

Sports Franchise Navigates Immigration Law to Bring International Superstar Pelé to the United States

By Michael Wildes

When the ownership of the revitalized New York Cosmos began considering ways to create excitement about its debut of its franchise in the Major League Soccer league in 2013, one of the most obvious ideas was to embrace its glorious past when the Cosmos rose to national prominence during the late 1970s and early 1980s as part of the North American Soccer League or “NASL.”

There was no better way to do that than to bring in the face of that franchise, and the entire NASL for that matter — Pelé.

But there was a problem with bringing in Pelé, whose formal name is Edson Arantes Do Nascimento. He would need an “O-1” visa.

Because he is a foreign citizen from Brazil, Pelé needed an “assist” from an immigration law firm as he sought to comply with his new employment goals in the United States. As an “Alien of Extraordinary Ability,” hired to come to our country to help rebuild the world famous professional soccer team, Pelé was required to secure an O-1 visa in the field of athletics before he was able to begin his employment for the team's front office. U.S. immigration regulations require that certain athletes who desire to work or play for a professional sports team for an extended period of time obtain “O” or “P” nonimmigrant work visas.

Athletes like Pelé who are the crème de la crème of their field may pursue an O-1 visa, intended only for those who can demonstrate evidence of extraordinary ability. These athletes must demonstrate to United States Citizenship and Immigration Services (“USCIS”) that they have risen to the very top of their field by meeting several established regulatory criteria, such as winning an internationally recognized award like an Olympic Gold Medal; securing membership in an elite association; serving in a critical capacity for a team of distinguished reputation; or commanding a high salary.¹ Hall of Fame caliber athletes, for example, would be prime candidates for an O-1 visa. O-1 visas are initially offered to candidates for a maximum period of three years with a new U.S. employer, and they can be renewed indefinitely one year at a time.

Born in Tres Coracoes, Brazil, Pelé was approved for his U.S. extraordinary ability visa based on his well-documented sustained international acclaim as a person who has risen to the very top of the field of athletics. During his magnificent playing career, Pelé led Brazil to three FIFA World Cup championships, scored over 1,200 goals, and helped catapult the sport of soccer and the New York Cosmos to new heights in the United States, where Pelé and the Cosmos drew record crowds and boosted the sport's popularity. Often called “The King of Football,” Pelé played for the New York Cosmos until his retirement in 1977. Since retiring as a player he has

won several lifetime achievement awards, worked with numerous charities, and served as a United Nations Goodwill Ambassador.

USCIS also offers another nonimmigrant visa, known as the “P-1,” meant specifically for athletes and entertainers. P-1 classification refers to an “alien coming to the U.S temporarily to perform at a specific athletic competition as an athlete, individually or as a part of a group or team, at an internationally recognized level of performance.”² A maximum of 25 thousand P-1 visas are issued annually, and the petitioning employer must demonstrate that both it and the athlete are internationally recognized as having a “high level of achievement...evidenced by a degree of skill and recognition substantially above that ordinarily encountered, to the extent that such achievement is renowned, leading, or well-known in more than one country.”³ The P-1 is not as strong as O-1, however, and is only issued on a temporary basis for the duration of the athletic performance.

Not all athletes have an easy time obtaining the P-1 visa, either. Players from abroad who have been recruited for minor league play may not fit the necessary criteria for a P-1 visa. For these players, an “H-2B” visa is another available option. The H-2B is a nonagricultural worker visa granted on a temporary basis for up to one year, and it may be extended up to three times. The petitioning employer must sponsor the athlete, just as they would for a P-1 visa, but in this case the team must demonstrate that their need for the player is strictly temporary, and applications for extensions are closely scrutinized.

The immigration process can expose all foreign athletes to great scrutiny, even for elite performers with professional support behind them. In one notable and well-publicized immigration case in Major League Baseball, Texas Rangers’ pitchers, Omar Beltré and Alexi Ogando, both of the Dominican Republic, were banned from entering the U.S. for five years after they participated in an international marriage-fraud ring. Both pitchers were recently granted waivers by the State Department but not before losing five crucial years of their athletic careers. Criminal charges, even minor ones, can also pose big problems for foreign-born athletes hoping to play in the U.S.

For many international athletes, playing professional sports in the U.S. is a lifelong dream, but this is subject to stringent legal requirements. The potential for high-profile exposure and monetary rewards here make it well-worth the endeavor of filing to secure the proper visa with USCIS in order to work lawfully in our country. In rural villages and crowded urban centers across the globe, players work tirelessly for the opportunity to rise to the top of their field to play in America. Successful navigation through complex U.S. immigration law is an important tool to help these athletes make this dream a reality.

Michael Wildes, a former Federal Prosecutor (1989-1993), served two terms (2004-2010) as Mayor of Englewood, New Jersey. He has represented the United States government in immigration proceedings, and now in private practice, has become internationally renowned for successfully representing several defectors who provided hard-to-obtain national security information to the United States. As Mayor, he obtained an injunction to prevent Libyan leader Muammar Qaddafi from residing in New Jersey during the 2009

United Nations Summit. Attainment of an O-1 visa for Pelé represents yet another success for Wildes. He and his firm have served as immigration counsel to an esteemed roster of renowned clientele in professional sports including Greg Norman, Virginia Wade, Billy Smith, and Al Arbour, all in their efforts to pursue careers in the United States. Wildes also assisted in securing U.S. citizenship for former professional basketball player Kwame James, who subdued the would-be "shoebomber" Richard Reid on a trans-Atlantic flight. Most well-known for representing former Beatle John Lennon and his artist wife Yoko Ono, other notable clients of the firm include Joe Cocker, Johnny Rotten, Paloma Picasso, the 2010, 2009 and 2008 Miss Universes, supermodel Giselle Bündchen and Sarah Brightman, the world's bestselling female classical artist of the twenty-first century.



Founded in 1960, Wildes & Weinberg P.C. is the premier law firm in the United States concentrating exclusively on the immigration and nationality field. The firm grew out of the practice of the father of Michael Wildes, Leon Wildes, Esq., a distinguished immigration practitioner in New York City who represented former Beatle John Lennon in deportation proceedings. Its original clientele consisted of individuals, rather than corporations, who had been placed in deportation or exclusion proceedings or were otherwise in jeopardy. The practice expanded steadily as word of its outstanding achievements in individual cases spread in the international community attracting clients from around the world. Today the firm continues this illustrious tradition with a staff over 40 individuals, all experts in the field of U.S. immigration and nationality law, in its New York City and Englewood, New Jersey offices. The firm is known for its prompt and efficient service. Despite its steady growth over the past 54 years, the hallmark of the law practice remains the individualized attention to its clients' needs.

1. Immigration and Nationality Act (INA) § 101(a)(15)(O)(i).

2. Immigration and Nationality Act (INA) § 101(a)(15)(P)(i).

3. *Id.*