FALL 1999
IMMIGRATION LAW AND PROCEDURE
MASSACHUSETTS SCHOOL OF LAW

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FINAL EXAM

This is a two hour exam consisting of ten multiple choice questions, each worth four points and three essay, each worth 20 points.

This is an open book examination and you may consult with any materials that were handed in class. Please write legibly, concisely and do not use abbreviations other than those discussed and used in class. Essays should follow the questions in a coherent manner.

MULTIPLE CHOICE:

1. Raul, a naturalized United States citizen born in Mexico, wishes to petition for his 2 adult, married brothers to immigrate to the United States from Mexico. How long, if available, is the approximate waiting period:
   
   a. 6 years
   b. 11 years
   c. 8 years
   d. none, immediate relative

2. Immigration and Naturalization's definition of an aggravated felony does not include the following conviction:
   
   a. possession of marijuana, with a sentence of Guilty, 11 months suspended
   b. an alien previously deported on the basis of a prior conviction for an offense under 101(a)(43)
   c. defaulting on a criminal sentencing, where the alien failed to appear for service if underlying offense is punishable by imprisonment for a term of 5 years or more
3. The only possible exception one might claim when applying for naturalization is the following:
   a. Applicant must prove good moral character
   b. Applicant must demonstrate physical presence in the United States for at least half the residency required, whether it be 5 years or 3 years
   c. Applicant must demonstrate an understanding of the English language
   d. Applicant must have a "knowledge and understanding of the US history and government"

4. Client/LPR enters your office wishing to apply for US citizenship. He has lived in "various states" throughout the United States during his residence in this country. He cannot recall, if or when, he has ever been "arrested, cited, charged, indicated, convicted, fined or imprisoned" in the U.S. The best possible avenue to obtain the criminal history for your client is to file:
   a. CORI: Criminal Offender Record Information
   b. FOIA: Freedom of Information Act
   c. FBI search, with fingerprints and an $18.00 check
   d. A request at the local police department

5. Your client from India is in the United States on a valid H-1B visa working for Ultra-Fine Water Systems as a chemical engineer. He wishes to apply for the 2001 Diversity Immigrant Visa Program. You tell him:
   a. He must mail his application between the dates of October 4, 1999 and November 3, 1999
   b. Only one entry form may be submitted for each applicant
   c. He must have a high school education or 2 years work experience within the past 5 years in an occupation requiring at least 2 years of training or experience to perform
   d. All of the above
   e. He is not eligible.

6. A high school graduate from Ireland entered the United States and was admitted on a visa waiver. He was granted 90 days to remain in the United States. He now wishes to change his status in the United States and attend college. You advise him:
   a. He will need to obtain a completed and approved form I-20A-B issued by a designated school and return to his native country to obtain his student visa
   b. Complete form I-539, Applicant to extend or change nonimmigrant status, along with the approved form
I-20A-B and supporting documentation, and submit to the Service Center having jurisdiction over his residence.

c. He will be immediately eligible to seek employment in order to assist in paying for the financial requirement of his student fiancés.

7. USC married his Canadian fiance last month in Montreal, Canada who has twin, unmarried 17 year old handicap sons. USC seeks to petition for his new wife and his step children. How long, approximately, is the waiting period to bring all his newly formed extended family into the United States;

a. 1 1/2 years
b. 4 years
c. No waiting period
d. Children not eligible

8. Malik, and educated engineer from Pakistan enters the United States on a B-2 visitor visa, on September 8, 1999. Today he has been offered a fulltime position with Computer-Rule, Inc. as a software engineer. To accept this position you tell him he will be required to:

a. Demonstrate he has a U.S. equivalent of a Bachelors degree or higher
b. Demonstrate his admission period granted by the INS is still valid
c. He must relinquish his foreign residence
d. all of the above
e. A and B

9. Applicant entered the US on a valid B-2 visa on April 12, 1997. He never applied for an extension, nor has he ever changed his status. He now wishes to attend college and brings to you an authorized I-20A-B to commence school in the Spring, 2000. You advise him he must depart the US to obtain his visa at his native country’s Consulate, but,

a. He may be subject to the 3 - 10 year bar against reentry under 212(c)(9)(B)(i) if he departs the US
b. He must return to the United States with a round-trip ticket
c. He must demonstrate financially ability, from a US sponsor, to the US Consulate prior to his reentry.

10. LPR client tells you he obtained his permanent resident status through the 1986 Amnesty Program, in December of 1990. He wishes to travel back to Colombia, however he recalls being convicted on three separate occasions for criminal offenses that involved crimes of moral turpitude. All convictions were received between the years 1991 - 1994. You advise him:
a. Not to travel, he may be inadmissible back to the U.S.
b. Immediately apply for citizenship before he travels outside the US
c. He will not have a problem because the convictions occurred more than 5 years ago.

Unless otherwise indicated, assume that all relationships mentioned are bona fide, that the visa bulletin given out earlier this semester is effective now, and that all aliens are honest, hard working and law-abiding folks.

Please write legibly, concisely and in a coherent manner.

1. Today, December 22, 1999, Carlos Recife, a 49 year old male citizen of Brazil, comes into your office and tells you that he has been in the United States since December 30, 1971, when he entered the United States at New York City as a tourist to attend a gala New Year's party thrown by his friend and former soccer mentor, Pele. On January 1, 1972, when Carlos woke up, hung over on the couch in Pele's apartment, he decided to stay in the United States.

For the past twenty eight years, Carlos has been hanging around the international soccer crowd in New York City, finding work as a coach for local college teams and as a waiter in the Brazilian restaurants. He has a son, Vilmar, born on December 30, 1978 in the United States who has always resided with Carlos, since birth and who Carlos is financially responsible. Vilmar's mother whereabouts are unknown. Recently, Carlos has been living out of wedlock with Maria Dos Santos for the past several years. Maria is a Brazilian and has been a lawful permanent resident for ten years. They have never told each other they wanted to marry. They have never found a reason to tie the knot, until two weeks ago when the immigration service raided the restaurant that Carlos was working in and caught Carlos.

After writing him up, the INS released Carlos on his own recognizance and told him to await a hearing notice in the mail for his removal proceedings.

What are his options? What is your advice for him to do? What is your advise, if any, for Maria to do? What advise, if any for Vilmar? What will you do when the Removal proceedings have begun? Which applications, petitions, defenses are available?
2. Juanita Valdez, a citizen of Columbia, imports coffee. Juanita received her "green card" (lawful permanent resident status) over ten years ago. Juanita's boyfriend, Benjamin, is a famous Mexican architect. He has a bachelor's degree in Architecture and is certified to practice the profession in Mexico. He is in the United States on a valid B-2 visa. He has been searching out job opportunities and has been offered a job with "Designs with Style" as an Architectural Drafter. He duties will consist of detailing scale drawings of architectural designs and plans for buildings.

In Mexico, Benjamin has a daughter Immie, 16 years old, whose mother he had never married and is of parts unknown. Immie has always been under Benjamin's care. She is now in boarding school in Mexico. Juanita has been paying the tuition for the past three years. Benjamin wants to stay in the U.S. and have his daughter attend school in Boston. Juanita and Benjamin intend to get married, at some point.

What can you do for them? What plan of action or contingency plans can you make? Are there any immediate applications or petitions that can be filed for all of them or each of them separately?


Imelda has been in the US since 1988, when she arrived as a nonimmigrant student to attend the Berklee School of Music. In 1995, Imelda graduated with a Bachelor's Degree in composition. Without authorization, she began working with an advertising agency. There, she writes jingles for the commercials that the agency produces for its clients. The company has stated they will assist with whatever paper work is required to help her keep her job.

She has been married to Doc for two years and a half. She wants a green card and she wants to bring Anna and Michael to the US as Permanent Residents. However, last month, Doc ran off to save the open a coffee shop in Seattle. Doc has been ignoring Imelda for almost a year and Imelda had been seriously dating a U.S. citizen, Don Ho, for the past six months.

What advise do you give her? What are her options and what will/can you do for her? What, if anything, can be done for the children in the Philippines?