

What Does It Mean To Be Extraordinary?

APRIL 2011

VOLUME I



Eugene Goldstein & Associates is a full service immigration law firm. Our experienced attorneys and knowledgeable support team have concentrated on U.S. immigration and nationality law for more than 40 years. We represent clients ranging from individuals and family-owned businesses to major international corporations and academic institutions. We frequently handle employment matters for business, healthcare, and academic institutions. We are regularly consulted by international students and scholars, performing and fine artists and entertainers, as well as clients with family-based and employment concerns.

Please feel free to call for an appointment so that we may evaluate your portfolio.

To learn more about us, please visit our website at www.eglaw-group.com.

This is our inaugural newsletter catering to those in the entertainment field. Please let us know if you would like a topic featured in our newsletter. We welcome ideas and comments.

Thank you for your continuing support.

Are You Extraordinary?

For artists, the Alien of Extraordinary Ability green card (EB 1-1) holds particular allure as applicants have the ability to self-petition, meaning that they don't need to be employed to apply. Too many gigs, and short-term prospects make steady employment by one employer impossible.

The easiest way to demonstrate extraordinary ability is to show the receipt of a major internationally recognized prize or award, such as an Academy Award, Critics Choice at the Sundance Film Festival, a Grammy, or Nobel Prize. However, these types of awards are not easy to come by, nor are applicants who have received them, so USCIS has established other categories that can be used together to establish extraordinary ability.

One such category is showing receipt of a lesser nationally or internationally recognized award for excellence, such as a British Academy Award, or a distinction by a less well known film festival. This is not to say that the American Academy Award is better than the British but we have to play to our audience, USCIS examiners, who have heard and watched the American Academy Awards but not necessarily the Brit's.

Another category is demonstration of membership in an association requiring outstanding achievements of its members. Membership in a union, such as the Screen Actors Guild, or being a part of a distinguished music or theatre company can satisfy this category.

Having your art shown at a gallery, being a part of a theatrical or musical production, or being a part of a movie can be used to satisfy multiple categories. The most obvious category here would be display of your work. Evidence could be in the form of a press release or an article about the work. Another category that can be satisfied here is performing a leading or critical role in a distinguished organization or establishment. This would be the case if your paintings were shown at a well-known gallery, if you performed in a well-known venue, or if the performance was done by a well known musical or theatre company. Again, this could



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be demonstrated by a press release or article and the addition of evidence showing that the gallery, venue, or company is distinguished. Finally, the category of original artistic contributions could be satisfied. This would be documented by reviews discussing the original contribution made. If, as Plato said, all art is imitation, it is hard to imagine what original contribution can be made. But, we keep trying!

Published material about yourself and your work in professional publications and other major media is a way to demonstrate extraordinary ability. Copies of the reviews and information about circulation and the importance of the publication would be required to satisfy this category. To establish extraordinary ability, however, it would be better if the published material spoke positively, if not glowingly of your work.

The ability to command a high salary or other high remuneration for services can be used as evidence of extraordinary ability. The types of documentation that can be used to satisfy this category are contracts or receipts for the sale of a painting. For actors and musicians, if they are able to have outlandish and crazy dressing room requests satisfied, that might count towards the remuneration criteria.

Along the same lines as the previous category, evidence of commercial success can be used to establish extraordinary ability. Examples would be sales of paintings by an artist, sellout shows by a musician or a stage actor, and box office receipts by a screen actor. The inclusion of this category might be understood to mean that USCIS would rather have artists who are willing to sell out to make it big.

There are many other forms of documentation which might be used to satisfy the above categories, this is only a starting point of what you will need to think about.

Additionally, only three categories need to be demonstrated to prove extraordinary ability, but the more categories we are able to document, the better the chance that the application will be approved. USCIS might reject the documentation for one category, but if documentation for four categories were submitted, the rejection of one would not matter. The EB1-1 application is paper intensive and often demands a lot of work by the applicant. The trick is to find documents that not only say how great you are, but which also fit correctly into one of the categories.

Immigration can be a confusing process. Depending on the client's particular situation, individuals may be prevented from working, traveling, or even remaining in the United States. Businesses may be prevented from their full potential.

Each client has their own unique goals and concerns. With over 40 years experience, we treat the immigration process as a jig-saw puzzle - where each client's goals and concerns represent individual puzzle pieces.

Our goal is to help you fit the pieces of your puzzle together, so that your big picture can become a reality.

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