Green v. M.C.I. TC4-46812

Mr. Green engaged the services of Eastman Law Office Professional Corporation to prepare and file an application to sponsor his child for permanent residence under the Family Class.

Eastman Law Office prepared and filed the application, but a Visa Officer refused the application for the following reason:

> *I have determined that you are not a member of the family class as you are not being sponsored by one of your parents named on your birth certificate.*

The issue was that Mr. Green had not been named on his child's birth certificate as the biological father.

Eastman Law Office Professional Corporation filed an appeal before the Immigration Appeal Division (IAD) challenging the Visa Officer's decision.

We successfully argued that section 2 of the *Immigration and Refugee Protection Regulations* (*IRPR*) does not require a birth certificate as proof that someone is a dependent child and that a positive DNA paternity test is sufficient, which we had put into evidence before the IAD.

The Member, therefore, allowed the appeal on consent of the Minister of Citizenship and Immigration. The Member found that the DNA test established on a balance of probabilities that the child in question is Mr. Green's biological child, and that she is a dependent child of Mr. Green under sections 2 and 117(1)(b) of the *IRPR*.