



HUNTER TAUBMAN FISCHER & LI LLC

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Luciana Zamith Fischer

Practice Area: Immigration Law



Education

- *University of Minnesota Law School, J.D., 2005*
- *University of Florida, Political Science and Economics, 2001*

Languages

- Portuguese and Spanish

Ms. Fischer is based in our Miami office, where she manages the firm's immigration law practice. Her clients include large and small companies, and she advises them in all aspects of employment-based immigrant and nonimmigrant visas. Ms. Fischer represents internationally recognized individuals pursuing lawful permanent residence through Extraordinary Ability (EB-1) Petitions, National Interest Waivers (NIWs), and Investment/Job Creation (EB-5). Born and raised in Brazil, Ms. Fischer's background affords her practice the great benefit of her Latin culture and language skills. She has a singular ability to relate to clients' concerns and expectations immigrating to the United States. Ms. Fischer is a member of the Florida Bar and the American Immigration Lawyers Association. She is a graduate of the University of Minnesota Law School, where she was an editor for the Minnesota Journal of International Law.



The best and the brightest:

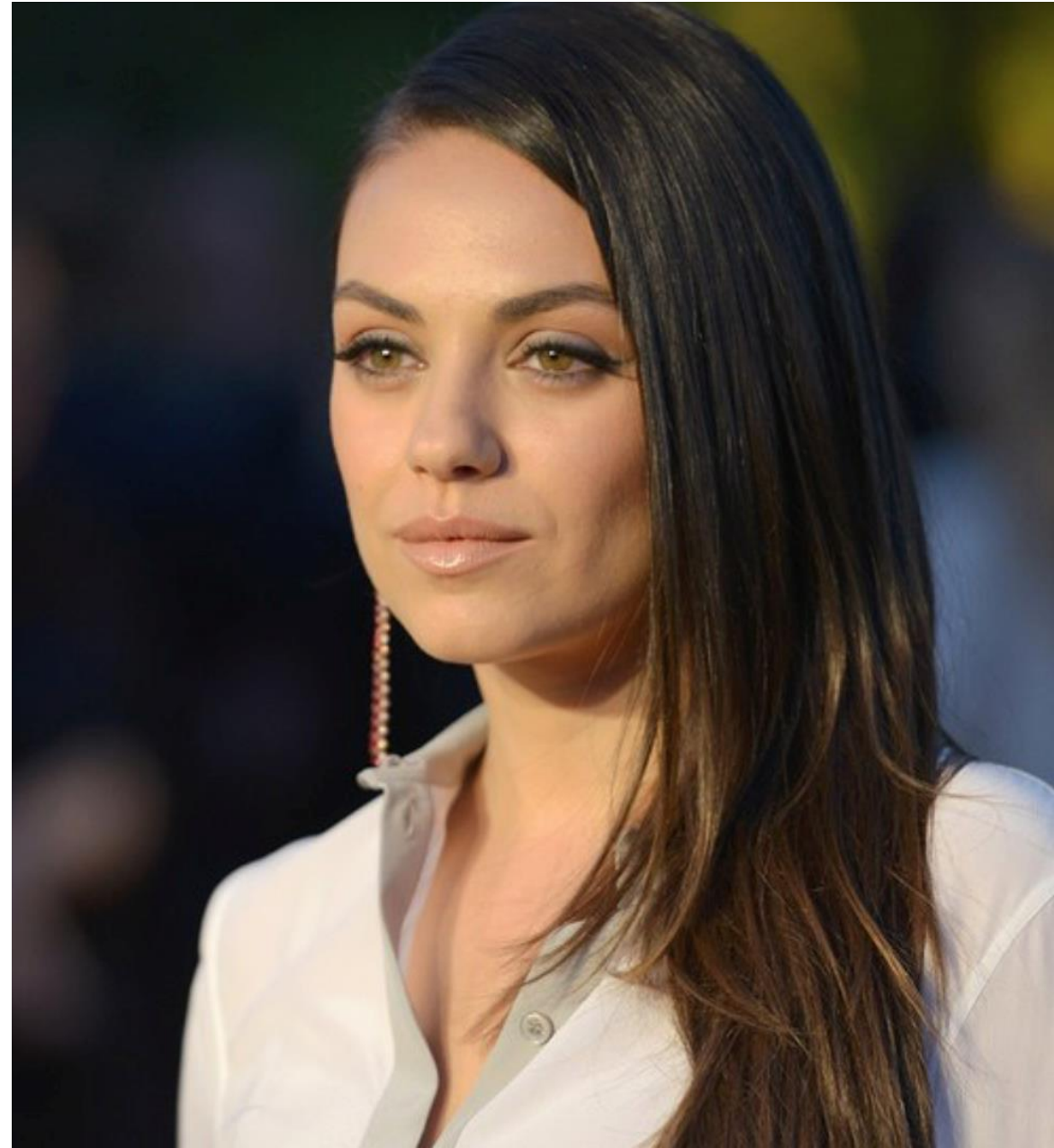
How to immigrate to the United States as the Extraordinary, and those who will serve our National Interest.



Mila Kunis

Mila Kunis is known for starring in “That 70’s Show”, “Bad Moms”, among others.

During the Cold War, the actress and her family left Soviet Ukraine and came to the U.S. Mila was just seven years old at the time.



Arnold Schwarzenegger

After serving a year in the Austrian Army, Schwarzenegger traveled to the United States in 1968 where he found success as a professional bodybuilder, actor, and politician. He was granted citizenship in 1983.



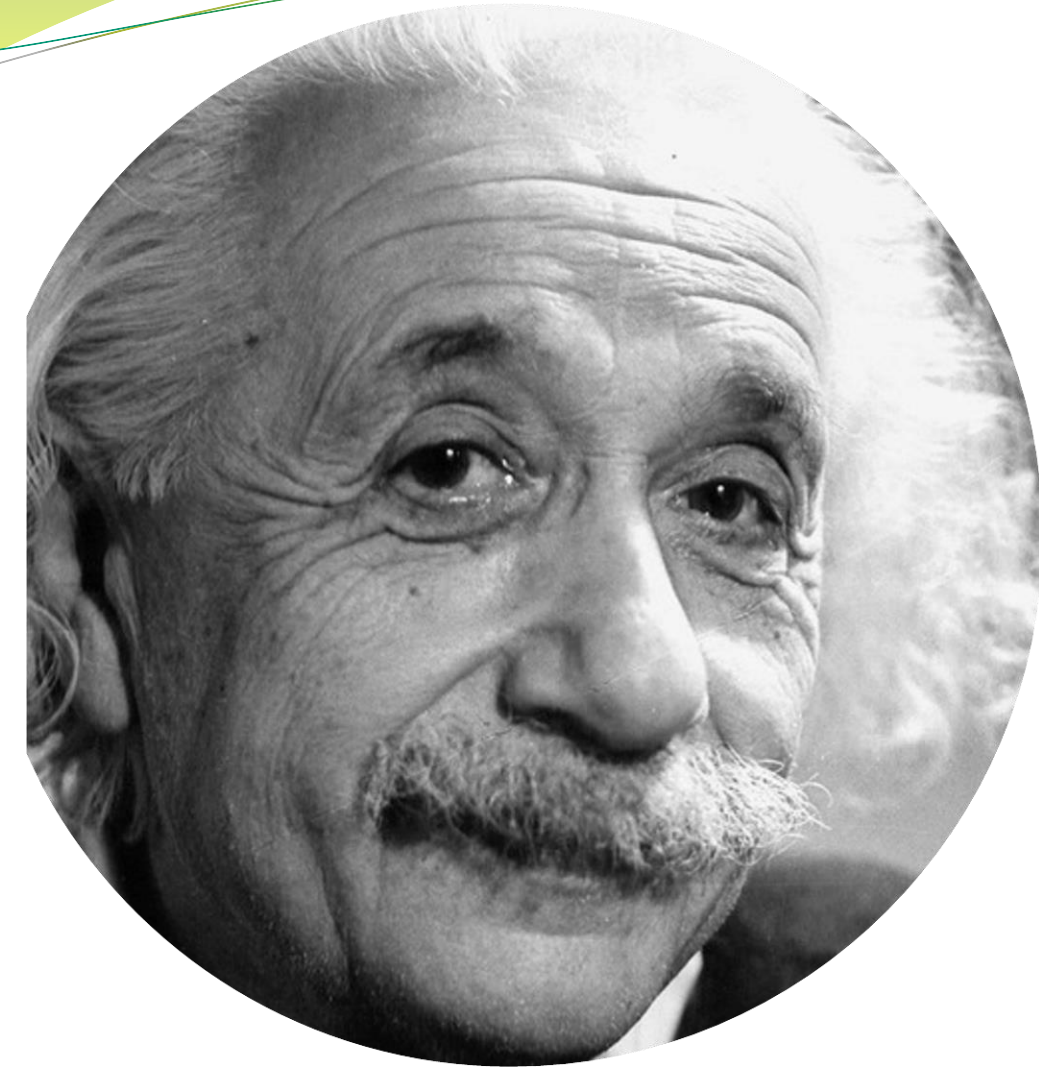


Shakira

Hugely successfully Colombian pop singer and dancer Shakira has won multiple Grammy, Latin Grammy and American Music Awards. Shakira is the highest-selling Colombian artist of all time, with estimates of more than 70 million albums sold worldwide.

Interesting facts:

- Her father was born in the U.S.
- Gloria Estefan taught her how to speak English



Albert Einstein

Nobel Prize-winning physicist Albert Einstein left Germany for the U.S. in 1933 to escape the Nazi party. Upon moving to the U.S., Einstein famously said, "I shall live in a land where political freedom, tolerance, and equality of all citizens reign."

Sergey Brin

As a boy, Sergey Brin left the former U.S.S.R. with his family to escape institutional anti-Semitism. He went on to have his own profound effect on the world through Google, Inc.

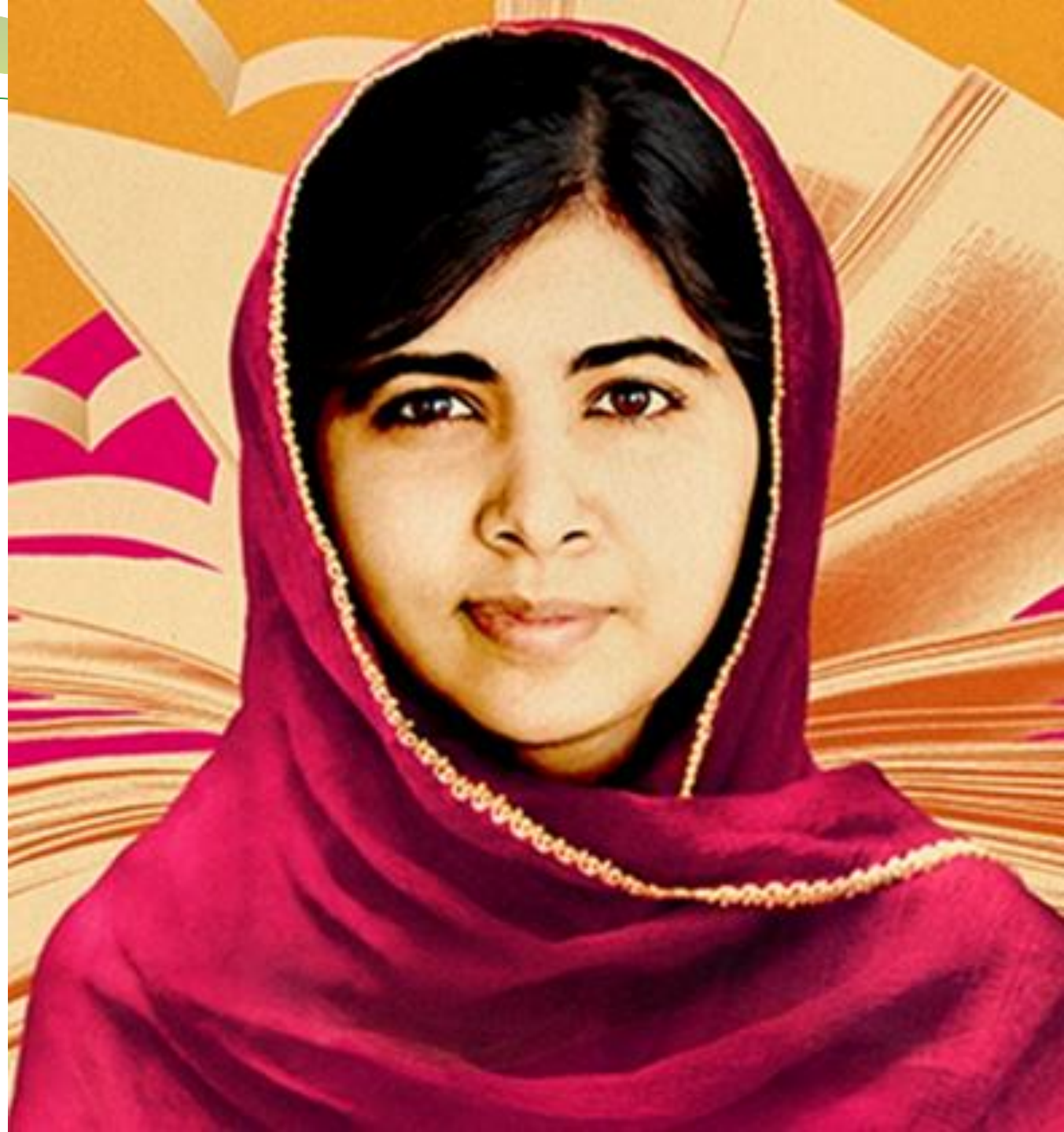


Malala Yousafzai

Malala Yousafzai is a Pakistani activist for female education and the youngest Nobel Prize laureate.

"I spoke out publicly on behalf of girls and our right to learn. And this made me a target."

In October 2012, on Malala's way home from school, a masked gunman boarded her school bus and asked, "Who is Malala?" He shot her on the left side of my head.





Melania Trump

The current first lady immigrated to the United States from Slovenia in 1996 to pursue a career in modeling. She was granted full citizenship in 2006.

Extraordinary Ability Petitions

Applies to individuals that have extraordinary abilities in the sciences, arts, education, business, or athletics.

- a level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor – as measured by sustained national or international acclaim and recognition in the respective field of endeavor.

Extraordinary Ability Petitions

Minimum showing - 3 of the following criteria (*but see Kazarian*):

1. Receipt of nationally or internationally recognized prizes or awards for excellence in field of endeavor
2. Membership in association that requires outstanding achievements of its members, as judged by national or international experts
3. Published material in major media or trade publications about foreign national and his/her work
4. Participation, either individually or as part of a panel, as a judge of the work of others in field of endeavor
5. Original contribution of major significance in field of endeavor
6. Authorship of scholarly articles, published in professional or major trade publications or other major media
7. Work displayed in artistic exhibitions or showcases
8. Leading or critical role for an organization or establishment of distinguished reputation
9. Command a high salary or other significantly high remuneration, in comparison to others in the field
10. Commercial success in the performing arts

National Interest Waivers

Applies to advanced degree professionals or individuals with exceptional ability.

Goal: to waive the labor certification requirement for individuals who substantially rise above others in their fields of endeavor and whose expertise would serve the national interest of the United States.

- *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016):
 - Waiver: self-petition under INA §203(b)(2)(B)(i) - if the petitioner can demonstrate that he/she will substantially contribute to the U.S. economy, culture, educational interests or welfare
 - Three-part test:
 1. Foreign national's proposed endeavor has both substantial merit and national importance;
 2. Foreign national is well positioned to advance the proposed endeavor; and
 3. On balance, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification.

Investment/Job Creation Petitions

- **EB-5 Program:**
 - Minimum investment of \$500,000 (TEA) - \$1,000,000 (non-TEA)
 - At-risk requirement – requires investment due diligence
 - Must establish the lawful source of the invested capital
 - Job Creation - the investment must result in the creation of at least 10 permanent full-time jobs
 - Illiquid investment and slow adjudication period (currently 20 months plus 7 months for NVC scheduling)
 - **2 types of investments:**
 - **Direct investments:** (not subject to government reauthorization) – require creation of 10 direct jobs
 - **Indirect investments:** known as “regional center” investments – may use econometric multipliers – must result in the creation of 10 direct, indirect, and/or induced jobs – (subject to government reauthorization – current sunset date: December 7, 2018)

E-2 visas

- Investor visas under bilateral treaties with the U.S. - <http://travel.state.gov/content/visas/en/fees/treaty.html>
- Requirements:
 - (1) Requisite treaty exists between the two nations
 - (2) Nationality test
 - (3) Substantiality test
 - (4) Marginality test
 - (5) Business Enterprise must be real and operating, or apparently ready to commence operations (in the case of a startup company)
 - (6) Investment must be “at risk”
- E-2 visas apply to:
 - Investors who come to "develop and direct" the enterprise; and
 - Employees who share the nationality of the treaty investor, and will fulfill an executive/supervisory position; or possesses skills essential to the firm's operations in the United States.

L-1A Executives and Managers

- (startups) - business plan detailing the planned growth of your business for the first year, viability studies, contracts with potential clients, and sufficient financial commitment to ramp up U.S. operations during the one (1) year startup period.
- (operational business enterprises) – managerial or executive duties of the professional transferred to the U.S. It is very important to carefully explain the structure of the business, and the duties and responsibilities of the employees being supervised by the multinational transferee.
- (functional managers) – USCIS issued a memorandum of law in November 2017 adopting *Matter of G- Inc.*, which holds that a beneficiary is employed in a managerial capacity as a “functional manager” if the petitioner demonstrates that the function is a clearly defined activity; the function is “essential” and core to the organization; the beneficiary will primarily manage, as opposed to perform, the function; the beneficiary will act at a senior level within the organizational hierarchy or with respect to the function; and the beneficiary will exercise discretion over the function’s day-to-day operations.

Conclusion



- Immigration is a complex and dynamic legal field which can impact all aspects of a client's business, as well as the life changing decisions of the families involved.

Today's immigration laws, policies, and regulations require complex, strategic approaches that are unique to each client. At our firm, clients demand our undivided attention and creativity. We draw upon our depth of experience and strategic approach to find unique solutions to the most complex immigration matters. We bring strong case management skills to manage client expectations and build client relationships. Our commitment to excellence is what sets us apart to other immigration law firms.

For more information, please contact our office:

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