



Episode 25: “Best Practices for Crossing the Canada-US Border, With Rosanna Berardi”

Speakers: Ari Kwiatkowski, Barclay Damon, and Rosanna Berardi, Managing Partner of Berardi Immigration Law

[Ari Kwiatkowski]: Hi, everyone, this is a Barclay Damon live broadcast where we discuss all things L&E, labor and employment. I’m Ari. Let’s dig in.

[Ari]: Hey guys, welcome to “Best Practices for Crossing the Border.” This is our first episode in a series of episodes where we tell you what you need to know about immigration law, and I am absolutely thrilled to announce that today we have Rosanna Berardi joining us. Rosanna is the managing partner for Berardi Immigration Law and for those of our listeners who don’t know, Berardi is actually Barclay Damon’s immigration counsel. So, Rosanna, welcome.

[Rosanna Berardi]: Thanks. I’m thrilled to be here. Thanks for having me.

[Ari]: Absolutely. Thanks so much for joining us. And you know, just for our listeners, Rosanna and one of her partners will be joining us from time to time, just kind of popping in, telling us what we need to know about immigration law, how it interacts with labor and employment law. So I just wanted to give Rosanna a few moments just to talk a little bit about her background, her experience. She has a really interesting path toward her practice of law. So, Rosanna, if you could just, you know, tell us a little bit about you, your practice and you know, how you got to where you are today.

[Rosanna]: Sure. So this year, 2022 is my 25th year of being an immigration lawyer.

[Ari]: Congrats.

[Rosanna]: Gone by, in the blink of an eye. And people always ask, you know, did you always want to be an immigration lawyer? And I say, no, it just sort of happened to me. So fortunately for me, when I was in college, I took a summer job that seemed amazing at the Peace Bridge here in Buffalo. They were just looking for students to help them at the border. I don’t know anything about it other than it was a federal job and it paid good money. Yeah, when I was 20 years old. So I was like, Oh, I’m going to do that. And who knew? My first day of work there, June 1 of 1993. Who knew that would be the first day of my immigration career that I am still involved in 2022. So, you know, I worked for the Immigration Service for five years during college and also then I decided to go to law school. But I was an inspector at the border. I had a badge, and a gun, and handcuffs. Now I joke, I just have my iPhone and a pen. It’s not nearly as exciting.

[Ari]: I was going to say. That sounds very legit, Rosanna.

[Rosanna]: A lot of power those days? So I did that for...I was with the government for a total of five years, the beginning of my career, and it was so interesting and really shaped my mind and thoughts on immigration and I decided I didn’t want to be an inspector full time. It’s a great job, but it’s a lot of shift work, and something was just propelling me to law school. So I did law school, but I stayed with the government while I was in law school. And lo and behold, my first job out of law school was to work in the I.N.S. [NOTE: Immigration and Naturalization Services] New York City office,

where I was in immigration court prosecuting illegal aliens. So that was really, really cool. I was in court every day. There were like 30 different immigration judges. Really fun, you know, to be 25, just walking out of law school, going to New York City, you know, native Buffalonian.

[Ari]: Yes. Just a little bit of a different environment.

[Rosanna]: Yeah. Slightly, slightly, but Buffalo is my home, so I ultimately came back. And I've been working in immigration, you know, since that time. So I did a stint at a large law firm here in Buffalo and then in 2005 decided to follow my own dream and start Berardi Immigration Law. And I did that out of my apartment with one client.

[Ari]: Wow.

[Rosanna]: Today I have over 20 employees. We have multiple offices. We're thrilled to be immigration counsel to Barclay Damon. It really doesn't feel like work. I truly feel like this is my calling. I enjoy what I do. Yeah, there are days when you know, stuff happens, but it feels like breathing to me. So I feel so blessed and thrilled to still enjoy it 25 years later.

[Ari]: Yeah, that's amazing. Thanks so much, Rosanna. And I have to imagine that your experience working at the border really is so unique and so valuable in your practice today. And just for our listeners, as you know, I'm in Barclay Damon's Buffalo office, Berardi Immigration Law is located in Buffalo, so Rosanna and I are both native Buffalonians, as we like to say. I can't imagine... I'm sure that experience is just so unique and I can only imagine how valuable it was. But Rosanna, before we kind of dig in, as I like to say to the substance of what we're going to talk about today, you just gave us a plethora of interesting information about you and your professional life. I do ask our guests to share something, a fun fact about them or something interesting about their personal lives. So I'm kind of going to put you on the spot...know you're in good company, but is there anything you'd like to tell our listeners just a little bit about you? A fun, personal fact?

[Rosanna]: So two things. The first is that I'm a Disney fanatic.

[Ari]: OK, I did not know that about you.

[Rosanna]: Yeah. We go to Disney three to four times a year every year for the last 10 years.

[Ari]: Awesome.

[Rosanna]: So listeners, if you need any insight on the world of Walt Disney and how to plan, to get reservations and when to go, I'm your gal. I love, love, love doing that. And then my most recent fun fact is I'm 50 years old and three weeks ago we got a brand-new puppy named Lola. She is a four-pound Havanese. She's this tiny little ball of love and I can't believe I've lived this long without a dog.

[Ari]: Oh my gosh, so cute.

[Rosanna]: She's amazing, even when she does her business on my carpet.

[Ari]: So Rosanna, how big will Lola be when she's full grown?

[Rosanna]: Probably ten pounds, so she'll be that little tiny thing.

[Ari]: OK!

[Rosanna]: And she's just wonderful. She's brought so much joy into our family.

[Ari]: Yes. Well, I love that. And I'm trying to plan a trip to Disney. Well, my sister-in-law wants to take our nieces to Disney at the end of August, so I probably will be having an offline conversation with you about that.

[Rosanna]: Please do, I'm your girl.

[Ari]: Absolutely. So, Rosanna, thanks so much for all of that. Today as I mentioned, we're talking about best practices for crossing the border. And Rosanna, as you know, the Barclay Damon Labor & Employment Podcast is a podcast that tells employers basically what they need to know about the practice of labor and employment law, and how to manage their relationships with employees. And I guess the first question I have for you is why is this topic important for employers? Or why do our listeners care about best practices for crossing the border?

[Rosanna]: So immigration tends to be the forgotten piece of labor and employment sometimes...

[Ari]: Right.

[Rosanna]: So oftentimes we'll field questions from clients about, you know, hiring someone and they'll say, oh, there's this work permit, like what does this mean? What do I need to do? Or we'll get a question from a client saying, oh, I promised the person a green card, so how do we do that?

[Ari]: Right.

[Rosanna]: So it's really important to keep it front of mind when you're doing anything labor and employment, any hiring, any termination. And especially right now with living in the middle of the great resignation, hiring foreign nationals has become a huge alternative for the missing labor market in the United States. So a lot of employers are reaching out saying, hey, I know somebody in Colombia and they want to come over and can I hire them? So right now, it's really important to understand how it all works, how it all fits together, and that it's different from hiring American citizens. There's more hoops we have to jump through. There's more paperwork that needs to be completed but it is completely doable. It just needs to stay top of mind.

[Ari]: Right. That makes complete sense, Rosanna. And I think today what we'll talk about will be helpful for employers who have employees who have to cross the border to come to work. And I think things have opened up obviously substantially, which we'll talk about. So I think those are good things for employers to keep in mind, too, just in terms of crossing the border and for business visitors and things like that. And I'm really glad you mentioned onboarding because for our listeners, we'll actually talk about that next week. And Rosanna will be joining us again for that. So definitely look out for that. But Rosanna, just to kind of kick off the conversation, I wanted to ask, you know, there's been a lot of confusion, as you mentioned, a lot of things changing with the border. Right now, what is the current status or what is the current situation? Are people free to travel across the border? And if you can kind of just give us the lowdown as it is right now.

[Rosanna]: Sure. So the US-Canadian border is open—and open with an asterisk next to it. And I say that because while it is open for travel, both countries are requiring full vaccination for entry and exit. So if you're an American citizen wanting to go up to Niagara Falls for a beautiful spring day, that's great. You can do that. But there's some restrictions. And I'll tell you about those in a minute. Same thing if you're an American coming back into the United States or a Canadian coming in, you know, to see a baseball game or what have you, you can do that. But you need to have some documentation. So the border itself is open. So let's talk a little bit about how you do it and what do you do.

[Ari]: Sounds good. And I love that you said, “open with an asterisk.”

[Rosanna]: Yeah. And even literally before I just got on this podcast, my father, who’s 83 years old, is going to Canada he calls me and says, I’m going to Canada. And I’m like, well you need your ArriveCAN app. No, no, no I don’t, no you do. So he literally just left my office, while I filled out the app for him. But anyway, so, you know, employers and employees crossing the border into the United States; of the two countries, the US is a little bit more lax than Canada. So to enter the United States, whether you’re flying, or driving, or an essential worker, you need to show proof of vaccination. You need to have full vaccination, meaning either two doses or the one dose J&J shot. Now, that vaccination requirement does not include boosters.

[Ari]: OK.

[Rosanna]: So if you were vaccinated, you know, when they first rolled out a few years ago, you’re probably fine for coming into the US. There is no document that has to be filled out in advance. There is no app and know that the Customs and Border Protection officers have the discretion to ask for your vaccine card. They don’t always, but they can. So what does that mean? That means you should have your card on you at all times. They will accept the Excelsior Pass that New York State has. But it’s really important to have that ready. A lot of times they’ll just say, are you vaccinated? You’ll say, yes. They’ll say, have a nice day. But every once in a while they’ll say, do you have proof of vaccination? So coming into the United States, just remember, of course, have your valid passport or Nexus card, but also proof of your full vaccination.

[Ari]: OK, good to know so yeah, that’s interesting, Rosanna. You know, I’m learning right along with our listeners because I didn’t know that a booster was not required. So it’s basically just fully vaccinated without any consideration for boosters.

[Rosanna]: Correct.

[Ari]: OK, great to know. Now, you mentioned that the US was a little bit more lax. That makes me think that crossing into Canada is a little bit more, there are some more stringent requirements. So if you could tell our listeners about that, I think that’ll be very helpful.

[Rosanna]: Yeah. So American citizens and travelers to Canada, listen up. So Canada, like the United States, does require full vaccination as well. And again, just the one shot J&J or the two shots, no boosters, are required. However, there’s an extra step. And the extra step is an app on your phone called the ArriveCAN. It’s Arrive and then CAN, the ArriveCAN app is a free app. You can get it on Android or iPhone or any smartphone platform. But basically it requires you to fill out biographical information, your name, your date of birth, that type of thing. Where you live, they want you to upload your vaccination record, as well as if you have a Nexus card. And like I said, I just literally did that five minutes before getting on this podcast. And they do want to know where you’re going, which border you’re going to be crossing. So my father was going through the Peace Bridge which is between Buffalo and Fort Erie. They want to know the date, they want to know the estimated time. Now, don’t worry if you say 1:30 and you show up at 3:30, you’re not going to be refused admission. They just want a general sense of when you’re coming in.

[Ari]: OK.

[Rosanna]: But that ArriveCAN app is critical. If you don’t have that ready to go, the officers get very aggravated, and they can turn you around. And the question that we always get is: do I have to update it every time I travel? And that is yes, yes, yes, yes, yes. Because it does have a date certain field. They want to know when you’re coming in. Now, all of your biographical info will save,

so you won't have to do your name and your date of birth, everything.

[Ari]: Right.

[Rosanna]: You will have to put in the date you're traveling on, and at which port of entry. And based on everything that I have heard and read, the ArriveCAN app is here to stay; the Canadian government—based again just on what I've heard from my industry—does not have any plans of shutting that down any time soon.

[Ari]: Interesting. So basically, Rosanna, just for our listeners: with the ArriveCAN app, I know you explained you know you put in your biographical information, some information about your stay in Canada. You know the duration, things like that. Are you uploading a photo of your vaccination card through that app? Is that... or does it kind of work with Excelsior Pass or how does it work with respect to your vaccination status?

[Rosanna]: You will have to you'll have to carry the card with you, or be able to show them the Excelsior Pass.

[Ari]: Got it. OK, so it's kind of separate from the ArriveCAN app.

[Rosanna]: Yes.

[Ari]: OK, well, that's very helpful. Rosanna, thank you. I think this is you know, like I said, this has been helpful for me. I haven't traveled to Canada very much in the pandemic but I know it is definitely an option available to me.

[Rosanna]: Right, exactly. It's open.

[Ari]: So, you know, I think this was a great episode for us to just kind of run through that. Is there anything else that you wanted to share with our listeners or just some things you think they should be aware of or employers in particular, as we're kind of coming out of the pandemic and moving along to a more open border situation?

[Rosanna]: For sure, I would say, you know, don't hesitate to send employees across the border. It's open. You just need to be prepared. And as a former immigration inspector, I can tell you the best thing you can do when you travel is to be prepared, know where you're going, have the right documentation, have the ArriveCAN app have filled out, if you're going into Canada. When you pull up in your vehicle, you're ready. Don't say, oh, well, I don't know, I might go to Clifton Hill. Your job is to make that officer's job simple and easy. You've got to understand those officers sit out there for a long time and they talk to dozens and dozens of people. It's a very difficult job. It seems super easy. It's very difficult. And if you want to have great success at the border, be prepared, know what's in your car, know who's in your car, or that you know, just because marijuana is legal in Canada, it's not legal in the United States. Just be aware of what you're doing. It's different when you're crossing into another country versus, you know, crossing from New York state into Pennsylvania, right. So there's going to be an inspection process and just be ready, "be prepared" like the Boy Scouts say, be prepared. And it will make your travel so much smoother and the officer will be thrilled because it's just easy to get you through. So always have your documentation, know who's in your car, know what's in your car, make sure you've got your ArriveCAN app and you're good to go.

[Ari]: I love that advice, Rosanna, I was laughing because it makes me think of—like I think for a lot of our listeners, at least for me, even I know when I get to like a border crossing, I'm always just like nervous. I don't really know why. Like, I never have any reason to be nervous. But it makes me think of this time my

husband and I were going to Toronto to see the Yankees play the Blue Jays and the Border Patrol agent or the officer at the Canadian border was like, let me see your tickets, you know? And it was like, I hadn't even thought of that. It was on my phone, you know, they were electronic tickets. But, you know, we were fumbling at the border just like trying to pull up the tickets. So it's like, as you said, I love that you said be prepared. And I think for our listeners who are employers, this is great advice for you to pass on to your employees who do cross the border because at Barclay, you know, I know we have several cross-border clients, particularly in the Buffalo area, that have employees that are now going back and forth. So I feel like that's great, Rosanna, thank you. And I hope if you're listening, if you have employees who are crossing the border, definitely pass that advice along to them.

[Rosanna]: And if you're not sure how it works, I mean, the rules are changing a lot. They've slowed down in terms of the pace of change. But if you are uncertain, just call...call Barclay Damon, and ask for someone in immigration. And we can answer your question in two minutes and you'll be good. Don't guess at the border. It's never a good idea. You want to go there, you want to be prepared and make your life easier, the officers' life easier, and enjoy your time when you're traveling.

[Ari]: Absolutely. I love that, Rosanna: don't guess at the border. That is such good parting advice. Well, thank you so much, Rosanna. I really appreciate you joining us. To our listeners, Rosanna will be joining us next week and we will be telling you all about what you need to know for employee onboarding and what you need to know on the labor and employment and immigration law side of things. So thank you so much for tuning in. Rosanna, thank you so much.

[Rosanna]: You're welcome.

[Ari]: We'll see you next week.

[Ari]: The Labor Employment Podcast is available on barclaydamon.com, YouTube, LinkedIn, Apple Podcasts, Spotify, and Google Podcasts. Like, follow, share, and continue to listen. Thanks.

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