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Mock Naturalization Interview

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NATURALIZATION CONSULTATION GUIDE

There are important questions and considerations that a consulting attorney must address when meeting with a prospective client (“PC”) that is interested in applying for naturalization. The following questions facilitate an assessment of a PC’s eligibility for naturalization and aid the attorney in spotting potential issues that may arise during the U.S. Citizenship and Immigration Services’ (“USCIS”) review of the application.

Based on the client’s eligibility to proceed with a naturalization application, the attorney develops a plan of action to properly submit the application for naturalization with all supporting documentation and advocate for the client through the interview and rest of the naturalization process.

Is PC already a U.S. citizen based on derived or acquired citizenship?

If the PC reveals that they have U.S. citizen parents, the attorney should evaluate the possibility of derived or acquired citizenship. Acquisition of citizenship means that a person was born a U.S. citizen, even though they had a birth abroad, due to one or both of their parents’ status as a U.S. citizen. Derivation of citizenship means that a person obtained U.S. citizenship along with their parents, after the person was born. See INA §§ 301, 209, 320, and 322.

Depending on the relevant section that may apply to the PC’s case facts, the attorney must assess whether the PC will be able to provide the required evidence to prove their claim to citizenship. Often, the evidence is no longer available to the PC, and may not be obtained through third party sources, like a FOIA request. If naturalization remains the more advisable path, it is important for the attorney to be prepared to explain to the interviewing officer why the PC proceeded with the naturalization application instead of requesting a certificate of citizenship.

Does the PC have the language skills to successfully complete a naturalization interview?

Section 312(b) of the Immigration and Nationality Act (“INA”) provides the applicable exemptions and an exception to the English and Civics educational requirements based on an applicant’s age and time in the United States as a lawful permanent resident (“LPR”) or if a medical disability exception applies. The age and time as an LPR are calculated at the time of filing as clarified in the Form N-400 instructions. The Form N-400 also provides a quick reference on page two of the current 09/17/19 E form edition.

If the PC does not fall under an exemption from the English language requirement, the attorney should respectfully practice some conversational English during the consultation to ensure that the PC can understand and respond to questions. The attorney should kindly advise that this is how a U.S. Citizenship and Immigration Services (“USCIS”) interviewing officer will test the PC’s English language skills at the naturalization interview, accordingly it is best practice for the PC to

determine if they are ready for the examination or if they need to invest some time practicing their English skills or wait until they are eligible for an exemption based on their age and LPR.

How did the PC become an LPR?

The attorney should become familiarized with how the PC obtained LPR status to ensure consistency across all applications the PC has previously filed with the relevant immigration agencies. For example, the PC could have previously submitted applications with not only USCIS, but also U.S. Immigration and Customs Enforcement (“ICE”), U.S. Customs and Border Protection (“CBP”), or the U.S. Department of State (“DOS”) in their path to LPR status. This is important for the attorney to consider because the interviewing officer is not only examining an applicant’s naturalization application, but also the entire immigration history as found in the applicant’s “A-File.” See USCIS Policy Manual, Volume 12, Part B, Chapter 3.

A good starting point for the attorney is to refer to the category listed on the PC’s “green card” to have an idea of what path to LPR status the PC undertook based on their class of admission. The U.S. Department of Homeland Security (“DHS”) website has a quick reference guide here: <https://www.dhs.gov/immigration-statistics/lawful-permanent-residents/ImmigrantCOA>.

Depending on the complexity of the PC’s path to LPR status, the attorney will decide how closely they need to review copies of the PC’s immigration documents and filings. The attorney should request all documents the PC has readily available for review including the green card, past employment authorization documents, passports, civil documents, criminal documents, and other immigration documents they have filed with or received from any immigration agency. If the PC does not have access to these documents, but the attorney determines a thorough review is necessary, a Freedom of Information Act (“FOIA”) request should be considered to obtain a copy of the PC’s file with the proper immigration agency. A FOIA request with the USCIS National Records Center may be filed online to obtain a copy of the PC’s complete “A-File.” The PC may not want to delay their naturalization application to file a FOIA request, but it is vital for the attorney to stress the importance of having these documents if the PC’s case is particularly complex. The consultation stage is an excellent opportunity for the attorney to educate the PC on the risk of going in “blind” to a naturalization interview and explain that obtaining a copy of the PC’s record can help anticipate issues to adequately prepare for the case.

Does PC’s history raise any good moral character (“GMC”) or deportability concerns?

An applicant for naturalization must demonstrate GMC during the statutory period and through the Oath Ceremony. But conduct outside the statutory period may also be considered by the interviewing officer and affect an applicant’s eligibility for naturalization. See INA § 316(e). Therefore, the attorney must evaluate the PC’s complete history to properly advise on applying for naturalization.

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