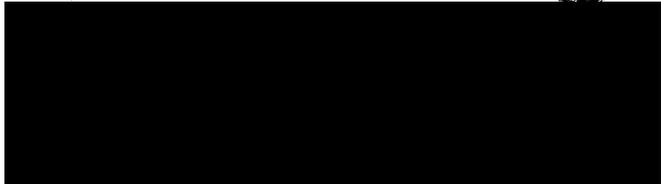


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U.S. Citizenship  
and Immigration  
Services

*BP*



FILE: WAC 02 253 51979 Office: CALIFORNIA SERVICE CENTER Date: MAY 11 2004

IN RE: Petitioner: [Redacted]  
Beneficiary: [Redacted]

PETITION: Immigrant Petition for Alien Worker as a Skilled Worker or Professional Pursuant to Section 203(b)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(3)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

*Robert P. Wiemann*  
Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The preference visa petition was denied by the Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The petitioner is a landscaping contractor. It seeks to employ the beneficiary permanently in the United States as a landscape gardener. As required by statute, the petition is accompanied by an individual labor certification approved by the Department of Labor. The director determined that the petitioner had not established that it had the financial ability to pay the beneficiary the proffered wage as of the priority date of the visa petition. On appeal, counsel submits a brief and additional evidence.

The appeal is filed by Rachel Arteaga, Esquire, of R.A. & Associates. The office notes that this is the first appearance of Ms. Arteaga in the record. The G-28 form appointing Ms. Arteaga as counsel is executed by the *beneficiary*. The regulations, however, preclude the beneficiary as a party to the proceeding or as one entitled to representation. *See* 8 C.F.R. § 103.2(a)(3). Only the petitioner may authorize counsel to appear. *See* 8 C.F.R. § 292.4(a). There is no indication in the record that the petitioner has authorized this newly-appointed counsel to act on its behalf.

It is concluded, therefore, that the party submitting the appeal has no standing in the proceeding. 8 C.F.R. § 103.3(a)(2)(v)(A).

**ORDER:** The appeal is rejected.