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Joint Filing Waiver Based on Extreme Hardship for I-751 (Removal of Conditions on Permanent Resident Status)

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Each year U.S. Citizens and Legal Permanent Residents apply to obtain permanent resident status for their foreign national spouse's through filing an Immigrant Petition for Alien Relative (I-130) and Adjustment of Status Application (I-485). Upon approval of the application, the sponsored spouse is usually granted 2 year conditional permanent residence status.

Usually, the sponsored alien and U.S. citizen sponsor jointly file Form I-751 with the U.S. Citizenship and Immigration Service, when the conditional permanent residence status is within 90 days of expiring.

When the marriage no longer exists or there is some other reason the I-751 form cannot be filed jointly, the conditional permanent resident must file for a waiver of the joint filing requirement. One of the reasons for filing a waiver of the joint filing requirement is that the removal of the sponsored alien would cause an extreme hardship if the alien were removed to his home country.

According to the U.S. Citizenship and Immigration Services' policy, those hardships which would occur as result of the alien's removal to their home country will be considered in connection with an extreme hardship waiver of the I-751 joint filing requirement. Some examples of extreme hardships that might qualify for a hardship waiver include:

1. There is a close U.S. Citizen family member or Legal Permanent Resident who depends on the alien for their medical or other care.
2. Removal of the alien to the home country will result in their being shunned or persecuted because divorce is frowned upon. If the marriage involved a Muslim woman marrying a Christian man, maybe the alien would be subjected to shunning or persecution.
3. The alien is undergoing medical treatment in the U.S. that they cannot receive in their home country.

This list is not intended to be an exhaustive list of extreme hardships that might qualify for a waiver of the I-751 joint filing requirement. The purpose of this list is to emphasize that the extreme hardship must be the proposed result of the alien's removal from the U.S.

Also, if you are the victim of abuse, you should consult with an immigration attorney to see if you are eligible for U visa or Violence Against Woman Act (VAWA) benefits.

If you feel that you might qualify an extreme hardship waiver, you should gather what documentation that you have and consult with an immigration attorney. An immigration attorney will let you know if your situation and the evidence you have qualify you for an extreme hardship waiver.

Author: Aaron Hurlock, an Immigration Paralegal with about 10 years of professional immigration experience.

Editor: Aik Wan Kok, Attorney at Law, at Tiya PLC; Tel: 703-772-8224
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