



FRAGOMEN

Fermilab Immigration Q+A

June 29, 2023

Date

FRAGOMEN - WHO WE ARE



Largest and leading global immigration firm



Strongest global immigration network across 170+ countries



4,700+ professionals including 625+ immigration lawyers



Deep legal expertise in immigration and global mobility



More than 6,500 corporate clients



Market-leader in advisory & consulting



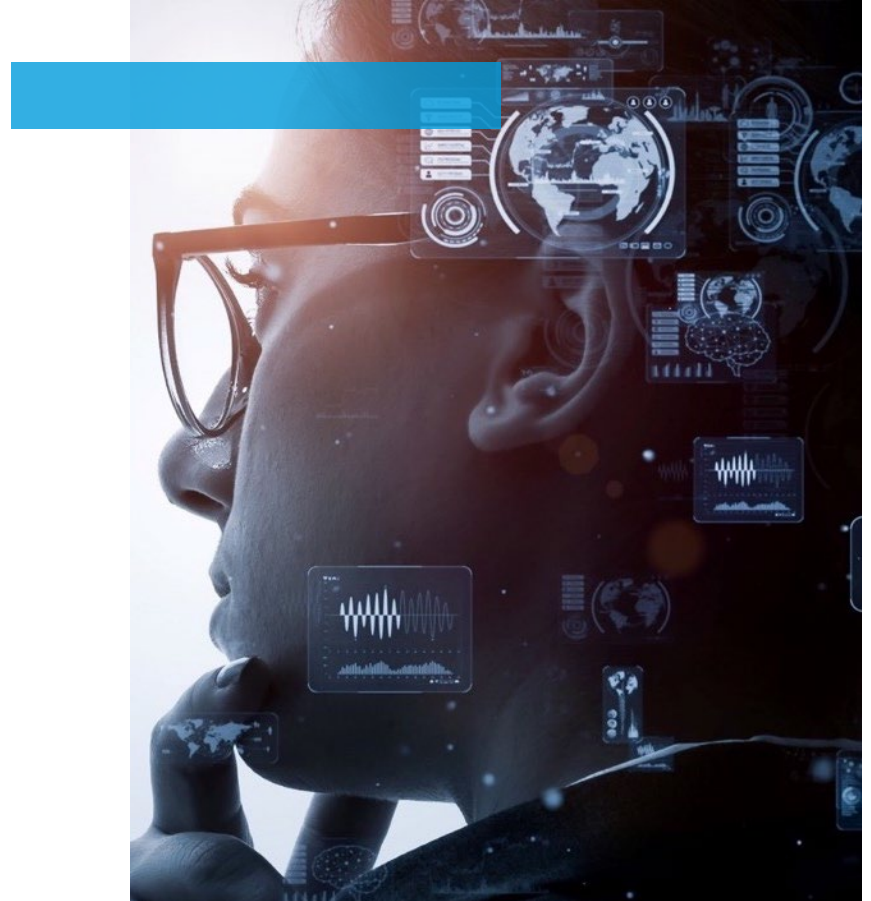
Pioneer cutting-edge immigration technology solutions



More data than any other firm

Updates And Trends

- ▶ End of Covid restrictions for US-inbound travel, but consulates remain backlogged in many parts of the world
- ▶ H-1B lottery problems – stay tuned for updates on next year’s lottery
- ▶ Public comment period for significant increases in USCIS filing fees ended in March
- ▶ Premium processing continues to expand
- ▶ Visa bulletin may not advance until October
- ▶ DOL processing times remain extremely long
- ▶ EAD lawsuit settlement provisions provide opportunities for workers in dependent status, but terms for H-4 spouses are somewhat limiting



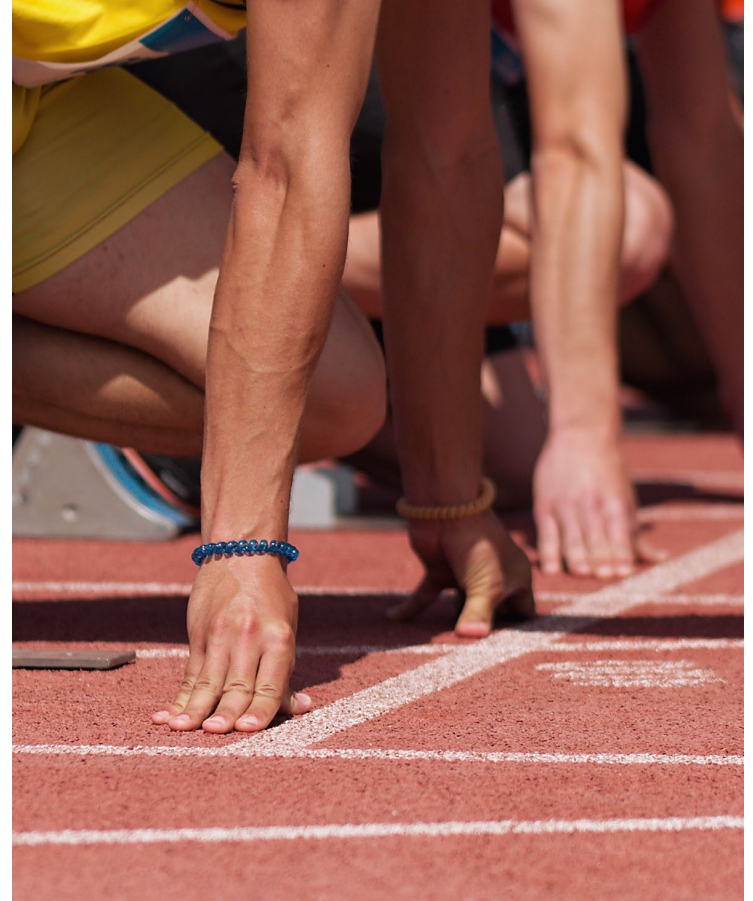
Self-Sponsorship Permanent Residency Categories

▶ **EB-1 Extraordinary Ability:**

- One of the small percentage at the top of field
- Sustained national or international acclaim

▶ **EB-2 National Interest Waiver:**

- Proposed endeavor has both substantial merit and national importance
- Well positioned to advance the proposed endeavor
- Beneficial to the US to waive the job offer and thus permanent labor certification requirements.



EB-1 EA vs. EB-2 NIW

EB-1 EA

- Avoids labor certification
- Allows self-sponsorship
- Very high standard
- National benefit not reqd.
- Specific criteria to meet
- Quasi-objective standard
- No quota backlogs

EB-2 NIW

- Avoids labor certification
- Allows self-sponsorship
- Relatively high standard
- Benefit must be national
- More flexibility on evidence
- Subjective standard
- India & PRC quota backlogs



Extraordinary Ability Criteria

- Must have at least 3 of following:

Awards for excellence

Membership in organization requiring outstanding achievement

Articles about employee

Judging work of peers

Original contributions of major significance

Publications by employee

Leading/critical role in organization with distinguished reputation

High salary relative to peers

Work displayed in artistic exhibitions*

Commercial success in performing arts*

*Comparable evidence

- In lieu of 3/10 criteria, a major, internationally recognized award (e.g. Nobel Prize) will satisfy the requirement
- Qualitative (comparative) analysis/evidence taken as a whole must indicate extraordinary ability



Documentation for EB-1 EA and EB-2 NIW Cases

▶ **Expert letters** (professional associations, employers, PhD advisers, government, etc.)

- Establish contributions to field

- Detailed and Specific

- In laymen's language

- Concrete examples

- Explain significance/benefit

▶ **Other Documentation**

- CV, list of publications, copies of degrees & transcripts

- Copies of publications & patents

- Citation list and copies of citing articles

- Copies of press or articles about employee work

- Copies of awards (criteria, significance, reputation)

- Membership documentation & membership criteria

- Peer reviewing of articles & judging awards/grants

- Impact factors of publishing & citing journals

- Conference participation (organizer or speaker)



Case Processing Steps

▶ Case preparation

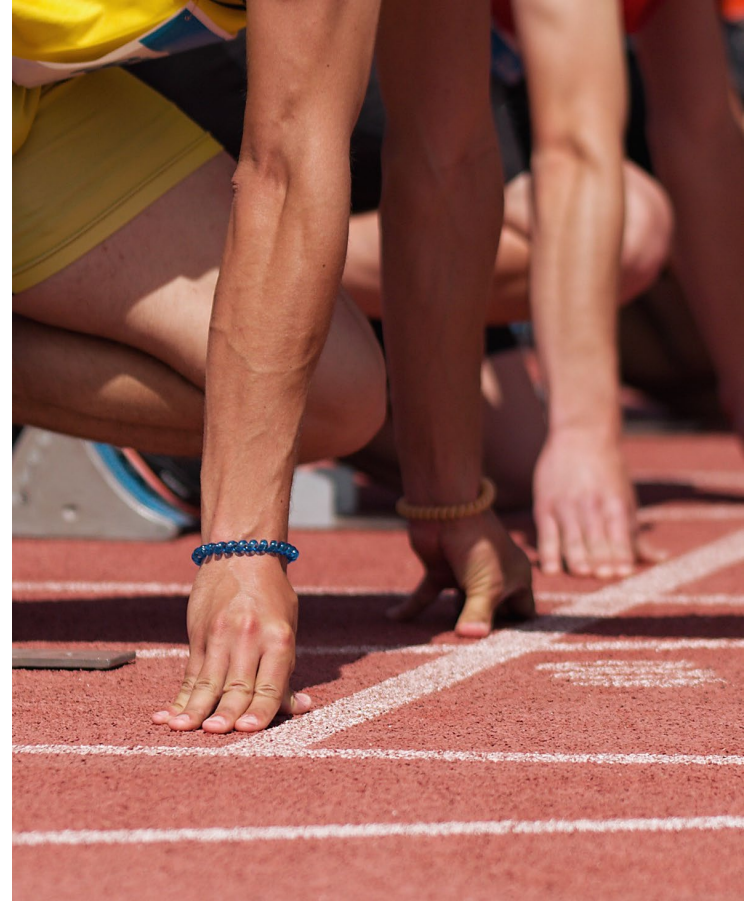
- Document gathering
- Collecting expert letters
- Case drafting

▶ I-140 Immigrant Visa Processing

- Variable based on USCIS processing times (<https://egov.uscis.gov/processing-times/>)
- Premium processing is available for both case types
- Add more time if a Request for Evidence (RFE) received

▶ I-485 Adjustment of Status (AOS) Processing

- Variable based on USCIS processing times Premium processing not available
- Option to concurrently file alternative forms of work and travel authorization (EAD and AP)
- File for Dependent Family Members at this Stage
- Potential to file this step concurrently with the I-140





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THANK YOU