



Removal Defense

Online Course

American Immigration Lawyers Association

Module 5: Waivers and Relief: Technical Aspects Impacting Eligibility

Sample Letter to Client: Evidence Required for Discretionary Waiver Before the Immigration Judge

Date

Mr. XXXXXX
[Address]

Re: YOUR IMMIGRATION COURT CASE

Dear XXXXX:

Thank you for coming to meet with me and discuss your immigration court case. I am enclosing detailed information about the documents and information we will need to prepare your application for cancellation of removal for permanent residents or the application for a waiver under 212(h) of the Immigration and Nationality Act (INA).

As we discussed during our meeting, you appear to be eligible for both forms of relief.

The waiver under 212(h) requires us to show that your U.S. citizen mother will experience extreme hardship if you are removed from the United States. The extreme hardship requirement can be difficult to meet, although we discussed a number of issues facing your mother that would help us to meet this requirement. The filing fee for the 212(h) waiver is \$930.

The application for cancellation of removal for permanent residence requires us to show that you have been a permanent resident for 5 years, that you have resided continuously in the United States for 7 years after being admitted in a lawful status, and that you do not have any conviction(s) that would be considered “aggravated felonies” under the immigration laws. There is no requirement of extreme hardship and the filing fee is \$185. Cancellation of removal can only be granted one time, which means that if you have any future difficulties with the law, you will not be able to ask for cancellation of removal again.



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Both applications require you to also show that you deserve the favorable exercise of discretion; that is, that you deserve to be granted relief.

Your final (individual) hearing is scheduled for [date]. We need gather evidence to support your application for relief. Please review the following list carefully, and send me as much documentation as possible by no later than [date]. All evidence in your case must be filed with the Court no later than [date].

I understand this list is very long. The more evidence you provide, the stronger your case will be. Please feel free to provide any evidence you think the Judge should consider in your case, even if it is not on this list.

1. Your Identity Documents

- a. Birth Certificate (with English translation)
- b. Green card (or copy)
- c. A copy of your current passport
- d. Marriage Certificate
- e. Divorce Decree(s)
- f. A copy of your driver's license

2. Family and community ties

1. Birth Certificates or naturalization certificates for any US Citizen (USC) or Legal Permanent Resident (LPR) family members (spouse, parent, child, sibling, or grandparents)
2. Evidence of home ownership (mortgage statement, deed, etc.) or evidence of rental home (lease agreement, rental receipts)
3. Photos with family and/or friends in US (all photographs should be labeled with date, place, and who is in the photo)
4. Pay stubs or employment verification letter
5. Awards or certificates from community organizations or volunteer organizations

3. Documentation of Your Length of Residence in the U.S.

1. A copy of the passport, visa, I-94 used to initially enter the United States
2. Copy of federal income tax returns for all years filed
3. Most recent social security earnings statement
4. School records (elementary school, high school, vocational school, community college, university, etc.)

4. Documentation of any medical problems for you, your USC mother, your USC grandmother and/or your USC brother

1. Copies of medical records, appointments notices, lab reports, prescriptions, insurance cards or bills



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2. Letter from physician describing medical condition(s) and current prescription(s)
 3. Evidence that you are a caretaker for a close family member with a disability or illness
 4. Psychological records, demonstrating stress or psychological hardship to you or to a close family member (spouse, child, parent or sibling) (*I can provide you with contact information for a psychologist or therapist who can provide such an evaluation. This would be valuable if you apply for a 212(h) waiver and need to prove extreme hardship to your mother.*)
 5. Documentation (news articles, reports) showing lack of medical care available in your home country
- 5. Good moral character**
1. Record of paying taxes (tax transcripts can be obtained from the IRS)
 2. Evidence of any charitable work, donations, community service, or membership in a religious community or organization
 3. Character reference letters from co-workers, employers, pastors or religious leaders, etc. (I can provide samples or review draft documents if requested)
 4. Academic transcripts, awards, scholarships and accomplishments
 5. Evidence of completion of probation and rehabilitation (see “Criminal History” below)
- 6. Lack of family ties and current conditions in your country of citizenship**
1. Letters from family in US describing close family relationships
 2. Evidence of family members’ immigration status in the United States (USC, LPR)
 3. Evidence showing you no relatives or few relatives in home country
 4. Evidence of pervasive violence, high rates of unemployment, low wages, or other issues that would cause hardship if you returned to your home country
- 7. Documentation of immigration history**
1. Any U.S. immigration documents not already in our files: for example, approval notices, receipt notices, copies of visas or arrival stamps, I-20’s, etc...
 2. Note: if you have been a victim of a crime in the United States, please send me details of the incident and/or police reports.
- 8. Criminal History**
- a. Obtain a record report from the California Department of Justice. Please go to <https://oag.ca.gov/fingerprints/security> and follow the instructions on how to obtain a copy of your criminal records. Make sure to list “record review” as the reason for your request.



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- b. Evidence of rehabilitation, including completion of sentence, probation or parole, anger management classes, AA, payment of fines, etc.

9. Letters of Support / Witnesses: Start identifying people who can act as witnesses and provide sworn affidavit and be willing to testify at your final court hearing. Witnesses should include family members, friends, and/or community members who have actual knowledge of the issues in your case. In particular, we need:

- People who have actual knowledge of your mother's health conditions and the difficulties she is experiencing with your brother;
- People who have actual knowledge of the emotional, financial and/or physical hardships that would occur to your mother if you are not allowed to remain in the United States;
- People who have actual knowledge of your grandmother's medical health conditions, the support and help you provide to your grandmother, and the impact it would have on her (and your mom) if you were not here to help out;
- People who have actual knowledge of your past including your convictions, your rehabilitation and efforts to turn your life around, your abusive ex-husband, and your current good moral character;
- People who have actual knowledge of your entry to the United States at a very young age and/or your lack of substantial family ties in Mexico;

If there are other issues in your past that we have not yet discussed, but that you think are important, please let me know. We can discuss potential witnesses regarding other events in your life or the lives of your close family members.

I will provide potential witnesses with guidance on writing affidavits. I will also prepare any witnesses for their testimony when the time comes.

Finally, note that any foreign-language document we file with the Immigration Court must be translated into English. You do not need to use a professional translation service. The translation can be done by any person who is fluent in both English and the language of the document. Please see the following page for more guidance on translations.

If you have any questions or concerns, please do not hesitate to contact me at any time.

Warm Regards,
XXXXXXXXXXXX

Attorney at Law



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Translation Requirements and Guidance

Any document containing foreign language must be accompanied by a full English language translation. 8 CFR §103.2(b)(3). The translation must be certified, meaning it must include a statement signed by the translator stating that the translation is complete and accurate, and that the translator is competent to translate from the foreign language into English. For example:

“I, _____, hereby certify that I translated the attached document from _____ into English, and that the attached translation is complete and accurate to the best of my abilities. I further certify that I am competent to translate from _____ into English.”

Signature
Name
Address:
Phone #:

The translator should NOT be an individual identified in the document, the person seeking the immigration benefit, a sibling, or immediate family member.

There are many translation agencies that can provide certified translations for a fee. Here is the contact information for a couple of translation services from whom you may wish to seek a quote:

The Trustforte Corporation
271 Madison Ave, New York NY 10016
Telephone: (212) 481-4870
Facsimile: (212) 481-4971
Email: info@trustfortecorp.com
<https://www.trustfortecorp.com/TranslationServices.html>

Language Connections
service@languageconnections.com
Phone: 1-877-731-6332
<http://languageconnections.com/translation-services/document-translation-services/>