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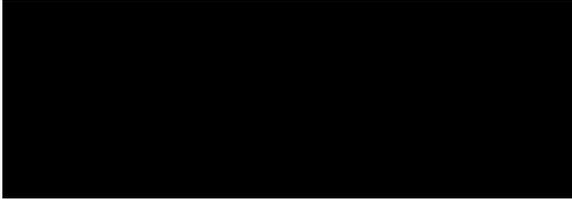
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

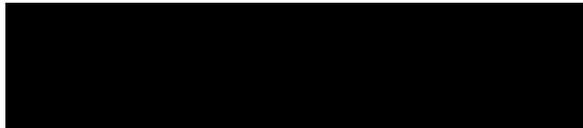
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FILE: WAC 03 161 54295 Office: CALIFORNIA SERVICE CENTER Date: **SEP 27 2005**

IN RE: Petitioner:
 Beneficiary:



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, Director
Administrative Appeals Office

DISCUSSION: The Director, California Service Center, denied the preference visa petition that is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

Since the appeal in this matter was filed an attorney has submitted a Form G-28 Notice of Entry of Appearance signed by one of the petitioner's partners recognizing that attorney as the petitioner's counsel in this matter. That substituted counsel replaces a previous attorney who submitted the petition and the appeal in this matter. All representations will be considered but the decision in this matter will be furnished only to the petitioner and its current attorney of record.

The petitioner is a luggage manufacturer. It seeks to employ the beneficiary permanently in the United States as an embroidery supervisor. The director determined that the petitioner had not established that it had the continuing ability to pay the beneficiary the proffered wage beginning on the priority date of the visa petition. The director also noted that the petitioner's previous counsel stated that the petitioner has merged with another company, and noted that the petitioner has not established that the evidence demonstrates that the company formed by that merger is the true successor to the original petitioner, within the meaning of *Matter of Dial Auto Repair Shop, Inc.* 19 I&N Dec. 481 (Comm. 1981). The director denied the petition accordingly.

Previous counsel submitted a Form I-290B appeal in this matter. In the section reserved for the basis of the appeal, counsel inserted, "We need 90 days since the accountant & [one partner's] lawyer are on vacation – [That partner] has two other businesses in other states and travels, so it would be impossible to comply before 90 days. (Please see attached letter.)" The letter referred to, which is dated June 14, 2004, asserts the same facts and also asks for a 90 day extension of time to file a brief or otherwise supplement the appeal.

Subsequently, the petitioner's new counsel entered his appearance accompanied by a letter dated September 22, 2004. That letter states,

Enclosed please find two G-28 forms in relation to the above captioned matter. I am entering this case at this stage and will be the new attorney of record, please forward any decision to directly to [sic] my offices.

In advance thank you for your anticipated cooperation in this matter.

No further information, argument, or documentation has been received from the petitioner or from anyone acting on the petitioner's behalf.

The statements submitted on appeal by the petitioner's previous counsel and the petitioner's new counsel contain no specific assignment of error. The regulation at 8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part: "An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal." No such erroneous conclusion of law or a statement of fact has been asserted as a basis for the appeal and the appeal must be summarily dismissed.

ORDER: The appeal is summarily dismissed.