

The Border of Family Law

Combining family and immigration law services, Negrette Law, P.C. saves clients time, money, and heartache.



“When two people marry, we hope it’s for long-lasting love,” says San Diego-based attorney Ashley Negrette. “Sometimes it is. But even loving relationships can fail. When an American citizen and a foreign-born spouse divorce in California, both state and federal law are at play in surprising ways.”

Negrette started her career as an immigration lawyer, helping clients obtain lawful residency, work visas, and U.S. citizenship. When clients began asking for family law help, she seized an opportunity to fuse uncommon practice areas, family and immigration law.

Negrette’s is a sui generis law practice in Southern California, serving a niche clientele facing difficult circumstances. In harmonizing the two areas of law, she aims to save clients—U.S. citizens or their foreign-born spouses—time, money, and, in some cases, citizenship status.

Two Sides of the Same Coin

Negrette’s clients are spouses, either the U.S. citizen or the foreign-born partner. “New marriages less than two years old at the time of the lawful permanent resident application means the foreign-born spouse becomes a conditional permanent resident,” she explains. “Conditional permanent residence is valid for only two years rather than the typical 10 years. At the end of the conditional resident period, the foreign-born spouse must file a petition to remove the conditions and prove that the marriage was entered into in good faith.”

It is often during this period that divorce can occur, causing the U.S. citizen spouse to question their liability for sponsoring their spouse, and the foreign-born spouse to question whether they can remain legally in the U.S.

On one hand, U.S. citizen spouses face substantial liability during

divorce in California due to state spousal support laws and the immigration affidavit of support contract. The affidavit of support is a contract for support that must be agreed to before permanent residence will be conferred on the foreign-born spouse, yet it is enforceable by California state courts during divorce.

On the other hand, foreign-born spouses risk being deported from the U.S. if they fail to maintain legal status. In some cases, divorce can affect their ability to remain lawfully in the U.S., especially if the divorce occurred before the lawful permanent residence application is approved.

“Furthermore, in October 2020, the California legislature expanded the definition of domestic violence to include threats based on immigration status,” Negrette says. That means threatening to have someone deported or turned into U.S. Immigration and Customs Enforcement can be a form of domestic violence that warrants issuance of a restraining order. Such restraining orders can benefit the foreign-born spouses by opening new avenues of immigration relief including a U visa or protection under the Violence Against Women Act (VAWA).

One piece of advice that Negrette has for any spouse is to be careful what is said in text messages, as they are often used as evidence in family court. “A comment made in anger can have long-lasting impacts during divorce, especially if child custody issues arise,” she says. She also suggests that U.S. citizen spouses make sure they understand the liability involved in signing the affidavit of support contract because divorce does not terminate that liability. A prenuptial agreement may be appropriate.

“Whether your case involves immigration, family law, or the gray area in between,” Negrette concludes, “I can help you make smart decisions to protect your life.”

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