

HOW TO MAXIMIZE YOUR SUCCESS IN SPOUSAL SPONSORSHIP

配偶团聚移民申请和上诉：如何最大限度获取成功

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移民申请中属配偶团聚移民最让人心焦。新婚夫妻远隔天涯，期盼早日团聚在大洋彼岸开始新生活。但有些申请人因准备不当，满心期待等到的却是一封拒信，夫妻团聚遥遥无期，子女错过来加接受教育的宝贵机会，本来甜蜜的婚姻因此种压力也变得充满变数。最近我们成功代理了数单亲属团聚移民被拒后的上诉业务，在为客户一家人终能团聚加拿大感到开心之外，在代理过程中就移民被拒也积累了一些心得体会，特撰写此文，供在准备担保配偶赴加团聚申请的朋友参考。

“The Canadian government has induced me into immigrating to Canada but is now placing whatever obstacles it can find to prevent me from reuniting with my spouse.” Those are the words from a client who had just walked in the office with a refusal letter from immigration refugee and Citizenship Canada (IRCC) informing him that his relationship with his wife, whom he had married four years ago, is considered by IRCC, to be not genuine. While this client had already waited nine years for an affirmative answer from the IRCC, this refusal letter is certainly a blow to his confidence and signifies that there would be an uphill battle for him to prove the nature of his own marriage.

“加拿大政府吸引我申请移民加拿大，但现在却设置各种障碍阻止我和配偶在加团聚”。这是我们的一位客户在收到移民局关于配偶申请拒信后的感受。移民局认为这位客户四年的婚姻在移民法上并不真实。经过九年望眼欲穿的等待，这封拒信无疑是对他的自信的重大打击，也预示着在证明自己婚姻性质上将是一此艰难的斗争。

As lawyers, while we understand the client's frustrations and feel empathetic toward his situation, our primary task is to identify the mistakes that he made in the past that led to the refusal, as well as to determine the steps to move forward that could maximize his chance of success. In this article, we will be discussing how to avoid some pitfalls in the path of sponsorship appeals and the way moving the case forward.

作为律师，我们理解客户的沮丧，也对他的境遇深表同情。我们主要的任务是帮助客户识别导致其移民申请被拒的失误之处，同时，为客户建议如何才能最大限度的扭转局面，帮助客户最大限度获取成功。这篇文章里我们会探讨一下在移民上诉中如何避免困局，如何将上诉顺利推进。

Choosing the right representative from the Gecko

移民申请之初选择正确的代理人

A truthful, complete and comprehensive application package is more than half of the battle. In our appeals practice, we have unfortunately encountered many application packages that are incomplete and inaccurately completed which are the primary reason why the application got rejected. When we are hired to make an immigration application on the client's behalf, we always encourage our clients to carefully review all information in the application package before we submit it, in order to avoid any inconsistencies later in the application process. In our experience, an application package that does not match with what the client later discloses during the interview or testifies during the appeal hearing always negatively predisposes an immigration officer, which is very difficult to reverse.

完整，真实和详尽的申请材料等于移民申请之役胜利了大半。在我们为客户办理的上诉案件中，申请资料不齐全，不完整和不准确是导致移民申请被拒的主要原因。在我们准备移民申请材料时，我们会再三和反复与客户确认相关信息，从而避免申请材料在之后的申请程序中出现不一致情况。从我们的经验看，早先申请材料与后期客户在面试或者上诉作证披露的信息不一致，会导致移民官先入为主，对申请产生很难再扭转的负面印象。

So how do you ensure that your application package is flawless? For those clients who are choosing to hire a representative, our best advice is not to invest blindly. Before you write the big cheque to a certain immigration lawyer or immigration consultant, be sure to check their credentials. Many clients might not have realized the importance of choosing the right representative to help them apply for spousal sponsorship. The area of immigration law is complicated and everchanging practice. All who practice in this field should be well-trained to be familiar with the current state of the law, as well as being aware of the need to be meticulous in conducting the client's work. Besides lawyers, immigration consultants may assist the clients in filing their applications for immigration. However, clients need to be aware of businesses that hold themselves out as immigration consultants when they lack the necessary certification. Also, immigration consultants do not have the authority to represent the client in any level of the courts' system, should any judicial appeal is required.

那么，如何确保您的移民申请完美无瑕？如果决定聘请代理人代为申请，我们的最佳建议是：不要轻易下决定。当您将服务费的大额支票交予移民律师或者移民顾问之前，请确保已经检查过代理人的资质。在配偶团聚方面，很多客户没有意识到选择正确的移民申请代理人的重要性。移民法错综复杂，千变万化。在这个领域提供服务的专业人士，应当受过系统培训，了解和熟悉有关法律，同时知晓在准备移民申请时一丝不苟，确保信息准确无误的重要性。除了移民律师，移民顾问也会提供移民申请服务。客户尤其小心一些不具备资质却在提供移民申请服务的移民顾问。移民顾问和律师的区别在于，如果移民申请和行政上诉(tribunal appeal)被拒，移民顾问不能在法院系统的移民申请诉讼程序中代表客户。

In summary, in order to maximize your chance of success in applying for spousal sponsorship, you need to consider the following:

- Choose a lawyer or immigration consultant that has the necessary credentials
- Review your application package with your lawyer or immigration consultant prior to filing your application
- Ensure that all statements made in the application are true and accurate
- Be completely familiar with information contained in your application package

综上，为了最大限度获取成功，配偶团聚申请人应该考虑以下几点：

- 选择有资质律师或者移民顾问做代理人
- 正式提交申请之前，和您的律师或者移民顾问仔细核对申请材料
- 确保申请材料中所有的陈述真实准确
- 对您申请材料里的信息完全掌握

What happens if an appeal is inevitable?

如果上诉不可避免怎么办？

With Canada's stringent immigration system, many applications will be rejected. While every rejected application comes with the right to appeal to the Immigration Appeals Division (IAD), an appeal is the best remedy only when:

- The application package submitted to the immigration officer contains significant inaccuracies that need to be clarified;
- There has been material change in circumstances and significant new evidence to submit since the refusal of the application; or
- The immigration officer had been wrong about the law when he or she made the determination to refuse the application.

For each of our client that retains us to file an appeal, we provide a thorough explanation of the appeals process. After we have assessed the client's file we will provide advice and recommendations as to whether an appeal is warranted.

鉴于加拿大移民制度的严密设计，很多申请都会被拒绝。在以下情况下，移民上诉是最好的救济方式：

- 移民申请材料中有关键的不准确信息需要澄清
- 移民申请被拒后，申请人的状况有实质变化，或者有新证据
- 移民官在做出移民被拒决定时存在法律适用上的错误

During the appeal process, there are several things that could maximize the client's chance of success:

- Make sure you retain a lawyer who is necessarily familiar with the appeals process;
- Provide any additional evidence that focuses on and directly addresses the immigration offers concerns (evident in the refusal letter);
- Have clear and logical explanations of any inconsistencies between your application and your testimony at the interview; and
- Have a comprehensive knowledge of your relationship with your spouse (i.e timelines of how the relationship developed, significant members of each other's families, importance etc).

However, we make it known to all our clients that an appeal hearing is not about memorizing the important dates, names, and places of their relationship. It is not about providing more paper evidence that repeats the same point. Instead, it is about telling the immigration officer the story of the client's relationship and giving an air of credibility and truth to it.

在上诉过程中，以下事项可以帮您最大限度获取成功：

- 确保聘请熟悉移民上诉的律师
- 提供直接相关的额外证据回应移民官作出拒绝移民决定时的顾虑和担心
- 对移民申请和面试的不一致之处做出合乎逻辑的清晰解释
- 对您的配偶全面了解（比如你们的关系发展过程，对方主要家庭成员等）

然而，我们会告知客户，移民上诉不关能否记得婚姻关系里的日期，名字，地点等，也不关提供更多材料反复证明已经提出的主张。上诉过程是给移民官讲故事，讲关于自己婚姻的故事，胜诉的关键是通过各种信息和证据表明您故事的真实性和可靠性。