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IT'S THE LAW

Immigration Law In The Hospitality Industry

Visas For Sommeliers and Other "Extraordinary" Individuals

"My only regret in life is that I did not drink more Champagne."

—John Maynard Keynes

"God made only water, but man made wine."

—Victor Hugo

"Wine is the most civilized thing in the world."

—Ernest Hemingway

As the holidays approach and the opportunities to consume fine wine abound, I have chosen to devote this column to the issue of immigration for sommeliers, those dedicated wine professionals who generously share their encyclopedic knowledge of wine varieties and characteristics and their finely developed sensibilities for wine-food pairing.

Although a variety of immigration options exist for sommeliers, because their profession is an elite one, and because of the rarified circles in which they travel, one visa classification that often is an excellent fit for sommeliers is the O-1 category for "aliens of extraordinary ability or achievement."

To request O-1 "alien of extraordinary ability" status on behalf of a sommelier, an employer must submit evidence that the sommelier has enjoyed "sustained national or international acclaim" in her field and that she is coming to the U.S. to continue working as a sommelier. To show "sustained national or interna-

tional acclaim" the employer can submit evidence that the sommelier has won a "major, internationally recognized award, such as the Nobel Prize" (perhaps in the sommelier world this would be something like winning the World's Best Sommelier Competition (Sommelier Mondial) held by the Association de la Sommellerie Internationale).

Even if the sommelier in question has not won a major, internationally recognized award, if she has achieved sustained national or international acclaim in her field, all hope is not lost, for she may be able to qualify for O-1 status based on a set of less stringent criteria. In this case, some examples of the types of professional achievements that could be used to provide that a sommelier qualifies as an O-1 "alien of extraordinary ability" include:

- Employment in a **critical role for distinguished establishments**, i.e. employment as a Sommelier at a very high-end, award-winning restaurant, or employment in an essential role at a leading winery.
- Performance as a **lead participant in distinguished events**, i.e. serving a guest sommelier at charity events or other highly-publicized hospitality events.
- **Articles published either by or about** the sommelier in major newspapers, trade journals, magazines, or other publications, relating to her work in the field.

- **Significant recognition** for professional achievements **from recognized experts** in the field, usually evidenced by letters from individuals such as well-known professional sommeliers and restaurateurs, university professors who teach wine-related courses, food and wine writers, and wine growers, attesting to the sommelier's professional achievements.

- Receipt of prestigious **prizes, awards, or professional designations** for work in the field, i.e. Master Sommelier (MS) designation from the Court of Master Sommeliers.

- **Membership in prestigious professional organizations** for sommeliers.

- Experience as a **judge in a professional contest** for sommeliers.

- **Substantial remuneration** for services in relation to other sommeliers.

In addition to submitting the types of evidence described above, an employer petitioning for O-1 status for a sommelier must obtain a consultation from an appropriate U.S. peer group, labor and/or management organization describing the nature of the sommelier's intended employment in the U.S., and confirming that the organization does not object to the sommelier's admission to the U.S. in O-1 status.

O-1 status can be granted initially for a period of up to three years. One major benefit of O-1 status is that it can be extended indefinitely in one year increments, as long as the sommelier continues to



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work in her field of expertise in the U.S. Although the sommelier profession provides an excellent illustration of the O-1 visa category's application to the hospitality profession, my firm has successfully pursued this classification for a variety of other hospitality professionals, most notably chefs.

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