K-3 visas which are for those who have actually married a U.S. citizen and would normally be coming to the U.S. with a green card but can opt to come on the K-3 visa instead. The K-3 visa process must begin in the U.S. where the U.S. citizen spouse first files an immigrant visa petition to sponsor the foreign spouse for the green card. Once that initial petition is filed with the immigration service, the U.S. citizen then follows this with a K-3 visa petition. The idea is that the K-3 will be processed faster than the green card, but in practice, this is not always the case. The U.S. Consulate will grant whichever is available first; if the green card process has been completed at the Consulate first, the Consul must grant the immigrant visa and not the K-3 visa. All in all, for planning purposes, the couple can expect to be apart for a good 8 to 12 months before the foreign spouse will actually be able to come to the United States. If he or she comes on the K-3 visa, the process to obtain the green card will then be sought through adjustment of status.

L VISAS: L visas are reserved for those who have worked abroad for at least one of the prior three years for a company that now has a common ownership with a company in the United States. One may seek to be transferred to the U.S. as a manager or executive or as someone with "specialized knowledge" of the company's proprietary processes, procedures, products, etc. The L-1 visa requires that there be a U.S. sponsoring company but that employer may be a new business enterprise. In that case, the foreign national would look to obtain a "start-up" L-1 visa. The start-up visa can be readily granted for one year. At the end of that year, the employer must show that the U.S. company is "doing business" and actually has a commercial enterprise that requires the on-going services of the L-1 foreign national. The maximum period of time for executives and managers to remain in the U.S. in L-1 status is seven years and for L-1 specialized knowledge staff the maximum is five years. For certain qualified managers and executives, the L-1 visa can be converted to the green card with little difficulty. This visa is an exceptionally good choice for both short-term results and long-term planning, but the requirements must be carefully managed. There are 2 additional distinct advantages: (1) the spouse can obtain employment authorization and (2) the Consul can not deny the visa even once the applicant has started the green card process.

LABOR CERTIFICATION: This is the process by which a U.S. employer who seeks to assist a foreign national in obtaining permanent residence conducts a test of the labor market to determine if qualified, available, able and willing U.S. workers can be found for a specifically defined position. The employer conducts a recruitment campaign according to the U.S. Department of Labor regulations and applies for a labor certification. This is typically the first step in a 3 stage process towards a green card. In and of itself, the filing and even the approval of a labor certification does not grant any immigration benefits, except for establishing a place in the green card quota system for the foreign national. The labor certification program has operated under many acronyms over the years; currently the processing is called "PERM."

LAWFUL PERMANENT RESIDENCE: Again, as stated above, this term is synonymous with a green card. While permanent residents have many rights that non-immigrants do not have, they should be encouraged to proceed towards citizenship whenever possible since Congress can add as well as take away benefits.

LOTTERY: That is the "Diversity Visa Lottery." A number of years ago Congress decided that it was important to maintain a certain ethnic diversity in the United States. Each year the U.S. now gives away up to 50,000 green cards in a lottery to winners from a list of specific countries. Those countries and the time frame for the application process are identified each autumn and posted by the State Department. The countries are chosen based on a complex ratio comparing numbers of people admitted to the U.S. Native-born citizens from those countries with low admission numbers get to play in the lottery.

Applications are limited one to each person but all members of the family over 18 years old can submit an individual application. The process is now done completely electronically.

M VISAS: The M-1 visa is reserved exclusively for students at certain vocational schools which agree to abide by the terms of the program. Since 911 the U.S. government has made it time consuming for these schools to comply with all of the rules and regulations and a number of schools have opted not to participate. Thus, the program has fallen out of disfavor in the last number of years.

MARRIAGE: We've discussed this above in several sections. Essentially, bonafide marriage to a U.S. citizen remains the quickest way to obtain a green card. However, the immigration service is very careful in its review of these applications and will strictly examine whether the married couple has a true marital relationship. While the interview process is not quite as capricious as portrayed in the popular media, the couple should be advised that the immigration service will expect them to demonstrate that they live together, know each other and have started to co-mingle their lives-especially financially. Marriage fraud remains a major concern for investigations.

N VISAS: These are very restrictive visas and quite uncommon. They are reserved for the parents and children of G-4 visa holders and NATO employees who are accorded special immigrant status.

NANNIES: There is no specific visa for nannies. Many people wishing to hire foreign nannies will access the J-1 Au Pair program mentioned above. The U.S. family must be willing to provide a cross-cultural component to the employment under the J-1 Exchange Visa. Non-immigrants who have been living abroad and have been in the habit of having domestic employees may be allowed to bring a foreign nanny to the U.S. on a B-1 visa. Similarly, those U.S. citizens who have been residing abroad and will only temporarily be back in the U.S. and who have been in the habit of employing domestic workers, such as nannies, while living abroad may also be able to bring their nannies to the U.S. on the B-1 visa and employ them while they are in the United States. Also, where a U.S. employer can demonstrate that the work is temporary in nature, is a one-time occurrence and has a definite end date after which the job will no longer exist and can establish to the satisfaction of the Labor Department that no American workers can be found for the job, can use the H-2B visa program. A Nanny Visa is most definitely needed but has never been enacted despite introduction of such legislation over the years.

NATURALIZATION: As indicated above, applying for naturalization is one of the several ways towards citizenship. To become a naturalized U.S. citizen one must be a lawful permanent resident first. There is no other "path to citizenship" no matter how much the media touts this as part of the amnesty program. You must be a permanent resident for 5 years unless you became a permanent resident through marriage to a U.S. citizen and are still living together with that spouse. There is also an exception for those who served in the military during war time. To become eligible for naturalization you must also be: at least 18 years old; must have resided in the state where you are applying for at least 3 months; must have been physically present in the U.S. for at least one half of the three or five years required as a permanent resident before seeking citizenship; must not have not been absent from the U.S. for no more than 6 months since becoming a permanent resident; must have good moral character; must be attached to the principles of the U.S. Constitution; must be able to speak English and be knowledgeable about U.S. civics; and must be willing and able to swear an oath of allegiance. These are the basic requirements for naturalization. The law allows for some exceptions to the English requirement and the oath of allegiance and there is an entire body of law that defines "good moral character." In general, the process is relatively straight-forward but those with a history of absences from the U.S. and lack of good moral character typically will need the assistance of an attorney to successfully complete this process.

NON-IMMIGRANT: As discussed in several sections above, non-immigrants are those people who come to the U.S. with temporary visa situations. Most non-immigrants must be able to establish to the satisfaction of the U.S. Consul and then the inspecting immigration officer at the border or airport that they have an intent to remain only temporarily in the U.S. and will depart at the end of the period of admission. There are several visas that carry what is called a "dual intent." This means that the foreign national is permitted to be both a non-immigrant and have possible immigrant intent. Notably these are the H-1B and the L-1 visas.

O VISAS: The O visas are those non-immigrant visas that relate to persons of extra-ordinary ability in the sciences, arts, education, athletics or business and their accompanying essential support personnel. With the quota on the H-1B visa stuck at 65,000, it is more important than ever to try to qualify potential clients in this category. The standard for this category of visa varies a bit depending on whether the field of endeavor is the performing arts, the fine arts or the remaining sciences, education, business or athletics. Essentially, the immigration service wants to see that these applicants are at a level of expertise that indicates that they are one of a small percentage of their peers who have risen to the very top of their fields of endeavor. For the arts the standard is slightly different and basically relates to distinction and a high level of achievement. The immigration service uses a laundry list of criteria as a tool by which to determine if one may qualify in this elite category. The trick here is to narrow the "field of endeavor" as much as possible so that the applicant is at the very top. The O visas also require a written consultation with a union or peer group to advise the immigration service that the foreign national is indeed extraordinary, and that there is no objection to having him or her come to the U.S. to continue to contribute those abilities to this country.

P VISAS: The P group of visas is essentially non-immigrant visas that were developed to create opportunities for professional athletes, athletic teams and entertainers. The P-1 is for athletes or entertainers who perform individually or as part of a group or team that is internationally recognized and/or who have had a sustained and substantial relationship with the group over a period of at least one year. P-2 visas are reserved for those performing artists or entertainers who are coming to the U.S. as part of a reciprocal exchange program, and P-3 visas are for those who seek admission to entertain, teach, coach or perform in a culturally unique program. The people who use these visas range from circus performers; individual athletes like golf professionals; athletes, whether in the professional, minor and amateur team sports; performers for the ballet, the orchestra or pop and rock bands; and the sitar player or belly dancers you may find at ethnic restaurants and stage shows. Just as with the O-1, a consultation with a union or peer group is normally required.

PARENTS: As mentioned above in our review of family immigration, only U.S. citizens can petition for their parents. Those parents fall outside of the immigration quota system and are "immediate relatives." This allows U.S. citizens to bring their parents to the U.S. relatively quickly and obtain permanent residence in the U.S. However, as with all family sponsored immigration, the U.S. citizen must show that he or she is (1) domiciled in the U.S. and (2) has sufficient income and/or assets to be able to ensure that the parents are "not likely to become public charges." Essentially, this all means that since family immigration is based on the concept of family reunification, the U.S. citizen son or daughter should be living in the U.S. and not abroad or what is the point of bringing the parents to live her in this country? And, particularly with the elderly, Congress is concerned that new immigrants to this country do not seek state-funded welfare-program benefits and that their adult children are going to ensure their financial support. The standard for this support is pretty low- 125% of the poverty income guidelines.

PASSPORTS: Those coming to the U.S. now need machine-readable passports. The passport is supposed to be valid for an additional 6 months at all times. There are certain countries whose passports are

considered to be automatically valid for 6 more months past the expiration date- at least for this purpose. That is a government regulation as part of the State Department's program. Those countries are: Algeria, Antigua and Barbuda, Argentina, Australia, Austria, Bahamas, Bangladesh, Barbados, Belgium, Brazil, Canada, Chile, Colombia, Costa Rica, Cote D'Ivoire, Cuba, Cyprus, Czech Republic, Denmark, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, Finland, France, Germany, Greece, Grenada, Guinea, Hungary, Iceland, India, Ireland, Israel, Italy, Jamaica, Japan, Jordan, Korea, Kuwait, Laos, Lebanon, Liechtenstein, Luxembourg, Madagascar, Malaysia, Malta, Mauritius, Mexico, Monaco, Netherlands, new Zealand, Nicaragua, Nigeria, Norway, Oman, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Russia, Senegal, Singapore, Slovak Republic, Slovenia, South Africa, Sri Lanka, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Sudan, Suriname, Sweden, Switzerland, Syria, Taiwan, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, United Arab Emirates, United Kingdom, Uruguay, Venezuela and Zimbabwe.

Q VISAS: These are unique visas which were commonly referred to as the "Disney" visas when first introduced a number of years ago, principally because they seemed to be set up so that only EPCOT Center could use them! The Q-1 is a non-immigrant visa for participation in an international cultural exchange program for the purpose of providing practical training, employment and the sharing of history, culture and the traditions of the country of the participant's country of nationality. See what I mean? Then there is the Q-2 visa which is a visa exclusively for someone 35 years of age or under who resides in Northern Ireland or certain counties in the Republic of Ireland and will come to the U.S. to participate in a cultural and training program for the purpose of providing practical training, employment and the experience of coexistence and conflict resolution in a diverse society. Such a limited range of people can qualify for these visas that it gives me new respect for Congressional lobbyists.

QUOTA: All permanent immigration is subject to an annual quota except for the immediate family category mentioned above. The quota is set by Congress and works on the federal fiscal year which runs from October 1 to September 30. The U.S. allows 480,000 family sponsored immigrants per year plus any unused employment based immigrant visas (like that would ever happen!) and 140,000 employment based immigrant visas plus any left over in the family category (never happen). No country is favored over any other, with each independent country getting allocated 7% of the total and 2% for dependent areas like colonies of foreign states. Because of this quota, there are often long lines for green cards and this leads people to try to qualify in more than one category. While no country gets more than its share of green cards, there is more demand from some countries than others. That leads to longer lines for people from countries like Mexico, the Philippines, India and mainland China. You are counted against the country of your birth, not your nationality so getting a passport from another country does not help. However, there is a little trick known as "cross-chargeability" which we immigration attorneys will use with a couple where one is from a country with no specific backlog and the other is.

R VISAS: R does not stand for Retiree. Amazingly enough we have no visa that will allow affluent people to come here to the U.S. and simply spend money to live here. Year after year groups like the National Association of Realtors and its bedfellows have proposed to Congress something called "the Silver Card" instead of a green card. But so far this idea has fallen on deaf ears. Which means that those who want to come and buy an expensive house, a few cars, put their money in a U.S. bank and throw more money around town have to find some other way to do that. Choices vary and include the B-1/B-2 visa, the E-1 or E-2 visa, the H-1B visa, and/or the F-1 visa. Which brings us to the R-1 visa which is not for retirement but for religious workers. These visas are for people who have been a member of a particular religious denomination for at least the past 2 years and will be coming to the U.S. to work with their church, temple, synagogue, mosque, etc. or any religious organization associated therewith for a temporary

period of time. The work must not be purely administrative; it must relate to the religious activity. The work can be paid or volunteer, full or part-time. And you can use this visa for up to 5 years. Recently the immigration service has become suspicious about the use of these visas and now insists on an on-site investigation conducted by the Department of Homeland Security before it will permit a religious organization to sponsor someone for the R-1 visa. But these visas, at least at the moment, may be initiated from the U.S. Consulate just like the E visas and do not require any prior immigration service approval. That may change.

RE-ENTRY PERMIT: This is a travel document that looks just like a U.S. passport except that the cover is a beautiful shade of aqua turquoise blue. You must be a permanent resident to apply for one, and that application must be made while you are physically present in the U.S. It allows you to travel exclusively as a permanent resident and is one indication that when you return to the U.S. you do so as a permanent resident. It can be valid up to 2 years. What it does not do, is guarantee your readmission to the U.S. as a returning permanent resident. It adds to the pile of evidence that you are maintaining your permanent residence in the U.S. while you are temporarily abroad, but in and of itself it is not enough. Once the U.S. government gives you permanent residence, this is supposed to be your home. You live here, work here, send your kids to school here, and pay your taxes here. Some people seek permanent residence as a safety net to catch them when the situation in their home countries becomes unbearable. If you are not living here, you can still be temporarily admitted as a permanent resident and then you will be sent for hearing in front of an immigration judge who will decide if you are indeed entitled to permanent residence in the U.S. Trying to have a foot in 2 places is a dangerous and impractical game.

REFUGEE: A refugee is someone who has been given asylum in the U.S. Refugees are processed while they remain outside of the U.S. In that manner they differ from asylees who come to U.S. soil and then ask for refuge/asylum. The same standards apply as to a well-founded fear of persecution based on race, religion, nationality, membership in a particular social group or political opinion. Refugees are permitted to seek permanent residence in the U.S. one year plus one day after being granted refugee status. Refugees and asylees are also eligible for certain extra but temporary government benefits. They do not, however, get a new car, a big screen color TV and whatever high-end consumer goods that the media likes to make you think they get.

S VISAS: These temporary visas are granted to people who have critical and reliable information relating to a criminal organization, are willing to supply this information to aid in prosecution, and the government believes their testimony and/or assistance is essential to the success of an on-going investigation. Only 200 people per year can be granted the S visa and it goes without saying that you are not getting one unless you have the backing of the key government players who need you. And often, once they are done with you, they forget about any promises to help you stay in the U.S.

SOCIAL SECURITY: It is the Department Homeland Security and its immigration services division that grant permission to work in the U.S. - not the Social Security Administration. However, if you think we don't have a national ID card, try doing anything in this country without a Social Security number and/or drivers license. The social security agency has become very tight when it comes to granting social security cards and numbers to people who are not permanent residents or citizens of the United States. Gone are the old days where you could get a social security number to open a bank account, for example. Those foreign nationals who enter the U.S. on visas that automatically permit a certain prescribed range of work, like the H-1B or the L-1 for example, will then go to the social security agency and present their passports and immigration documents to apply for a social security number with which to be able to go on the employer's payroll. Family members who are not granted employment permission can apply to the IRS for an individual tax payer ID number (ITIN). There is always an ever-increasing scrutiny of matching social security numbers to actual human beings, and the U.S.

government has tried repeatedly to catch illegal immigrants through the use of fraudulent social security numbers. Lately, these efforts are working so this is an area in which foreign nationals need to take extra precautions.

SPECIAL IMMIGRANTS: Special immigrants fall into the fourth preference category of employment-based green cards. They include: people seeking reacquisition of citizenship and/or returning permanent residents; certain religious workers; employees of American Consulates or other U.S. Government entities; and others such as court dependents, special juveniles, military personnel, and NATO staff.

STATUS: Immigration people talk about "status" all the time. This simply relates to the condition of one being in the U.S. You can be "in status" or "out of status." If you are out of status then you have none and it can't be changed to some other status. "Maintaining" your proper status gives you flexibility and options to ask the immigration service to change you to some other classification or status. While one can hold numerous types of visas, you can only use one at a time for admission to the U.S. and when you do so, you are granted a "status." Thus, you can only have one status at a time. Welcome to the bizarre world of immigration. Simple, no?

T VISAS: Congress allocates up to 5000 visas each year for those people who have been subject to severe trafficking, are physically present in the U.S. and have complied with investigation and/or prosecution of trafficking crimes. These people are granted permission to remain in the U.S. in T status and can, if lucky, apply for green cards and adjustment of status.

TAXES: I am often asked about the "180 day rule." This is a tax regulation and not specifically an immigration rule. However, people who will spend 180 or more days in the U.S. in a calendar year, regardless of whether they are here as visitors or working, should consult an international tax advisor to determine if they are subject to U.S. taxation on their worldwide income. Tax law is just as complex as immigration law and requires an expert opinion and guidance from a qualified tax professional.

TN VISAS: TN visas are based on the North American Free Trade Treaty (NAFTA) between the U.S., Canada and Mexico. The treaty has numerous provisions that impact on immigration choices but the ones that we will review here are related to professional employment of Mexican and Canadian citizens in the U.S. The treaty allows for certain occupations to be placed on a specific schedule and for those persons who are coming to perform those duties for U.S. employers to be permitted to come to the U.S. This is a significant advantage for Canadians and Mexicans in certain occupations. Those include: accountants, actuaries, architects, computer systems analysts, disaster relief claims adjusters, economists, engineers, foresters, graphic designers, hotel managers, industrial designers, interior designers, land surveyors, landscape architects, librarians, management consultants, mathematicians, medical and allied professionals, range managers, research assistants, scientific technicians, scientists, social workers, sylviculturalists, technical publications writers, urban planners and vocational counselors. The medical field includes: dentists, dietitians, medical technologists, nutritionists, occupational therapists, pharmacists, physicians (teaching or research only), physical therapists, psychologists, recreational therapists, and registered nurses. The scientist field includes: agriculturists, agronomists, animal breeders, animal scientists, apiculturists, astronomers, biochemists, biologists, chemists, dairy scientists, entomologists, epidemiologists, geneticists, geochemists, geologists, geophysicists, horticulturalists, meteorologists, oceanographers, pharmacologists, plant paleontologists, physicists, plant breeders, poultry, soil scientists and zoologists.

U VISAS: Similar to the "T" for trafficking visa, Congress allows up to 10,000 visas for those people who can show that they have suffered substantial physical or mental abuse as a result of having been a victim of certain criminal activity, and have reliable information as to those involved in such activity, and can be

helpful in prosecuting this activity where this activity occurred in the U.S. or its military installations abroad.

UNLAWFUL PRESENCE: This section could also have been included under "T" for 3 and 10 year bars. We referred to this where we talked about adjustment of status above. In 1996 when Congress enacted the current manifestation of our immigration law it included a new category different from "status" and called this "unlawful presence." Unlawful presence is acquired at certain times throughout one's stay in the U.S., and the clock stops and restarts at a variety of times. Over the years immigration attorneys have been successful in whittling away exceptions to unlawful presence, and this area has become quite complex to manage. But management is critical. Essentially, when one is admitted to the U.S. in a specific status (there's that word again) one is granted a Form I-94. This is a little card that the immigration officer inserts into your passport. (It's usually white but can also be green making it a "green card" just to keep the confusion circulating!) The I-94 card has an expiration date. If you stay in the U.S. past that date you may be accumulating unlawful presence, unless you apply to the immigration service to extend or change that date and consequently your status. At any rate, if you overstay that date by 180 days or more and then you depart the U.S. for whatever reason, you are barred from reentering the U.S. for at least 3 years. And if you overstay by more than one year and then depart, you are barred from reentering the U.S. for at least 10 years. Of course, if you don't leave then you can't be barred. So does this encourage anyone to leave? Not in my book. Unlawful presence is a crucial component of developing a workable immigration strategy for anyone in the U.S. and must be treated very seriously despite the fact that it is a joke.

V VISAS: These visas were an attempt from Congress to try to alleviate family separation due to the backlog in the quotas system. They are reserved for spouses and children of permanent residents if the permanent resident filed the sponsorship papers for the spouse or child before December 21, 2000 and if those papers have been pending more than 3 years or, more notably at this point in time, if the sponsorship papers have been approved but 3 or more years has passed and the applicants are not yet eligible to claim their green cards due to the backlog in the quota system. Such persons can file for this visa status while in the U.S.

VAWA: This acronym stands for the Violence Against Women Act, but in spite of the title, it does not apply only to women. This law was enacted by Congress to prohibit U.S. citizen and permanent resident spouses from abusing their foreign wives or husbands and then intimidating them and threatening to end their immigration process if they do not comply with their demands. It allows the battered spouse to proceed with the green card process in spite of the lack of cooperation from the abuser. In general, the immigration service is sympathetic to these claims and sets the standard relatively low and physical violence is not required to establish abuse. Those who file self-petitions under this law are also eligible for certain welfare benefits.

VISA: I often get calls from potential clients in a panic because their visas are about to expire. A visa does not control your permission to be in the United States. A visa is simply the stamp in your passport put there by a U.S. Consul. It serves as an application to enter the U.S. It must be valid and unexpired on the day that you are presenting yourself at the border or airport to come in to the U.S. It should be in the correct classification consistent with your intended purpose to enter the U.S., i.e. if you are coming to work then it should be some sort of work visa; if you are coming to go to school, it should be a student visa, etc. Now, once you successfully are admitted to the U.S. you get that Form I-94 card we discussed above. It is the Form I-94 card that controls your authorized period of stay in the U.S., both the time you are permitted to remain in the U.S. and the status in which you have been admitted, which in turn controls what activities in which you are permitted to engage. Therefore, the visa expiration date is of no consequence once you enter the U.S. but is only important if you are planning to travel out

of the U.S. and seek re-admission. Now, if the I-94 card is expiring, that's another matter and requires you to take immediate action. Also, by the way, Canadians are the only people who do not need visas to enter the U.S., except for visitors using the Visa Waiver Program . . .

VWP: This acronym stands for the Visa Waiver Program. Years ago the State Department, which is in charge of the U.S. Consulates abroad, decided that it was very expensive to continue to host numerous Consular officers in mostly western European countries where the cost of living was relatively high. And it occurred to them that all these officers were mostly doing was rubber-stamping a high percentage of all applications for visitor or tourist, B-1/B-2, visas because people from those countries did not have a pattern and practice of violating our immigration laws and thus their applications were largely approvable. So, it petitioned Congress to enact this provision in the law that allows people who are citizens of certain countries to simply get on a plane bound for the U.S. without having the hassle of going to a U.S. Consulate and seeking a visitor visa. It waived the visa requirement. However, in exchange for that privilege, those people are restricted to a 90 days stay in the U.S. with no extensions or changes to that status permitted. This is both a good deal and a bad deal. If you bother to get an actual visa, that is if the Consul will condescend to give you one now that you don't technically need one, then you can be admitted to the U.S. for 6 months instead of 3 months, and you have some flexibility to ask for an extension of that time if your plans change or to seek a change to some other visa status classification, such as if you decide that you want to make a business investment or someone offers you a wonderful employment opportunity that you'd rather not pass up. Citizens from the following countries can use the VWP: Andorra, Australia, Austria, Belgium, Brunei, Denmark, Finland, France, Germany, Iceland, Ireland, Italy, Japan, Liechtenstein, Luxembourg, Monaco, Netherlands, New Zealand, Norway, Portugal, San Marino, Singapore, Slovenia, Spain, Sweden, Switzerland and the United Kingdom. There are several other countries up for inclusion, notably the Czech Republic, and some that have been removed from the list, notably Argentina.

WAIVERS: A waiver in immigration law is essentially a forgiveness of some condition that prevents you from seeking some sort of benefit. Sometimes a waiver may be a permanent forgiveness and sometimes it may only temporarily forgive some behavior. Waivers come in many shapes and sizes. The most common ones that clients need are: waivers of some sort of criminal conviction that prevents one from being admitted to the U.S.; waivers of the three or ten year bar to being readmitted to the U.S. under the unlawful presence system; waivers of a communicable disease condition that would prevent you from being admitted to the U.S. such as HIV; waivers for having lied to the government; waivers to avoid the required vaccinations; and those to waive the privileges and immunities you may have had pursuant to a treaty and your admission to the U.S. with the A, G or E visas. Some conditions are able to be waived and others not. Since 1996, fewer waivers have become available and it's always much better to avoid a behavior or condition that will need to be waived than to seek a waiver that may be denied.

XENOPHOBIA: According to Webster's English Dictionary, this is a dislike or fear of strangers or foreigners. As our culture becomes more diverse, people tend to get nostalgic for the old ways and old days. As our economic situation worsens and the pie becomes smaller, people tend to want to stop sharing the pie and get stingy about how big a piece they have. Immigrants have long been our favorite scapegoats when things look bad. Xenophobia has been on the rise for some time now. Enough said.

YOUTHFUL INDISCRETIONS: For criminal acts committed while under 18 years-old where one is not convicted but "judged delinquent," those indiscretions are not considered to be convictions and therefore do not make one "inadmissible" to the U.S. Then again, just being a minor under 18 when the crime is committed does not automatically equate to juvenile delinquency. Serious crimes like murder, manslaughter, or rape are not "youthful indiscretions."

ZOMBIES: Although we have various visa and immigration possibilities for "aliens," we do not yet have any for zombies. The walking dead will just have to increase their lobbying efforts. We'll see what the future will bring.

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