



## Immigration Law

[Erica Winter]

We talked to several immigration attorneys to find out the good (it can be very rewarding) and the bad (it can be very frustrating) parts of practicing in this field. Find out what they had to say and how you can break into this specialty.

Some lawyers choose to specialize in immigration law. In some cases, the immigration specialty chooses the lawyer. Still, all of them agree: if you do immigration law, that's the only kind of law you do.

If you are thinking of moving into this specialty, though, you can get a lot of variety in your practice nonetheless. Since you deal with federal law, you can practice anywhere in the country - not just on the borders or the coasts.

As you'll hear from the immigration lawyers we spoke with, your practice can include any combination of asylum, family, and/or business immigration issues. Plus, with the immigration laws themselves changing every few years, there is a great deal of research and updating to be done in this specialty.

And, the federal bureaucracy, combined with a negative shift in attitude towards immigration to the United States, can make the practice frustrating - but all the more rewarding when you succeed.

To put it mildly, you will not be bored.

### **Three specialties in one: asylum, family, business.**

Helping those seeking asylum in the United States can be highly rewarding, says Andrew Koerner, an immigration attorney with Leaf & Associates, Miami. (We also spoke with him for our article on practicing law in Miami.)

Before heading south to Florida, Koerner

worked on asylum cases with a firm in New York City. In order to be granted asylum in the United States, basically, a person must prove that he has been persecuted in his home country already, or prove that he has a well-founded fear of persecution if he returns there.

In order to prove these things, a lawyer must interview the client at length, and get highly specific details of some horrible experiences. Koerner, an alumnus of the Benjamin N. Cardozo School of Law in New York, started doing asylum work in a law school clinic. He joined a firm after graduation and continued the work, which was "extremely rewarding," he says, when applications were approved. Still, with five or six cases going at once, and with a steady flow of stories of torture, "it was hard to let go" at the end of the day, says Koerner.

Family immigration issues drew Kevin Dixler into immigration law, and kept bringing him back to it. Dixler, in solo practice in Chicago for the past 11 years, was a paralegal for an immigration attorney before attending the John Marshall Law School in Chicago.

Dixler's wife, who is from the Philippines, petitioned for citizenship in 1987, having been a permanent resident of the U.S. since the 1970s. Dixler was doing some personal injury work when he set out on his own legal practice, but people kept asking him immigration questions, and eventually he refocused his practice back to that specialty. "It just turned out that way," he says.

Gus Shihab was an engineer and decided to take a class on legal issues in construction, and "loved it!" he says. He decided to change careers, and went to law school at night at Capitol University Law School in Columbus, Ohio. Originally, he thought of doing patent work, but, graduating at 31, he felt he did not want to start at the bottom in a large firm. "I was too old for that." So, he and his brother, already an attorney, started Shihab & Shihab 11 years ago. "I didn't send out one résumé."

Immigration work is rewarding because you bring people together, especially families, says Shihab. He likes to fulfill people's dreams, he says.

It takes time to develop the skill of managing your clients to ensure that they get information they need, but don't constantly call you day and night to ask for it. You need to give the clients help with having more realistic expectations, says Shihab. Also, you can express to them that your time is valuable.

And this may be easier to express to clients than to the government.

After realizing he needed to shift away from asylum cases, Koerner decided to move to Miami and joined a firm doing business immigration work - in which there are other challenges to bringing people into the country.

This side of the specialty involves bringing people into the country to work here. Many of Koerner's clients apply for "extraordinary ability" status, which is one way that

people can justify the need for them to be in this country, and to show that it is in the best interest of the United States for them to immigrate.

The thing is, some of his clients' abilities are so extraordinary that the naturalization officers assessing the application do not understand what it is the person does, or, in some instances, the rules that pertain to the individual's situation.

For example, Koerner recently filed an application on behalf of one of the world's few experts on liquefied natural gas. He included letters from senators, from CFOs of oil and gas companies, and from liquefied natural gas experts, in addition to pages of information on how this person's skills would benefit the country.

These applications often run over 500 pages. Essentially, an immigration attorney tries a case - a case for someone to enter the country and stay - in writing. The case is presented to "a jury of one," says Koerner. Sometimes the "jury," a naturalization officer, is well-versed on the issues at hand. One frustrating part of this specialty is that sometimes, the "jury" is not.

For this particular application Koerner filed - called a National Interest Waiver - the lawyer must show that the client has skills that are of intrinsic merit, are national in scope, that his job will have a positive impact, and that this person, specifically, is exceptional.

These standards, says Koerner, come from a 15-page federal case known simply as "The Matter of the New York Department of Transportation," with which experienced immigration attorneys are intimately familiar. The standards for this particular application do not come from immigration laws themselves.

After filing the application, Koerner received a Request for Evidence (RFE) from the naturalization officer, stating, essentially, 'how do I

know this person is extraordinary? How would he affect the nation?'

"Either they didn't read [the application], or they didn't understand it," says Koerner.

Of course, many naturalization officers have extensive experience, do very good work, and do understand the regulations and laws pertaining to immigration applications that they review. Yet the naturalization officers who do not understand the laws or the issues involved with the application they are assessing are also part and parcel of practicing immigration law.

Much of what once was the Immigration and Naturalization Service (INS) is now U.S. Citizenship and Immigration Services, and part of the Department of Homeland Security (DHS). The USCIS itself is "grossly under-funded," says Koerner. Like any bureaucracy, USCIS staffers may not have enough time to examine each application thoroughly. Also, sometimes USCIS seems to hire naturalization officers who are not knowledgeable of the laws. And sometimes, there are even temps reviewing immigration applications.

[We made several attempts to talk with attorneys who have jobs at USCIS, but the agency declined to comment for this article.]

Naturalization officers used to be naturalization attorneys, says Paul Gilbert, who filled one of those posts at the INS from 1977 to 1981. That year, the INS started to phase out lawyers as reviewers of applications. Gilbert, an immigration attorney in private practice since 1982, spent his last year at INS prosecuting deportation cases.

Gilbert, who went to Rutgers Law School, started to feel sympathy for the people sitting at the other table while prosecuting these cases. In 1981, he was sent to a U.S. detention camp in Puerto Rico for a case. The conditions at the camp, where many Haitians were being detained, were upsetting to him,

and six months later, he left the agency.

Now, in addition to defending against deportations, Gilbert handles family cases, asylum cases, and business immigration. His experience at the INS was good preparation for practicing in this specialty, says Gilbert.

And even with the ever-present bureaucratic frustration, this legal specialty makes it easy to see why the work is important, and what you are trying to accomplish, unlike some other areas of law, says Greg Siskind, an alumnus of the University of Chicago Law School who founded his Memphis-based firm, Siskind Susser, in 1994.

In corporate law, it is sometimes hard to see the purpose or the goal. Also, if you do divorce law or litigation, your client's good result is someone else's loss. With immigration, there is no losing side, says Siskind.

### **Cultural understanding, bias, and tightening laws.**

Practicing immigration law could be the most international legal practice possible. You need to develop cultural understanding and a great deal of patience if you want to succeed at this specialty.

It does have some uncommon frustrations; but also, it has uncommon rewards.

Gus Shihab came to the United States with his family when he was 15 years old. His family is from Egypt and Syria - countries which, historically, are not friendly with Israel. Yet Shihab has had Israeli clients.

"You need to be neutral emotionally. Your role is to defend that person, and if you can't provide the service to them, then you shouldn't do this," he says.

And, even better than being neutral, sometimes you can bridge gaps by just relating



one-on-one. Shihab ended up getting along quite well with his Israeli clients, it was a "reassuring thing," he says, but "I wish people back there could do that, too."

Bridging international rifts is easier if you speak another language or two - but that's not completely required in order to do this work. Most business immigrant work is for people who are distinguished professionals, and can speak English. Many of these clients have gone to U.S. schools as well.

For family work, since there is usually a sponsor already in the U.S., family members can often speak English, even if the applicant cannot.

Still, it doesn't hurt to have another language. Or more. For his firm's business, "having a foreign last name helps," say Shihab. Attorneys there can speak Arabic, Russian, and Spanish, they are recruiting an attorney who speaks French, and they have paralegals who speak Dutch and German.

Kevin Dixler speaks Spanish; Greg Siskind's firm, Siskind and Susser, based in Memphis, Tenn., has attorneys in Mexico, Argentina and China.

Even if you work to foster international understanding, there is a growing anti-immigrant feeling in the United States, making this job even more challenging. "We need lawyers to help change that," says Shihab.

Applicants from the Middle East do have a harder time getting into the country now, says Paul Gilbert. "There is a tendency to believe that all terrorists come from the Middle East and it's just not true," says Kevin Dixler.

For example, recently Shihab was working with a doctoral student from Saudi Arabia who had discovered that his passport had expired. The government put him into deportation proceedings. Shihab called USCIS and asked for one week to get a renewed passport - which is

a very short turn-around time. Shihab called the Saudi embassy in Washington, and the embassy turned the passport around in three days.

When Shihab called the U.S. government office back, the deportation papers had already been sent through. The agency would likely have waited in the past.

Tightened security does have a good side, if it catches "someone out there who is not supposed to be here," says Gilbert.

But this new climate also means that already strict laws are getting stricter. Some of the most extreme - such as a law requiring the registration of all Middle Eastern men in the U.S. - have been repealed. Some still exist.

The tension expands well past people of Middle Eastern descent as well.

Gilbert has a client with a green card who was convicted of cheating at cards in Las Vegas, and is now waiting in jail for his deportation hearing, because any alien with a criminal record can be held in custody until his case is decided.

Then there is a special room at the airport called "secondary inspection," which few Americans will ever see. Even lawyers won't see it, since lawyers are not allowed to come and see their clients there at all, says Andrew Koerner. If a foreigner is coming into the country, and there are some questions on his or her status, the person is taken to this room.

Drug smugglers are taken to this room and wait there in handcuffs. But also, some of Koerner's South American business clients have been taken at gunpoint to secondary inspection because they had an immigration application pending.

Another of Koerner's clients, a British woman, was returning from her grandmother's funeral and taken to secondary inspection, because,

she was told, she needed to have a special stamp put on her visa, and the stamp was in the same room with all the international criminals.

Sometimes, "the way [foreigners] are treated at the border is horrible," says Koerner. This turns into a "huge loss" for tourism and larger national concerns, because these people go back to their home countries and tell their friends about their experiences - and tourists, as well as international scientists and other experts, decide not to come at all.

### Is bigger better?

In such a complicated legal arena, does it work to be in a small practice, or would a large office with many colleagues serve the work better? It does not hinder him at all to be in solo practice, says Paul Gilbert, "I'm very happy working for myself."

The immigration bar in New Jersey is very collegial, "they are very helpful, I can consult with other attorneys" if he needs to, says Gilbert, or find another lawyer to refer someone to, if necessary.

Many immigrant firms are small, solo or boutique firms, says Greg Siskind, with Siskind Susser. The firm is now ten years old, and has eight attorneys in Memphis, Tenn., and 12 at other offices around the world. With 20 attorneys total, it is one of the largest firms focusing exclusively on immigration law. For immigration law, says Siskind, "it is good to have a small firm."

There are other "large" immigration law firms, says Andrew Koerner, but even these have about 15 attorneys each, such as Barst & Mukamal, based in New York City. Koerner's firm has three attorneys, and they have no shortage of clients or high-level work.

### Practice innovations.

Perhaps because he was an engineer for ten



years before becoming a lawyer, Gus Shihab's firm has developed case management software so that it has a nearly paperless office. This way, the Ohio-based firm can offer national and international clients the lower fees of a Midwest law practice with quick responses of a firm closer to the clients. "It's as if you're down the street," says Shihab.

Immigration applications can now be filed with the government electronically in many cases. After Shihab or one of the six other attorneys in his firm has had an initial consultation and accepted a client, the client can use the firm's web tools. Shihab has a system on the internet that allows remote clients to sign in via a secure password, enter information on forms, and upload the forms to the internet to be sent to Shihab's office - no mailing required. And the firm has a full-time IT person on staff

The client can later log into his account and check on the status of applications. Many of Shihab's clients are engineers and scientists, so this system works well for them. Shihab wants to increase the number of asylum and deportation cases his firm handles, he says. For that work, "You need to do more handshaking," he says. Of course, if a client does not have internet access, the firm will handle the case on paper.

Immigration law is unique, in that because it is all federal issues, your practice can be anywhere and still serve clients effectively, says Shihab. He does have many clients from Ohio, but also corporate clients from Colorado, Virginia, New York, New Jersey, Ohio, Pennsylvania, and, just recently, Washington State. The Ohio clients are usually family immigrant cases. For the corporate clients, Shihab makes sure their employees have valid visas, for example.

**Advice.**

1. Try out immigration law in a law school clinic if you can, recommends Andrew Koerner.

2. You should also sit and have a good think about foreign cultures before going forward, says Gus Shihab. Your clients' cultures will be different from yours. They will speak English awkwardly, they may act in awkward ways, and they may be more demanding and less respectful of your personal time and space than an American might be. To be an immigration attorney, "you need to be able to deal with people who may not understand you," says Shihab. If dealing with clients from other countries - which is pretty much what immigration law is all about - would irritate you, then this is not your best career choice.

3. "If you dream of courtrooms," this is not the job for you, says Shihab. You could try deportation cases, but those only see victory half the time, which could get discouraging if that was your main focus.

4. If you want to make a lateral move into immigration law, start slow, stay connected to your previous specialty for a while, and then expand into other areas of the specialty, says Koerner. "Most attorneys don't know anything about immigration law," he says, so it's important to get your feet wet before diving in. If you are a divorce lawyer, start with family immigration. If you do corporate law, go with business immigration, for example.

5. Paul Gilbert found his job at INS very valuable training. If you can, learn immigration law on the job with the government. It is hard to move laterally into immigration law, he agrees, and recommends moving into a law firm that does immigration law and finding a mentor in the field. Or, you could merge with another solo practitioner who already does immigration, and blend your two practices.

6. This specialty can be "very difficult," says Kevin Dixler, so you will need to take advantage of information resources that are out there. Dixler agrees that finding an experienced mentor is a good way to double-check yourself. Also, there are list servers out there where you can bounce ideas off of

several other attorneys, even if you are in solo practice, such as [www.immlog.com](http://www.immlog.com). Another resource - "the immigration attorney's bible," says Koerner - is a reference book called Kurzban's Immigration Law Sourcebook, published by the American Immigration Law Foundation. You do need a good library to do immigration law; "don't skimp on that," says Greg Siskind.

7. Once you really get rolling, you do need to commit to doing immigration law alone, and not in combination with other specialties, says Greg Siskind. It will not get monotonous, especially if you are handling cases in a variety of immigration areas. You may have cases for a circus acrobat or a scientist, a deportation case, an asylum case, and someone who wants to bring in her uncle. Like we said earlier - it will not be boring.