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TN VISA GUIDE

SCOTT LEGAL, P.C.
IMMIGRATION AND BUSINESS LAW



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OVERVIEW

The TN visa is a non-immigrant visa open to Canadian and Mexican nationals who have a job offer in a profession that appears on the United States-Mexico-Canada Agreement (“USMAC”) profession list. The applicant must show that they meet the specific educational and/or work experience requirements for that profession.

1. TN VISA ELIGIBILITY AND REQUIREMENTS

To qualify for a TN visa, you must meet the following requirements:

- You must be a citizen of Canada or Mexico
- Your profession must appear on the list provided in the TN regulations (*see below*)
- Have the required qualifications to practice that profession (*education and/or experience*)
- Have a pre-arranged job for a defined length of time with an employer in the U.S. *and* in that job, you must be employed to engage in professional activities that are consistent with the listed profession.

These requirements are further described below.

1.1 NATIONALITY REQUIREMENT

TN visas are available to citizens of Canada and Mexico. TN visas for Canadians are called TN-1 visas. TN visas for Mexicans are called TN-2 visas. Eligibility is determined by nationality (*the applicant’s passport*), not by the country in which the applicant was born.

Canadians can apply for this visa at the border, at any port of entry. There, they would present the job offer letter and relevant supporting documentation. There is a small fee of \$50 that is paid at the time of application, and the examiner will approve or deny the application after a short interview. Canadians may also file a petition with USCIS, but this is not very common.

For nationals from Mexico, you must file a DS-160 form and obtain the TN visa at the U.S. consulate.

1.2 QUALIFYING PROFESSION

The TN visa is available to individuals who are coming to the U.S. to engage in business at a professional level. For purposes of the TN visa, engaging in business at a professional level means that the applicant must demonstrate that they have either a bachelor’s degree or other appropriate credentials and/or experience in a specific profession.

The regulations (8 C.F.R. section 214.6) provide a list showing each qualifying profession, along with the minimum education requirement or alternative credentials. Some professions require a degree, while others require a combination of a diploma or certificate and work experience. Note that it is not necessary that a listed degree be granted by a U.S. institution – degrees granted abroad are acceptable.

1.3 REQUIRED QUALIFICATIONS FOR THE PROFESSION

Below is a list of professions provided in the regulations that lists each qualifying profession along with the required degree or alternative credentials. Some of the professions require a degree, while others require a combination of a diploma or certificate and work experience.

PROFESSION	MINIMUM EDUCATIONAL REQUIREMENTS AND ALTERNATIVE CREDENTIALS
Accountant	<p>Baccalaureate or Licenciatura Degree / C.P.A., C.A., C.G.A., C.M.A.N.</p> <p>A businessperson seeking temporary employment may also perform training functions relating to the profession, including conducting seminars.</p>
Architect	<p>Baccalaureate or Licenciatura Degree; or state/provincial license.</p> <p>The terms "state/provincial license" and "state/provincial/federal license" mean any document issued by a state, provincial, or federal government, as the case may be, or under its authority, but not a local government, that permits a person to engage in a regulated activity or profession.</p>
Computer Systems Analyst	<p>Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate and three years' experience.</p> <p>(a) "Post-Secondary Diploma" means a credential issued, on completion of two or more years of post-secondary education, by an accredited academic institution in Canada or the United States.</p> <p>(b) "Post-Secondary Certificate" means a certificate issued, on completion of two or more years of post-secondary education at an academic institution, by the federal government of Mexico or a state government in Mexico, an</p>

	academic institution recognized by the federal government or a state government, or an academic institution created by federal or state law.
Disaster Relief Insurance Claims Adjuster	Baccalaureate or Licenciatura Degree and successful completion of training in the appropriate areas of insurance adjustment pertaining to disaster relief claims; or three years' experience in claims adjustment and successful completion of training in the appropriate areas of insurance adjustment pertaining to disaster relief claims.
Economist	Baccalaureate or Licenciatura Degree.
Engineer	Baccalaureate or Licenciatura Degree; or state/provincial license.
Forester	Baccalaureate or Licenciatura Degree; or state/provincial license.
Graphic Designer	Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma and three years' experience.
Hotel Manager	Baccalaureate or Licenciatura Degree in hotel/restaurant management; or Post-Secondary Diploma or Post-Secondary Certificate in hotel/restaurant management and three years' experience in hotel/restaurant management.
Industrial Designer	Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate, and three years' experience.
Interior Designer	Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate, and three years' experience.
Land Surveyor	Baccalaureate or Licenciatura Degree or state/provincial/federal license.
Landscape Architect	Baccalaureate or Licenciatura Degree.
Lawyer	L.L.B., J.D., L.L.L., B.C.L., or Licenciatura degree (five years); or membership in a state/provincial bar.

Librarian	M.L.S., or B.L.S. (for which another Bacculaureate or Licenciatura Degree was prerequisite).
Management Consultant	Baccalaureate or Licenciatura Degree; or equivalent professional experience as established by statement or professional credential attesting to five years' experience as a management consultant, or five years' experience in a field of specialty related to the consulting agreement.
Mathematician	Baccalaureate or Licenciatura Degree.
Range Manager / Range Conservationist	Baccalaureate or Licenciatura Degree.
Research Assistant (working in a post-secondary educational institution)	Baccalaureate or Licenciatura Degree.
Scientific Technician / Technologist	<p>Possession of (a) theoretical knowledge of any of the following disciplines: agricultural sciences, astronomy, biology, chemistry, engineering, forestry, geology, geophysics, meteorology, or physics; and (b) the ability to solve practical problems in any of those disciplines, or the ability to apply principles of any of those disciplines to basic or applied research.</p> <p>A businessperson in this category must be seeking temporary entry for work in direct support of professionals in agricultural sciences, astronomy, biology, chemistry, engineering, forestry, geology, geophysics, meteorology or physics.</p>
Social Worker	Baccalaureate or Licenciatura Degree.
Sylviculturist	Baccalaureate or Licenciatura Degree.
Technical Publications Writer	Baccalaureate or Licenciatura Degree, or Post-Secondary Diploma or Post-Secondary Certificate, and three years' experience.
Urban Planner	Baccalaureate or Licenciatura Degree.
Vocational Counselor	Baccalaureate or Licenciatura Degree.
MEDICAL / ALLIED PROFESSIONALS	

Dentist	D.D.S., D.M.D., Doctor en Odontologia or Doctor en Cirugia Dental or state/provincial license.
Dietician	Baccalaureate or Licenciatura Degree; or state/provincial license.
Medical Laboratory Technologist	Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma / Post-Secondary Certificate, and three years' experience. A businessperson in this category must be seeking temporary entry to perform in a laboratory chemical, biological, hematological, immunologic, microscopic or bacteriological tests and analyses for diagnosis, treatment, or prevention of diseases.
Nutritionist	Baccalaureate or Licenciatura Degree.
Occupational Therapist	Baccalaureate or Licenciatura Degree; or state/provincial license.
Pharmacist	Baccalaureate or Licenciatura Degree; or state/provincial license.
Physician (teaching on research only)	M.D., Doctor en Medicina; or state/provincial license.
Physiotherapist / Physical Therapist	Baccalaureate or Licenciatura Degree; or state/provincial license.
Psychologist	State/provincial license; or Licenciatura degree.
Recreational Therapist	Baccalaureate or Licenciatura Degree.
Registered Nurse	State/provincial license or Licenciatura degree.
Veterinarian	D.V.M., D.M.V., or Doctor en Veterinaria; or state/provincial license.
SCIENTIST	
Agriculturist	Baccalaureate or Licenciatura Degree.
Animal Breeder	Baccalaureate or Licenciatura Degree.

Animal Scientist	Baccalaureate or Licenciatura Degree.
Apiculturist	Baccalaureate or Licenciatura Degree.
Astronomer	Baccalaureate or Licenciatura Degree.
Biochemist	Baccalaureate or Licenciatura Degree.
Biologist	Baccalaureate or Licenciatura Degree.
Chemist	Baccalaureate or Licenciatura Degree.
Dairy Scientist	Baccalaureate or Licenciatura Degree.
Epidemiologist	Baccalaureate or Licenciatura Degree.
Geneticist	Baccalaureate or Licenciatura Degree.
Geochemist	Baccalaureate or Licenciatura Degree.
Geologist	Baccalaureate or Licenciatura Degree.
Geophysicist	Baccalaureate or Licenciatura Degree.
Horticulturist	Baccalaureate or Licenciatura Degree.
Meteorologist	Baccalaureate or Licenciatura Degree.
Pharmacologist	Baccalaureate or Licenciatura Degree.
Physicist	Baccalaureate or Licenciatura Degree.
Plant Breeder	Baccalaureate or Licenciatura Degree.
Poultry Scientist	Baccalaureate or Licenciatura Degree.
Soil Scientist	Baccalaureate or Licenciatura Degree.
Zoologist	Baccalaureate or Licenciatura Degree.
TEACHER	

College	Baccalaureate or Licenciatura Degree.
Seminary	Baccalaureate or Licenciatura Degree.
University	Baccalaureate or Licenciatura Degree.

A few of the professions on the list, such as Management Consultant and Scientific Technician, allow applicants to qualify with only work experience. These categories tend to be more heavily scrutinized, so it is important to prepare a strong application if you are applying under one of these categories.

MANAGEMENT CONSULTANT TN CATEGORY

Management consultants are generally hired by companies to observe and analyze operations, and to make recommendations based on their findings to help companies improve operational efficiency and maximize performance and profits. Applicants can qualify for the TN visa under the Management Consultant category if they have one of the following:

- Baccalaureate Degree;
- Licenciatura Degree;
- Five years’ experience as a management consultant; or
- Five years’ experience in a field of specialty related to the consulting agreement.

One benefit of the Management Consultant category is that applicants can qualify without having any consulting experience (*although it is certainly better for the application if they do*). For example, if a U.S. company is expanding its retail operations and wants to hire a consultant to assist during this expansion period, the person could qualify for a TN visa by demonstrating five years or more of experience in retail operations; such experience can constitute “*five years’ experience in a field of specialty related to the consulting agreement.*”

If you are relying on five years of experience in a certain specialty, it is important that you clearly document the experience with detailed letters from former employers. The consulting agreement should clearly refer to the person’s expertise in the specific specialty and explicitly outline the scope and timeline of the project in order to demonstrate that the consulting role is temporary.

2. TN VISA APPLICATION PROCESS

2.1 CANADIAN NATIONALS

If you are a Canadian national, you can apply for a TN visa at the border and enter the U.S. at any port of entry. You should be ready to provide the job offer letter and supporting documentation

evidencing proof of citizenship, as well as your educational and professional qualifications. U.S. Customs and Border Protection (CBP) recommends that if you are a first time TN applicant, you apply for a TN visa at one of the designated ports of entry listed on the CBP website. In the alternative, you may file a petition with USCIS – however, this option is not common.

2.2 MEXICAN NATIONALS

If you are a Mexican national, you cannot apply for a TN visa at the border. Instead, you must apply for the visa at a U.S. consulate by filing a DS-160 form, paying a visa application fee, and scheduling and attending a TN interview. Only after you have a TN visa in your passport will you be able to enter the U.S. You have the option of filing a petition with USCIS instead of the consulate.

2.3 WHAT DOCUMENTS MUST I BRING TO THE TN VISA INTERVIEW?

You should bring documentation that evidences the existence of the job and your qualifications for it and the TN visa. Such documentation includes:

- Your Canadian/Mexican passport;
- A letter from the U.S. employer describing which TN professional category you are applying under, what you will be doing in the U.S., how long you will stay in the U.S., what the U.S. company does, whether your job will be full- or part-time, your educational qualifications for the position, etc. The letter from the employer must have the employer’s original signature – no photocopies will be accepted. The letter must also be on the company’s letterhead (the letterhead must have the company name, address, and phone number on it);
- Your educational degree and transcripts (must be originals); and
- Any relevant professional licenses (if required by the regulations; see above).

If you are a Canadian national, you will have to pay US \$50 for the TN visa at the border. If you will be crossing at a land border, you will be further required to pay an additional fee of US \$6 for the paper I-94 form. You may have to pay these fees in cash, so you should have it handy.

If you are a Mexican national, you will need to submit form DS-160, pay the visa fee (*US \$160*), and schedule a visa interview. In addition to the documents listed above, you should bring to the interview the DS-160 confirmation page, visa fee payment receipt, and interview confirmation letter. You should also carefully read any instructions on the website of the consulate where you will be applying. Please be prepared to pay any fees in cash.

2.4 APPLYING FOR A TN VISA WITH USCIS

Applying for a TN visa through USCIS is an option available to both Mexican and Canadian applicants. However, there are reasons why applying at the border or with a consulate are the more popular options.

Applying with USCIS is more expensive than applying at the border. Applications with USCIS will cost \$460. There is an optional \$2500 premium processing fee if the applicant would like the application to be processed within 15 days.

Applying with USCIS takes longer. The average processing times for USCIS applications take around 3 to 6 months, which is significantly longer than the couple of minutes at the border.

Applications with USCIS face more scrutiny. USCIS officers are well trained and usually have more experience reviewing applications compared to CBP or consulate officers. They are more likely to scrutinize closely the job duties and question the applicant's fit for the position.

The advantage of applying with USCIS compared to the other options is that the applicant does not need to leave the United States to apply. Especially during times of the pandemic where travelling can be hazardous, the USCIS application can be submitted while the applicant is in the U.S., and the applicant does not have to leave the country to receive an approval. One caveat to this is that, for Mexican nationals, they do not need to apply for a new visa at the consulate as long as they remain within the U.S. However, if a Mexican national is planning to leave and reenter the U.S., they must apply for a new TN visa, even if they have an USCIS TN approval.

3. TN VISA VALIDITY

First, it is important to distinguish TN visa validity from TN status. The TN visa is what gives you the ability to seek entry into the U.S. TN status refers to the classification under which you entered the United States and the length of time the person is permitted to stay and work in the United States. This means that even if your TN visa has expired, you may have valid TN status – meaning you may live and work in the U.S. – until your I-94 (*which states the expiration date of your TN status*) expires.

Canadian nationals can be granted a TN visa for three years. Mexican nationals can be granted a TN visa only for one year, meaning that they must seek entry into the U.S. within one year of receiving their TN visa. For example: if you were granted a TN visa on October 1, 2018, and the visa expiration date is September 30, 2019, then you would only be able to enter the U.S. before September 30, 2019. Once the TN visa expires, you will not be able to enter the U.S. on the visa.

The TN visa status allows both Mexicans and Canadians to live and work in the United States for up to three years at a time. Your TN visa can be renewed for additional three-year periods and there is no maximum number of renewals for TN visa status.

Please note that the examining official has discretion to grant a shorter status, so you should check when your status expires on the CBP website each time you enter the U.S. Please also keep in mind that a TN visa is considered a “temporary” non-immigrant visa, so you must be able to show that you intend to leave once your visa expires.

4. TN VISA DEPENDENTS

Your immediate family (spouse and unmarried children under 21) can accompany you to the U.S. Dependents are admitted on “TD” visas.

WORKING ON A TD VISA

A TD visa does not grant spouses and children the ability to work in the U.S. If the spouse of a TN visa holder would like to work in the U.S., they will have to apply for their own work visa.

STUDYING ON A TD VISA

Both spouses and children of TN visa holders can enrol in school and study in the U.S.

NATIONALITY

Only the TN visa applicant must be either Mexican or Canadian. Children and spouses do not need to be citizens of Mexico or Canada to qualify for a TD visa. However, if your spouse is not a Canadian citizen, he/she will have to apply for a TD visa at a consulate and cannot apply for the TD status at the border. Applying with USCIS is also an option for the TD visa.

Canadian spouses and children who are applying with a main applicant who is also a Canadian citizen can apply with the main applicant at the border.

5. TN VISA FAQ

Q: Do you need to have a sponsor for a TN visa?

No, you do not need a sponsor (*such as, for example, the H-1B visa requires*). However, you will still need to have a job offer from a U.S. employer, and the U.S. employer will still have to sign a letter offering you a job in the U.S. (*see above*).

Q: Can I come to the U.S. to look for a job on a TN visa?

No. As mentioned above, you need to have a job offer already in place at the time you are applying for a TN visa. You cannot come to the U.S. to search for a job on a TN visa.

Q: Is there any minimum wage the U.S. company must pay me? Is there another particular wage or salary that I must be paid?

Beyond what is required by local and federal labor and employment laws, there is no prevailing

wage (as there is for an H-1B visa) that the employer must pay you. However, if your salary is unusually low for the selected profession, the officer could question the salary and whether the job offer is real.

Q: Can I work part-time?

Yes, you can work part-time on a TN visa.

Q: Does my degree have to be the same as the TN profession?

While the regulations for most professions simply call for a “*baccalaureate degree*” (meaning an undergraduate degree, including a bachelor’s degree or B.A.) the degree should match or be related to the profession. For example, someone seeking a TN visa for accounting may not have an undergraduate degree in literature, even if they, for example, also had an associate degree in accounting. In some cases, the TN categories may substitute the degree requirement for work experience.

Q: Does an employer have any ongoing compliance requirements for a TN visa?

No. Unlike the H-1B and other some other visas, the TN visa does not have any ongoing compliance requirements for the employer. There is also no recruitment requirement placed on the U.S. employer, nor is the U.S. employer required to hire qualified, available U.S. workers.

Q: Do signatures on TN letters have to be original?

Yes. Even during the COVID-19 pandemic, some border posts require original signatures. We are aware of some applicants being required to return to the border post at a later time simply because they did not have original, wet signatures.

Q: Do I have to bring my actual degrees to the border when I apply for a TN visa?

Yes, you should bring your original degrees. Border officers may not ask for them, but it is best to have them just in case.

Q: Does my employer letter have to be on company letterhead for a TN visa?

Yes. The letterhead should also have the address and phone number of the company. We are aware of situations in which a TN visa application was denied because the company letterhead consisted only of the company name.

Q: When can I cross the border?

You cannot apply for the TN visa and cross the border more than 10 days before your employment is scheduled to start. You should check with the port of entry to confirm the time frames during which they adjudicate TN visa applications. There are publicly listed phone numbers for each port of entry that you can call to check on these procedures.

Q: Can I apply for a TN visa in the U.S.?

Yes, if you are already in the U.S., you can apply for a TN visa through USCIS or at the border. You may also apply at the consulate if you are a Mexican national. Most TN visas are processed at the border since it tends to be much easier and cheaper than applying through USCIS.

Q: Can I apply for a Green Card while on a TN visa?

Yes, you can apply for a green card while on a TN visa – however timing is key here. Learn more about applying for a green card while on a TN visa by clicking [here](#).

Q: How much does a TN visa cost?

The legal fees are usually between US \$2,000 and US \$2,500. The filing fee for Canadians who process at the border is US \$50. If you will be crossing at a land border, you will be further required to pay an additional fee of US \$6 for the paper I-94 form.

The filing fee for Mexican nationals who process at a consulate is US \$160.

The filing fee for USCIS applications is \$460. There is also an optional fee of \$2500 if the applicant chooses premium processing (USCIS will process the application in 15 days).

Note that filing fees are subject to change. Please also remember that you may have to pay filing fees in cash.

Q: What is the approval rate for TN visas?

The TN visa approval rate is very high. Most TN visas are approved. Please remember that past results do not predict future outcomes.

Q: What happens if my TN visa is denied?

You can typically reapply if your TN visa is denied. During your interview, you should find out exactly what the examiner's concerns with the application are so that they can be remedied. As a procedural point, if you are crossing the U.S. - Canada border, you should ask for your application to be withdrawn if it is denied.

Q: Which TN categories are the most difficult to be approved?

The Management Consultant category is particularly challenging. This category does not have a specific link to a profession – as a result, the government issued restrictions on the category out of concerns that applicants used this category as a catch-all category if they could not fit into another. As a result, officials scrutinize this category. You can find out more about TN visas for management consultants [here](#).

Q: My profession requires a license. Must I have the license at the time I apply for a TN visa?

Example: You are an attorney in Canada and you just got a job offer from a U.S. law firm. You are planning to take the state bar exam shortly after you arrive in the U.S. on a TN visa, but you do not have the license at the time you are applying for the TN.

At the time you apply for a TN visa, you are not required to present evidence that you already have a professional license required to practice in the U.S. However, keep in mind that you may be subject to a particular state's licensure requirements upon arrival in the U.S. and before you start practicing.

Continuing the above example, while you would not be required to show that you are admitted to the legal bar of a particular state at the time you apply for a TN visa, you may be required to secure membership in the state's bar before practicing law there.

Q: Can I set up a company in the U.S. and work for this company on a TN visa?

Self-employment is not allowed on a TN visa. Therefore, you generally cannot work for a company on a TN visa if you are the sole or controlling shareholder or owner.

An officer will look at the following factors (*among others*) when considering whether you have a controlling interest:

- Whether you established the enterprise,
- Whether you have sole or primary control of the U.S. enterprise,
- Whether you are the sole or primary owner of the business, and
- Whether you are the sole or primary recipient of the business income.

If you want to start a company in the U.S. and then direct the company, an E-2 visa investor visa may be the right visa for you.

Q: Can I work as an independent contractor on a TN visa, or do I need to be a W-2 employee?

The TN regulations do not explicitly require that an individual working on a TN visa be a W-2 employee rather than an independent contractor. However, most TN applicants are employees, so examining officers may expect that the applicant will be a W-2 employee. As a result, a TN applicant who will work in the U.S. as an independent contractor should be ready for additional questioning by the examining officer, since the officer may have doubts as to whether there is a qualifying job that will be available for the TN independent contractor.

Please note that there may be additional implications beyond immigration law as a result of working in the U.S. as an independent contractor, including tax and employment considerations. The TN applicant should review applicable labor and tax laws and consult with an expert in

employment and/or tax law to determine whether they can work in the U.S. as an independent contractor.

Working as an independent contractor as a management consultant

One category of TN professionals that do often work as independent contractors are management consultants. Management consultants provide services that are directed towards improving the managerial, operating, and economic performance of public and private entities by analyzing and resolving strategic and operating problems in pursuit of the entity's goals. Note that management consultants receive particular scrutiny by examining officials, as is described in more detail above. As a result, it is recommended that you speak with an immigration expert if you plan to pursue a TN visa in this professional category.

Q: Does a TN visa lead to a Green Card?

No. A TN visa is a non-immigrant, temporary visa and does not lead to a green card. A TN visa is considered a “*temporary*” visa, so you must be able to show that you intend to leave once your visa expires. We are aware of situations where the government has questioned a person's intent when they attempted to renew their TN visa over an extended period (*for example, ten years*).

One great thing about the TN visa is that your employer can file an extension for you, saving you the need to leave the U.S. after the three-year period.

DO YOU HAVE MORE QUESTIONS?

If your question was not addressed in this guide, we encourage you to [schedule a consultation](#) with our firm. Our experts are here to provide personalized advice tailored to your unique circumstances, ensuring you have the clarity and guidance you need for your TN VISA application. Don't hesitate to reach out – we're here to help!

[**SCHEDULE A CONSULTATION**](#)

ABOUT SCOTT LEGAL, P.C.

Our law firm was established in 2012 by Ian E. Scott, an accomplished attorney and Harvard Law School graduate. Scott Legal, P.C. was founded on an E-2 investor visa, so we intimately and personally know the application process. In fact, our founder has personally held TN, H-1B, F-1, B-2, and E-2 visas. Scott Legal, P.C. currently has 11 full-time lawyers and professional staff to serve you, with a commitment to meeting all your immigration and business needs. Our lawyers or firm have been featured in The New York Times, Bloomberg, Forbes, NBC News, Business Insider, Super Lawyers, the American Bar Association, New York Bar Association, Martindale-Hubbell, and has accreditation and rating of **A+ by the Better Business Bureau**.

WHY CHOOSE US

Our clientele often includes ambitious investors looking to establish businesses in the United States, requiring expert guidance on obtaining investor visas and comprehensive business support. Our track record boasts over 2,436 visa and green card approvals, in addition to **400+ five-star reviews**, a testament to the satisfaction of those we have served.

KEY BENEFITS

Unlike many law firms who immediately assign clients to paralegals, at Scott Legal, P.C. you will almost always deal with an attorney. What sets us apart from other firms is our focus on finding solutions that will address both your short- and long-term needs. We are firmly committed to providing you with the highest level of customer service and we will always work diligently on your case.

SCHEDULE A CONSULTATION

You can schedule a consultation by filling up the form **here**.