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**W. DAVID ZITZKAT**  
ATTORNEY AT LAW

PRACTICING EXCLUSIVELY IN IMMIGRATION LAW SINCE 1981

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## I-140 Agreement 2019 – NIW Inclusive

Attorney W. David Zitzkat was admitted to the Connecticut Bar in 1981. He has also been admitted to the Federal District Court for Connecticut, the Second Circuit Court of Appeals, and the U.S. Supreme Court. As such, he is entitled to practice Immigration Law anywhere in the United States. He has been practicing Immigration Law since 1981, a period of about 36 years.

The services outlined in this agreement are provided at a flat fee of **\$5,000.00**. In addition, there is a Non-Refundable Mail Fee of **\$100.00**. Also, if payment is by credit card, and additional convenience fee of **\$120.00** is charged. There are no hourly fees, unless a refund is requested, at which point the total time spent on the case shall be taken into account.

Payment under this agreement is *up-front only*, meaning a total of \$5,100.00 must be paid in full in order for this agreement to go into effect. This firm has alternative agreements for lower fees as well as more focused services. These agreements are available at our website ([www.zitzkat.com](http://www.zitzkat.com)), or upon email request.

The services provided in this agreement are as follows:

- Filing *one* (1) I-140 petition for one petitioner/beneficiary for *National Interest Waiver*, including personal assistance and legal consultation from Attorney W. David Zitzkat. Under this agreement, the basis for a direct I-140 petition shall only be NIW. Attorney services include up to a 3-hour strategy conference to start the case; attorney assistance in writing and editing reference letters from supervisor(s), colleagues, and independent peers (sample letters provided); attorney-written cover letter (containing detailed case overview and legal analysis); guidance in preparing and organizing documentary evidence; final preparation of submission; and submission to USCIS. After the I-140 petition is filed, performing any necessary follow-through, to be determined by the attorney.
- Responding to any Request for Evidence (RFE) or Notice of Intent to Deny (NOID) for the I-140 petition, at no additional charge.
- In the event that the I-140 petition is denied, this agreement provides for attorney consultation and service in preparing and filing one (1) re-filed I-140 petition - *OR* – one (1) appeal or motion to reopen/reconsider.
- Attorney services for Adjustment of Status (I-485) are not included in this agreement. A separate agreement covers the I-485 process (I-485 application and concurrent Employment Authorization and Advance Parole applications), and is available for both our clients and clients that we have not previously represented. This means that an additional attorney fee is charged for the I-485 application(s), with a preferred fee

provided to clients that have previously retained our firm for an Immigrant Visa petition (I-140 and I-130) (i.e., clients that have signed this agreement).

The agreement must be signed by both Attorney W. David Zitzkat and the client in order to go into effect. The client must also write his or her initials in the space provided on each page of the agreement. In the event of a third-party payer, the Third-Party Payer Supplement should also be signed by both the beneficiary and the third party payer (see last page).

The terms and conditions of this agreement are as follows:

1. Attorney Fee – Fee for Attorney W. David Zitzkat is **\$5,000.00**.
2. Non-Refundable Mail Fee – A non-refundable fee of **\$100.00** must be made with the first payment. This fee covers mailing expenses including ordinary first class, priority and express mail. Choice of what class of mail will be used is at the discretion of this firm, though the client may request that a certain class of mail be used for filing an application.
3. Convenience Fee – If payment is by credit card, a convenience fee of **\$120.00** is charged.
4. Direct I-140 Petition – Once this agreement has been signed/initialed and the Attorney Fee has been paid, the attorney agrees to:
  - a. Provide legal and practical advice on preparing and filing one (1) direct I-140 petitions for one petitioner and/or beneficiary for National Interest Waiver. This agreement covers services for *only* National Interest Waiver, and does not include any other categories such as *Extraordinary Ability* (EB-1a) or *Outstanding Researcher or Professor* (EB-1b). These services are covered by our EB-1A agreements. Please inquire or see our website for more details.
  - b. Immediately schedule a *Strategy Conference* with the client. This conference may be up to 3 hours long and can be held in the attorney's office in Avon, Connecticut, over telephone, or by a Skype call. The strategy for the case as well as all issues of the client related to this petition will be discussed.
  - c. Assist the client in drafting and editing up to eight (8) reference letters from supervisor(s), colleagues, and peers to be included with the I-140 petition, including sending the client sample reference letters relating to the client's field of expertise.
  - d. Advise and otherwise assist the client in preparing any other letters necessary for the selected petition category.
  - e. Advise the client on the inclusion of documentary evidence, including letters, publications, and other materials for the petition.
  - f. Draft and finalize the petition cover letter, containing detailed case overview and legal analysis for the specific petition category.
  - g. Prepare all necessary forms for the client's review and signature.
  - h. Organize and prepare the final petition, and submit the petition to USCIS by mail (*note*: USCIS only accepts submission by mail).

- i. Keep the client abreast of any developments after the petition has been filed with USCIS. Note that this does NOT include contacting USCIS because of a perceived delay by the client unless it is the attorney's opinion that the process is taking much longer than the posted times. USCIS posts processing times on their website ([www.uscis.gov](http://www.uscis.gov)). Typically, these processing estimates are optimistic projections, and are frequently incorrect and/or outdated. Nonetheless, the attorney will advise the client on how to make a case inquiry.
5. Request for Evidence and Notice of Intent to Deny – This agreement covers assisting the client in preparing and filing a response to Request for Evidence (RFE) or Notice of Intent to Deny (NOID) issued by USCIS. An RFE is issued when USCIS has determined that more evidence is required in order to adjudicate the petition. A NOID is issued where USCIS does not require any additional evidence, but has still concluded that the petition does not warrant approval even though it technically meets all the requirements. In both situations, the applicant is afforded an opportunity to respond by providing additional evidence, and/or refuting the USCIS examiner's conclusions. In the event that an RFE or NOID is issued, the attorney agrees to:
  - a. Advise the client on obtaining additional evidence, including drafting and editing new letters to be submitted;
  - b. Draft and finalize a response letter that addresses the USCIS examiner's concerns; and
  - c. Organize and prepare the final response, and submit the response to USCIS.
6. Appeal, Motion to Reopen, or Motion to Reconsider – In the event that the I-140 petition is denied, an appeal, motion to reopen, or motion to reconsider may be the best course of action. *This agreement includes attorney services for one appeal, motion to reopen, and/or motion or reconsider which shall be in lieu of refile option.*
7. Re-filing of Denied Petition – In the event that any of the originally submitted I-140 petition is denied, the attorney agrees to re-file the entire petition once at no additional attorney fee, *provided all of the following are true:*
  - a. No more than one or two additional reference letters are required; AND
  - b. The petition is being re-filed within one (1) year that the denial was issued.

Please note that re-filing of a petition includes further client consultation (including an additional strategy conference, if necessary), advising client on including additional documentary evidence, and fully revising the original cover letter to reflect changes in the client's career.

8. Adjustment of Status – After the I-140 petition is approved, and the beneficiary is present in the U.S., the beneficiary will be considered eligible to apply for Adjustment of Status (I-485) for himself or herself, as well as any dependents (spouse and children). Note that if the client and/or any dependent family member(s) are in another country and cannot enter the U.S., Adjustment of Status is not available, and Consular Processing will be necessary.

*This agreement **does not include** attorney services pertaining to the I-485 process or Consular Processing.* A separate agreement covers the I-485 process (I-485 application and

concurrent Employment Authorization and Advance Parole applications), and is available for both our clients and clients that we have not previously represented. This means that an additional attorney fee is charged for the I-485 application(s), with a preferred fee provided to clients that have previously retained our firm for an Immigrant Visa petition (I-140 and I-130) (i.e., clients that have signed this agreement).

*Please note:* The client may elect to file his or her I-485 application(s) without attorney representation. In this situation, the attorney will not provide any assistance to the client, and the attorney shall not be responsible for any outcome beyond the USCIS decision on the submitted I-140 petition.

9. Concurrent Filing I-140 and I-485 – The client may elect to file I-140 and Adjustment of Status application(s) concurrently (please refer to section above regarding Adjustment of Status). In the event that the client wishes to prepare his or her I-485 application(s) without this firm’s services, and wishes to file concurrently, this firm will have no involvement with or responsibility for the I-485 submission(s). However, the attorney agrees to provide the I-797 Notice of Action (receipt notice) of the I-140 filing to the client as soon as it is available, so that the client may submit his or her concurrent I-485 application(s) independently.
10. USCIS Filing Fees and Out of Pocket Costs Not Included – The Attorney Fee to be paid to Attorney W. David Zitzkat does NOT include USCIS filing fees, and the client or third-party payer will be expected to pay these fees at the time of filing an application with USCIS. These fees are listed at <https://www.uscis.gov/forms>, and more information about paying these fees can be found at <http://www.uscis.gov/fees>. In addition, any out-of-pocket costs (other than postage fees for mail sent by the firm directly to USCIS, covered by the Non-Refundable Mail Fee) must be paid by the client or third-party payer.
11. Premium Processing – Premium Processing is not available for NIW, and therefore it is not included in this agreement.
12. Client Documents – Our firm retains records of each application process as well as copies of any application(s) filed with USCIS. The firm only retains these documents for three (3) years after the date that the case has been concluded. It is the client’s responsibility to request his or her file if he or she wishes to keep it. Additional fees for photocopying and mailing may apply.
13. Client Responsibility – The client shall be responsible for maintaining a direct line of communication with the attorney throughout representation, including availability by phone, email, and regular mail. The client shall be responsible for preparing materials as required or instructed by the attorney with reasonable speed. Delays of months or years after starting the case are not acceptable. If the case has not been filed within two (2) years, and the client has not provided notice of reasonable delay, then no refund is possible, and additional fees may be required to restart the case.

In addition, the client shall be responsible for maintaining a valid mailing address throughout the preparation and filing process, in order to receive official notices and documents from USCIS (such as Employment Authorization Document or Permanent Resident Card). If the client is unable to maintain a mailing address, then the client is responsible for obtaining an alternative means of securely receiving mail, such as a P.O. Box. *The attorney shall not be responsible for receiving or redirecting official USCIS documents that are meant to be received by the client.*

14. **Refunds** – Please understand that taking your case means that the firm could not take some other case, as this firm turns down dozens of cases every year. Because this firm charges fixed fees as opposed to hourly fees, the client will save considerably. Furthermore, due to the nature of fixed prices, it is understood that time spent on the case is not strictly kept track of. Therefore, it is understood that in the event of a request for a refund, the party asking for the refund will accept a good-faith estimate for the amount of time spent. In addition, the time spent calculating the estimated time spent will be also contribute to the total calculation. In the event the client requests a refund, deductions from the amount paid will be made as follows:

- a. Time spent by Attorney W. David Zitzkat will be billed at **\$400.00** per hour.
- b. Time spent by Attorney Jon-Marc LaRue Zitzkat will be billed at **\$360.00** per hour.
- c. Time spent by any of the firm’s paralegals and/or assistants will be billed at **\$200.00** per hour.

Proprietary material (such as sample reference letters to be sent to the client) are agreed by both parties to have a value \$2,500.00. In the event that these letters have been sent to the client, both parties agree that the amount of \$2,500.00 will have been earned and will not be refunded. If an I-140 petition is ready to be filed, it is agreed by both parties that the entire fee has been earned, and will not be refunded.

When the client requests a refund, that is the only time the hourly rates or values of proprietary materials or preparation of a case for filing will be taken into consideration. If no refund is requested, the fees remain fixed.

Furthermore, the client agrees that he or she will participate in good faith in the preparation of the petition and other materials. It is agreed that the client will not wait an unreasonable amount time before beginning work on letters and other documents necessary to procure in order to file this petition. It is further agreed that if at least one I-140 has not been filed within two (2) years of the date that this agreement was signed, there can be no refund. However, it is also agreed that there is no limit on this agreement other than for refund purposes, and that any number of months or years can go by and the client can benefit from this contract with respect to preparation and filing. For example, if the agreement is signed and 20 years later the client wants to begin work on filing the I-140, he may do so under this agreement, however, additional attorney fees may be required, as long as the attorney is still practicing law.

Client acknowledges that Client has fully read and understood this agreement. By signing/initialing this agreement, Client hereby agrees to the terms and conditions set forth herein.

**Client Signature:** \_\_\_\_\_

**Print Name:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Attorney Signature:** \_\_\_\_\_  
Attorney W. David Zitzkat

**Date:** \_\_\_\_\_

## **Third-Party Payer Supplement**

A third-party payer situation exists when the person paying the attorney fees and the person benefiting from the petition are different. Generally, this happens when a company or university sponsors, and pays for an employee.

Please be aware that potential conflicts of interest could arise during the course of representation, which could result in the attorney being forced to either withdraw from representation, or to get permission of both the third-party payer and the beneficiary in order to continue. Potential conflicts in 3<sup>rd</sup> party payer situations can occur when the payer changes his mind about the payment, or the amount of payment, continuing the client's employment, changing job duties, doing advertising, if necessary, following Federal Regulations concerning advertising or other requirements such as posting of salary, when necessary, paying fees for spouse or children.

When such a conflict of interest occurs, the attorney must disclose this conflict to both parties, and obtain the written permission of both parties to continue representation. If such permission cannot be obtained, the selected attorney may be forced to withdraw representation from both parties.

I understand the nature of conflicts that might arise where there the beneficiary of the immigration process is not also the person paying for the services. I understand that should such a conflict arise, then the attorney may be required to withdraw from the case.

### **Beneficiary of Process**

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date: \_\_\_\_\_

### **Third-Party Payer**

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Organization: \_\_\_\_\_

Date: \_\_\_\_\_