

Top 10 List: How to Document Your Valid Relationship for Immigration Purposes

By: Gary Chodorow (gary@fwhonglaw.com) and
Jacqueline Lentini McCullough (jacqueline@lawgustafsson.com)

Date: October 1, 2009

Do you have a pending immigration case which will require you to prove the validity of your marital relationship to the U.S. Citizenship and Immigration Services or to a U.S. Consulate?

If you are applying for a K-1 fiancée visa, you should be gathering proof that you intend to enter into a real marriage. Similarly, if you are applying for an immigrant visa or adjustment of status on the basis of marriage, you should be gathering proof that you already have a real marriage.

This article describes 10 things you can do to better document your relationship.



1. Open a Joint Bank Account: Conmingled finances is one of the most significant factors that USCIS or a Consulate will use to determine whether a marriage is real. It may not be possible to open a joint bank in some countries. And in the U.S. it can be difficult to open a joint account if one spouse lives abroad and/or lacks a U.S. social security number (SSN). While there is no federal law requiring an SSN to open a bank account, some banks do have in-house rules requiring an SSN for purposes of ID. You can check with your bank.



2. Apply for a Joint Credit Card or Debit Card Account: To be useful evidence, you should both use the credit or debit card. And keep the statements.



3. Phone Records: For the periods that you live apart during your relationship, document your phone calls to each other. This is easy to do if you get a monthly bill with a detailed list of calls you've made. But don't use an international phone card that doesn't give you a detailed statement. One cheap alternative is to use Skype (www.skype.com) for international calls. In the Skype program, you can click on View > History to see the history of

all ingoing and outgoing calls (phone number, date/time, the other party's name if on your call list, plus your account name). Use a screen printing tool to print the list. The history only goes back 6 months, so print it out a couple times a year.



4. Amend your Lease: Do you live together but only have one name on the lease? Ask the landlord to amend the lease to include both names. Also collect other evidence that you live together, such as rent receipts showing both your names, ID documents (e.g., driver's license) showing the common address, and correspondence to each of you at that address.



5. Go High Tech: Of course, you know that you should save all emails to and from your significant other, as well as emails to and from third parties that mention your relationship. But if you also like to instant messages (IMs) and text messages (SMS), then prove it. For example, in Skype, click on View > History to find your last IM or SMS conversation with your significant other, then in the message screen choose "show messages from beginning." Again, the history only goes back 6 months, so print it out a couple times a year.

If either of you are on Facebook or other social media, take note: the government is watching. USCIS and consular officers both report that they may look at social media when investigating the validity of a relationship. You can use social media to document your relationship. Also, it may be wise to censor yourself by avoiding mention of any activity that may be illegal or reflect poorly on your moral character.



6. Remittances: Assuming you have no joint bank account, in cases where fiancées or spouses live apart, it's still not uncommon for one to give financial support to the other. Instead of giving cash, transfer the money in a form that is easily documented. Western Union, MoneyGram, and bank wire transfers are good because they show the receipts show the name of the sender and recipient. These methods are also convenient, but they may be expensive. You may be able to save money by both opening accounts with the same bank. Also, some banks may offer free wire transfer services to account holders. When you transfer money, it may be helpful to send a note regarding the purpose (e.g., "Money to buy a new motorcycle").



7. Take a Trip Together: Proving that you've taken a vacation together is a great way to show you have a real relationship. Make sure to keep your air tickets, hotel reservation/registration/bill with both of your names, photos, and passport stamps (if you travel abroad).



8. Meet the In-Laws: If each of you still haven't met your respective in-laws, make the effort. It's best to meet them in person—document the trip and take photos together. If you can't meet in person, then try communicating by phone (document the call), mail (e.g., try sending a birthday card or Christmas card), or via the web (IM or SMS).



9. Beef up Your Photo Album: Organize your pictures chronologically. Include photos from the entire span of the relationship, from the time you met until now. Don't just show the two of you alone, but also friends and family. It's ideal to use a camera that automatically puts a date stamp in the photo. Add a caption to each photo describing the occasion, place, date, and persons in the photo. See a sample photo album here: www.fwhonglaw.com/ivlinks.htm.



10. Tell Your Employer: Your employer usually wants to know information about a relative or friend who will be your emergency contact and/or the beneficiary of any life insurance policy provided by the company. Give your fiancée or spouse's name and make a copy of the form.

Closing Thoughts

Of course, some relationships are easier to document than others. On one extreme, it should be easy to document your case if you already married in an elaborate ceremony with hundreds of guests, have a child together, have jointly owned real estate and bank accounts, and file joint tax returns with the U.S. Internal Revenue Service. On the other extreme, it will be a challenge to document your case if you are fiancées who have met only once or twice (or are a married couple living apart), you don't speak each others' languages fluently, you have different cultural backgrounds, you each have multiple prior marriages, and your ages are decades apart. Most cases are somewhere in the middle.

Here are some potential signs of a fraudulent marriage that the government looks for. The more of them that apply to you, the better you need to document your case:

- Large disparity of age, especially if the woman is older than the man.
- Inability of petitioner and beneficiary to speak each other's language.
- Vast difference in cultural and ethnic background.
- Family and/or friends unaware of the marriage.
- Marriage arranged by a third party.
- Marriage contracted immediately following the beneficiary's apprehension or receipt of notification to depart the United States.
- Discrepancies in statements on questions for which a husband and wife should have common knowledge.
- No cohabitation, other than educational or professional reasons, especially if the parties don't visit each other often.
- Beneficiary is a friend of the family.
- Petitioner has filed previous immigration petitions, including but not limited to petitions for prior foreign spouses.
- Marriage not recorded in personnel records for one or both spouses.

You should gather evidence covering the entire span of your relationship from when you first met until now. The legal requirement that you must meet is that at the time of the marriage you both had (or will have) an intent to establish a life together. To determine your intent at that moment, the government will review the evidence you gather from the periods before and after the wedding—for example, giving birth to a child a year after the wedding is indirect evidence that the bride and groom intended to have a real marriage.

The law puts the burden of proof on the applicant. This means your application won't be granted unless **you prove** to the government's satisfaction that you have a real marriage. This is different than a U.S. criminal case, where the defendant is presumed innocent unless the **government proves** otherwise.

Bring your original documentation to your adjustment interview or consular appointment. The government should accept copies but reserves the right to review the originals. In addition, all foreign language documents need a certified English translation.

For an adjustment of status interview in the U.S., the citizen spouse is required to attend. For consular appointments abroad, the citizen is generally not required to attend and, at posts like Guangzhou, as a rule is not allowed to attend.

This "top 10 list" is merely guidance. You are not required by law to do any of these things. In fact, so long as you meet the legal requirement that at the time of the marriage you both had (or will have) an intent to establish a life together, then the law doesn't require that you live together, have a joint bank account, have sex together, be monogamous, etc. Those are matters of personal choice. Moreover, your relationship need not be perfect. Even if you're currently split up and having relationship troubles, your relationship can still meet the legal standard (so long as there's been no divorce or legal separation).

This article provides an overview of the subject but should not be relied upon as legal advice. For legal advice, consult with your immigration lawyer about how the law applies to the particular facts of your case.