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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

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FILE:

[REDACTED]
LIN 08 245 52000

Office: NEBRASKA SERVICE CENTER

Date: OCT 02 2009

IN RE:

Petitioner: [REDACTED]
Beneficiary: [REDACTED]

PETITION: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(A)

ON BEHALF OF PETITIONER:

[REDACTED]
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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

U Deadrick
Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Nebraska Service Center. The petition is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner seeks classification as an employment-based immigrant pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A), as an alien of extraordinary ability in the sciences. The director determined the petitioner had not established the sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability. More specifically, the director found that the petitioner had failed to demonstrate receipt of a major, internationally recognized award, or that she meets at least three of the regulatory criteria at 8 C.F.R. § 204.5(h)(3).

On appeal, counsel for the petitioner argues that the petitioner meets the statutory requirements and at least three of the regulatory criteria at 8 C.F.R. § 204.5(h)(3).

Section 203(b) of the Act states, in pertinent part, that:

(1) Priority Workers. – Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):

(A) Aliens with Extraordinary Ability. – An alien is described in this subparagraph if –

(i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,

(ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and

(iii) the alien's entry to the United States will substantially benefit prospectively the United States.

U.S. Citizenship and Immigration Services (USCIS) and the legacy Immigration and Naturalization Service (INS) have consistently recognized that Congress intended to set a very high standard for individuals seeking immigrant visas as aliens of extraordinary ability. *See* 56 Fed. Reg. 60897, 60898-9 (Nov. 29, 1991). As used in this section, the term “extraordinary ability” means a level of expertise indicating that the individual is one of that small percentage who has risen to the very top of the field of endeavor. 8 C.F.R. § 204.5(h)(2). The specific requirements for supporting documents to establish that an alien has sustained national or international acclaim and recognition in his or her field of expertise are set forth in the regulation at 8 C.F.R. § 204.5(h)(3). The relevant criteria will be addressed below. It should be reiterated,

however, that the petitioner must show that she has sustained national or international acclaim at the very top level.

This petition, filed on September 12, 2007, seeks to classify the petitioner as an alien with extraordinary ability as a research associate. The regulation at 8 C.F.R. § 204.5(h)(3) indicates that an alien can establish sustained national or international acclaim through evidence of a one-time achievement (that is, a major, internationally recognized award). Barring the alien's receipt of such an award, the regulation outlines ten criteria, at least three of which must be satisfied for an alien to establish the sustained acclaim necessary to qualify as an alien of extraordinary ability. A petitioner, however, cannot establish eligibility for this classification merely by submitting evidence that simply relates to at least three of the criteria outlined in 8 C.F.R. § 204.5(h)(3). In determining whether the petitioner meets a specific criterion, the evidence itself must be evaluated in terms of whether it is indicative of or consistent with sustained national or international acclaim. A lower evidentiary standard would not be consistent with the regulatory definition of "extraordinary ability" as "a level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2).

The petitioner has submitted evidence that, she claims, meets the following criteria under 8 C.F.R. § 204.5(h)(3).¹

Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.

The petitioner claims to meet this criterion based on her receipt of a 1998 Travel Award from the International Association for the Study of Liver (IASL), a 1998 Young Investigator Service Award from the Asian-Pacific Congress of Clinical Biochemistry, a 1998 Young Investigator Award presented during the Alimentary Disease Week, Manila, Philippines, a 2000 BJ Wakil Young Investigator Award presented by the Indian Association for the Study of Liver (INASL), a 2000 Young Investigator Bursary Award from the Chinese Congress of Clinical Chemistry and Lab Medicine (CCCCLM), and an Asia Award "A" from the International Congress of Clinical Chemistry and Laboratory Medicine (ICCCC) in 2002. The petitioner also claims that she meets this criterion based on her nomination for the National Women Bioscientist Award presented by the Government of India's Ministry of Science and Technology.

The petitioner submitted a copy of an October 1, 1998 letter from the IASL informing her that she had been selected to receive a travel award for her abstract that was to be presented during the IASL Poster Session at the IASL Biennial Scientific Meeting to be held from November 4 through November 6, 1998 in Chicago. The letter informed the petitioner that the award "recognizes the excellence of the abstract submitted and is intended to defray [her] expenses to attend the meeting." In response to the director's June 6, 2008 request for evidence (RFE), the

¹ The petitioner does not claim to meet or submit evidence relating to the criteria not discussed in this decision.

petitioner submitted information regarding the IASL from the organization's website. However, the information provided does not include a discussion regarding the IASL travel award, the criteria used to select individuals for the award or any other information that would indicate that the award is nationally or internationally recognized as an award of excellence in the petitioner's field of endeavor. The petitioner also submitted a July 7, 2008 letter from [REDACTED] director of the Vein Clinics of America. [REDACTED] stated that the petitioner won the "prestigious 'Young Investigator Travel Award'" and that:

Of the several hundred research papers submitted to this international meeting, only about twenty scientists were awarded and of the three from the Indian subcontinent, [the petitioner] authored /co-authored the research in two of them. This award is an academic recognition for the original research in Hepatology done by a young scientist. The award includes an invitation to present the research at this prestigious world meeting and a cash award of USD 800.

[REDACTED] letter does not indicate the source of his information regarding this award and no other documentation in the record supports [REDACTED] statements. Further, [REDACTED] does not state or provide any evidence that the travel award is nationally or internationally recognized as an award of excellence in the petitioner's field. The petitioner has not established that she competed for this travel award with the most experienced and renowned members of her field rather than simply with other young scientists who might have difficulty affording the travel costs.

The petitioner also submitted a copy of a "Regional Service Award" presented to her by the 8th Asian-Pacific Congress of Clinical Biochemistry held in Malaysia from October 11 through October 16, 1998. In response to the RFE, the petitioner provided a copy of a June 30, 2008 letter from [REDACTED], professor and head of the Department of Biochemistry of the All India Institute of Medical Sciences in New Delhi. [REDACTED] stated that the purpose of this award "is to recognize high quality research pursued by a young scientist in the field of clinical biochemistry in the Asian Pacific region." He also stated that to receive the award, the recipient must be less than 40 years of age and have a "meritorious abstract as judged by the award committee." [REDACTED] did not state the basis of his knowledge regarding the Regional Service Award and the petitioner provided no documentation from the organizations sponsoring the award to verify [REDACTED] statements. Additionally, the petitioner submitted no documentation to establish that the Regional Service Award, which [REDACTED] stated consists of a citation and full travel expenses, is nationally or internationally recognized as a prize or award of excellence in the petitioner's field.

In an October 21, 2008 letter, [REDACTED] chair of the Free Paper Presentation, advised the petitioner that she had been selected to receive the Young Investigators Award for the Alimentary Disease Week 1998, Manila Philippines, and that she was scheduled to present her abstract in an oral presentation. The petitioner submitted no other documentation regarding this award and nothing in the record establishes that it is nationally or internationally recognized as a prize or award of excellence in the petitioner's field of endeavor.

The record reflects that the petitioner was awarded the B.J. Vakil Young Investigator's Award at the 2000 Annual Conference of the INASL. The petitioner submitted documentation regarding the organization from its website. However, the documentation does not include information about the B.J. Vakil Young Investigator's Award. In his letter, [REDACTED] stated:

This is a prestigious academic recognition for the work done by a young scientist (under 40 years of age) for contribution original research in Hepatology. The award is judged by a jury, including foreign experts, who select the most meritorious research paper presented by a young scientist from among hundreds of papers presented to the academic committee of the INASL.

Again [REDACTED] fails to state the basis for his knowledge regarding the award and nothing in the record supports his statements or provides evidence that the B.J. Vakil Young Investigator's Award is nationally or internationally recognized as a prize or award of excellence in the petitioner's field. The petitioner provided no documentation from the INASL regarding the award.

The petitioner also submitted a copy of an April 4, 2000 letter from the CCCCLM 2000, notifying her of her award of a "bursary on merit of [her] abstract, 'Absence of Hemochromatosis Associated (CYS282TYR HFE Mutation in Patients with Chronic Liver Disease in India.'" The letter further stated that the bursary included a waiver of the registration fee and free accommodation in shared quarters during the course of the congress and a \$4,000 cash allowance. The petitioner submitted no other information regarding this award or to establish that it is nationally or internationally recognized as a prize or award of excellence in the petitioner's field of endeavor.

The record contains an October 8, 2002 letter from the chairperson of the organizing committee for the 42nd Annual Meeting of Japan Society of Clinical Chemistry. The letter invited the petitioner to present a poster at the 18th ICCS 2002 Kyoto to be held in Kyoto, Japan. The letter further advised the petitioner that the "invitation does not offer you any financial support except JPY 100,000 as the award of Asia A for poster presentation." The petitioner submitted no other documentation regarding this award or to establish that it is nationally or internationally recognized as a prize or award of excellence in her field.

The record also contains an October 29, 2001 letter from [REDACTED], professor and head of the Department of Gastroenterology at G.B. Pant Hospital in New Delhi, wherein he nominated the petitioner for the National Women Bioscientist Award:2001. The petitioner submitted no documentation to establish that this award, much less a nomination for the award, is nationally or internationally recognized as a prize or award of excellence in her field of endeavor.

In response to the RFE, the petitioner submitted a copy of a certificate from the Indian Society of Gastroenterology (ISG) certifying that she had won the ISG-WIN-Medicare Young Investigator Award at the 41st Annual Conference of the ISG held in Delhi from November 19 to 25, 2000. Although the petitioner submitted documentation regarding the ISG, she submitted no other

information from the organization regarding the Young Investigator Award. In his July 7, 2008 letter, ██████████ stated:

This is a major recognition for a young scientist (under 40 years of age) in the field of Gastroenterology. The awarded research was selected from amongst hundreds of papers submitted to the ISG Annual conference by leading national and invited experts.

██████████ did not provide the basis of his knowledge of the award and the petitioner submitted no documentation to confirm his statements or to establish that it is nationally or internationally recognized as an award of excellence in her field.

It is further noted that many of the awards won by the petitioner appear to be restricted by academic status and age group, i.e., students and under the age of 40. With regard to awards won by the petitioner in student or age-group competitions, we do not find that such awards indicate that she “is one of that small percentage who have risen to the very top of the field of endeavor.” See 8 C.F.R. § 204.5(h)(2). There is no indication that the petitioner faced significant competition from throughout her field, rather than mostly limited to individuals not yet in the professional field or in selected age groups. USCIS has long held that even athletes performing at the major league level do not automatically meet the “extraordinary ability” standard. *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Commr. 1994); 56 Fed. Reg. at 60899.² Likewise, it does not follow that a competitor like the petitioner who has had success in a competition restricted to her status as a student or by age, should necessarily qualify for an extraordinary ability employment-based immigrant visa. To find otherwise would contravene the regulatory requirement at 8 C.F.R. § 204.5(h)(2) that this visa category be reserved for “that small percentage of individuals that have risen to the very top of their field of endeavor.” Further, the plain language of the regulatory criterion at 8 C.F.R. § 204.5(h)(3)(i) specifically requires that the petitioner’s awards be nationally or internationally *recognized* in the field of endeavor and it is her burden to establish every element of this criterion. In this case, there is no evidence showing that the petitioner’s awards commanded a significant level of recognition beyond the context of the events where

² While we acknowledge that a district court’s decision is not binding precedent, we note that in *Matter of Racine*, 1995 WL 153319 at *4 (N.D. Ill. Feb. 16, 1995), the court stated:

[T]he plain reading of the statute suggests that the appropriate field of comparison is not a comparison of Racine’s ability with that of all the hockey players at all levels of play; but rather, Racine’s ability as a professional hockey player within the NHL. This interpretation is consistent with at least one other court in this district, *Grimson v. INS*, No. 93 C 3354, (N.D. Ill. September 9, 1993), and the definition of the term 8 C.F.R. § 204.5(h)(2), and the discussion set forth in the preamble at 56 Fed. Reg. 60898-99.

Although the present case arose within the jurisdiction of another federal judicial district and circuit, the court’s reasoning indicates that USCIS’ interpretation of the regulation at 8 C.F.R. § 204.5(h)(2) is reasonable.

they were presented. For example, there is no evidence showing that the petitioner's awards were announced in major media or in some other manner consistent with national or international acclaim.

Accordingly, the petitioner has failed to establish that any of the awards she received are nationally or internationally recognized as prizes or awards of excellence in her field of endeavor.

Documentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.

To demonstrate that membership in an association meets this criterion, the petitioner must show that the association requires outstanding achievement as an essential condition for admission to membership. Membership requirements based on employment or activity in a given field, minimum education or work experience, standardized test scores, grade point average, recommendations by colleagues or current members, or payment of dues do not satisfy this criterion as such requirements do not constitute outstanding achievements. The overall prestige of a given association is not determinative. The issue is membership requirements rather than the association's overall reputation.

With the petition, the petitioner submitted a copy of a page from the Marquis Who's Who webpage, indicating that her "biography is under consideration for inclusion or has recently been published in" *Who's Who in Science and Engineering -2008-2009*. The document indicated that the publication date for the book was December 5, 2007 and that the petitioner's selection status was "under consideration." First, the petitioner submitted no documentation of the selection criteria for inclusion in this book. Additionally, the petitioner was not included in the book as of the date her petition was filed. A petitioner must establish eligibility at the time of filing; a petition cannot be approved at a future date after the petitioner or beneficiary becomes eligible under a new set of facts. 8 C.F.R. §§ 103.2(b)(1) and (12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Comm. 1971).

In response to the RFE, the petitioner submitted a copy of a January 10, 2007 letter from [REDACTED], president of the American Physiological Society (APS), informing the petitioner that she was elected to regular membership in APS and a copy of her membership certificate. Information from the APS website indicates that to qualify for regular membership, the applicant is evaluated on education (those with advanced degrees), occupation (those "who have a position in a department of physiology or closely allied fields), contributions to physiological literature, and special considerations (acknowledgment of the applicant's "unique accomplishments and scholarly contributions to physiology outside of research). The organization also admits members as affiliates or students. The documentation from the petitioner, therefore, does not establish that APS requires outstanding achievements of its members, either as a regular, affiliate or student member. The petitioner submitted documentation indicating that members of the APS have received recognition as Nobel Prize winners or hold membership in the National Academy

of Sciences. However, while some members may have achieved national and international recognition for their accomplishments, the APS does not limit membership only to those individuals, and the petitioner has submitted no documentation that she is either a Nobel Prize winner or a member of the National Academy of Sciences.

The petitioner also submitted a copy of an undated letter from [REDACTED] welcoming her to the American Society for Microbiology (ASM) and a copy of her membership card. Documentation from the organization's website, accessed by the petitioner on June 25, 2008, indicates that "Full Membership is open to any person who is interested in microbiology and holds at least a bachelor's degree or equivalent experience in microbiology or related field." The requirement of a bachelor's degree or equivalent experience is not evidence that ASM requires outstanding achievement as a condition of membership.

On appeal, counsel asserts that the director "simply dismisses the submitted evidence without adequately considering it" and states that the petitioner "stands by the evidence she has submitted." However, the director clearly stated that the evidence submitted regarding membership in the APS and ASM does not indicate that the petitioner meets this criterion. As discussed above, we concur with that determination.

The petitioner has failed to establish that she meets this criterion.

Published material about the alien in professional or major trade publications or other major media, relating to the alien's work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation.

In order to meet this criterion, published materials must be primarily about the petitioner and be printed in professional or major trade publications or other major media. To qualify as major media, the publication should have significant national distribution and be published in a predominant language. Some newspapers, such as *The New York Times*, nominally serve a particular locality but would qualify as major media because of a significant national distribution.

The petitioner did not initially claim to meet this criterion. However, in response to the RFE, the petitioner submitted information retrieved from the website of *NewsRx*, which bills itself as the "World's Largest Source of Health News." The document, consisting of three pages, contains four articles about the petitioner's work that were published in different media, including *Hepatitis Weekly*, *Health & Medicine Week*, and *Biotech Business Week* in 1998, 2001, 2005 and 2007. We note that in today's world, many news articles and printed materials, regardless of size and distribution, are posted on the Internet. To ignore this reality would be to render the "major media" requirement meaningless. We are not persuaded that international accessibility via the Internet by itself is a realistic indicator of whether a given publication is "major media." The petitioner must still provide evidence, such as, a widespread distribution, readership, or overall interest in the publication in order to demonstrate that the publication is a professional or major

trade publication or major media in order for us to credit these articles. The petitioner also failed to submit documentation regarding the publications in which the articles initially appeared.

Therefore, the petitioner has failed to establish that she meets this criterion.

Evidence of the alien's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought.

The petitioner submitted documentation indicating that she had served as a reviewer for the *Journal of Gastroenterology and Hepatology*. The petitioner stated that she had been a reviewer since 2002 and had reviewed over 15 research papers. In response to the RFE, the petitioner submitted documentation from the *Journal of Gastroenterology and Hepatology* indicating that it is published 12 times per year and that “[a]ll submitted papers are reviewed by at least two referees expert in the field of the submitted paper.”

In denying the petition, the director stated:

The Service maintains that service as a peer reviewer is a normal activity expected of similarly educated and qualified researchers and falls within routine institutional practice. Moreover, there is no evidence which suggests that the petitioner has garnered any recognition consistent with national or international acclaim as a result of performing this service.

Citing *Buletini v. INS*, 860 F. Supp. 1222 (E.D. Mich. 1994), counsel asserts that “USCIS has rewritten the statute and regulations by imposing an added burden to show ‘recognition consistent with national or international acclaim as a result of performing this service.’ No such language appears in the statute or regulation.”

Although the director may have overreached in stating that the petitioner must show that her work as a reviewer must have been nationally or internationally recognized, we cannot ignore that peer review is a routine element of the process by which articles are selected for publication in scientific journals. Occasional participation in the peer review process does not automatically demonstrate that the petitioner has sustained national or international acclaim at the very top of his field. Reviewing manuscripts is recognized as a professional obligation of researchers who publish themselves in scientific journals. Normally a journal’s editorial staff will enlist the assistance of professionals in the field who agree to review submitted papers. It is common for a publication to ask multiple reviewers to review a manuscript and to offer comments. The publication’s editorial staff may accept or reject any reviewer’s comments in determining whether to publish or reject submitted papers. Significantly, the court in *Buletini* acknowledged that “the examiner must evaluate the quality, including the credibility, of the evidence presented to determine if it, in fact, satisfies the criteria.” *Buletini*, 860 F. Supp. at 1234. Without evidence that sets the petitioner apart from others in her field, such as evidence that she has reviewed an unusually large number of articles, received independent requests from a substantial number of

journals, or served in an editorial position for a distinguished journal, we cannot conclude that she meets this criterion.

The petitioner has failed to establish that she meets this criterion.

Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.

To establish that she meets this criterion, the petitioner submitted letters from several individuals, including the following:

██████████, Professor of Molecular Medicine, Cleveland Clinic, College of Medicine at Case Western Reserve University, stated in a July 25, 2007 letter that she had known the petitioner since 2003 when the petitioner joined her laboratory as a postdoctoral fellow and research associate, and that they worked with her on a major National Institutes of Health (NIH) funded research project. ██████████ further stated:

In my laboratory, [the petitioner's] research identified the role of adiponectin [an adipokine (30-KD peptide) secreted by adipose tissue also known as adipocyte complement related protein (Acrp30)] in normalizing LPS stimulated TNF- α production by Kupffer cells after chronic ethanol feeding in rats. This original finding was published in a high quality peer reviewed journal . . . The results of her experiments demonstrate that the anti inflammatory effect of adiponectin in Kupffer cells is due to decrease in production of TNF- α . The result of [the petitioner's] research is exemplary, for it identifies the protective effect of a unique protein molecule which could play an important role in preventing chronic ethanol-induced liver injury. This important signal transduction study has the potential for developing novel therapies against chronic alcohol induced liver injury and save millions of lives.

Further [the petitioner] found that reactive oxygen species (ROS) specifically contributed in the development of chronic alcohol induced liver injury. The results of her experiments demonstrated that chronic alcohol ingestion increased LPS stimulated NADPH oxidase-dependent production of ROS in the Kupffer cell. Further, she found that excessive production of ROS targeted extracellular signal regulated kinase (ERK) 1/2, thus contributing to the increased LPS stimulated TNF- α production by Kupffer cells, which mediate liver injury. . . The work by [the petitioner] helped substantially in developing a broad understanding in the signal transduction pathways which mediate liver injury in chronic alcoholics.

While ██████████ indicates the petitioner's work was original and "helped substantially," she does not state that the petitioner's work constituted a contribution of major significance to the field.

In a July 17, 2007 letter, [REDACTED] an associate professor in the Departments of Nutrition and Pharmacology, and in the Comprehensive Cancer Center at the Case School of Medicine, stated:

[A]s a Ph.D. student and then as a postdoctoral fellow in India, [the petitioner] focused her research on the human Hepatitis B virus (HBV), and its interactions with other pathological states in human patients. Her findings led to over thirty research publications, and to several awards and honors. Since arriving at the United States of America, [the petitioner] has made a number of important contributions to the field of alcohol-related liver disease. Her findings resulted in several peer-reviewed manuscripts and has been instrumental in our efforts to understand the [] pathology of alcohol exposure. [She] has [joined] my research group in February, 2007, and has been making excellent contributions o our quest for understanding the roles of vitamin E plays in human health and disease.

[REDACTED] does not indicate that the petitioner's research, while not without value, has constituted a contribution of major significance to her field. The petitioner's awards and peer-reviewed manuscripts that resulted from her work are discussed under separate criteria at 8 C.F.R. §§ 204.5(h)(3)(i) and (vi).

[REDACTED] project leader of endocrinology research and head of molecular biology at Biomeasure Inc., IPSEN, an "international pharmaceutical company," stated that the petitioner's "first major contribution to the medical sciences was identification of the etiologic basis for Malnourishment Related Diabetes Mellitus (MRDM)." [REDACTED] also stated that the petitioner's research "revolutionized the field of Diabetes" and that she was "awarded with the prestigious 'visiting biochemist fellowship award' by Indian Council of Medical Research (ICMR), for her valuable contribution in establishing the first nationwide qualify control laboratory in India for the diagnosis of Diabetes Mellitus."

[REDACTED] also stated that the petitioner "made [an] important contribution in identifying the optimal therapeutic dose of recombinant interferon required to treat Asian Indian patients suffering from HBV related chronic liver disease," work for which she "was awarded with [the] prestigious INASL-Gold medal." Again, nothing in the record supports [REDACTED]'s assertion that the petitioner won a gold medal from the INASL. [REDACTED] further stated:

The list of her original contributions to medical research is exhaustive and includes identification of a unique vaccine escape mutant of hepatitis B virus (G145R) which is capable of transmission among unrelated household members of HBV infected patients. The identification of this novel non-preventable HBV virus generated a worldwide awareness for need of research in this area to tackle this deadly disease . . . [She] was the first to report the role of HB virus genotypes in predicting the severity of chronic liver disease and response to antiviral drugs and interferon therapy . . . This finding unraveled the potential underlying cause

of failure of recommended recombinant interferon therapy in mutant carrying subgroup of patients suffering from chronic HBV infection.

She has conducted extensive research in liver cancer and was instrumental in demonstrating the primary role of wild and mutant HBV infection in liver cancer . . . [Her] seminal work also demonstrated that in south Asia, liver cancer is predominantly related to viral infection and is independent of alcohol consumption or the previously described mutations of the tumor suppressor p53 gene.

“a consultant Scientist” with the Research and Molecular Development laboratory with the Victorian Infectious Diseases Reference Laboratory in Melbourne, Australia, in an undated letter, used language similar to in describing the petitioner’s accomplishments and recognition. She also stated that:

[The petitioner’s] mile stonework . . . in identifying the molecular mechanisms of viral hepatitis has potentially saved millions of lives in the developing world and opened interest for original research around the world. The molecular techniques she standardized contributed in identifying the optimal therapeutic dose of recombinant interferon for treating Asian Indian patients of hepatitis B Virus (HBV) related chronic liver disease. This work won the prestigious INASL Gold medal for her group in the year 1994.”

The petitioner submitted no other documentation to support the statements of and regarding a gold award presented by the INASL in 1994, the receipt of an award from the ICMR, or, other than the complementary letters from her other co-workers, the impact of the petitioner’s work in diabetes and on the Hepatitis B virus.

For example, in a July 11, 2008 letter, stated that the petitioner’s “pioneering research” identified a “novel mutant strain of Hepatitis B virus infection that had worldwide public health significance” and that the infection would go undetected “unless the laboratories routinely use complex molecular techniques” developed by the petitioner. further stated that the petitioner’s “ground-breaking discovery” “was acknowledged by the ‘Centers for Disease Control and Prevention’ (CDC)” through an “invited review article in their journal.” The petitioner submitted an article by an associate research fellow in the Diagnostics Division of Abbot Laboratories, who references the petitioner’s work in a single citation. It is unclear how this single citation to the petitioner’s work, included among the 40 cited in paper, is evidence of her contribution of major significance to the field. The petitioner also submitted information regarding an assay developed by Abbot Laboratories to detect the Hepatitis B Virus which counsel asserts was in response to the petitioner’s findings. However, nothing in the record supports that or otherwise establishes that the assay itself is of major significance to the field.

██████████ also stated that the petitioner was honored by having an entry in the National Center for Biotechnology Information (NCBI) gene bank, which sequenced her finding of a synthetic construct of an isolate of a “Precore mutant of hepatitis B” virus infection. ██████████ stated that this was “an outstanding contribution to science which supports major drug development efforts around the world.” He further stated that the petitioner’s findings regarding the signaling pathways in alcohol related liver injury “are being utilized by scientist[s] around the world to design novel therapeutic strategies to treat chronic alcohol induced liver injury.” The petitioner submitted no documentation, such as documentation of the use of her studies to develop drugs or documentation that doctors or scientists are using her work to “design novel” treatment for liver injuries, to corroborate this statement by ██████████

The opinions of experts in the field, while not without weight, cannot form the cornerstone of a successful extraordinary ability claim. USCIS may, in its discretion, use as advisory opinions statements submitted as expert testimony. *See Matter of Caron International*, 19 I. & N. Dec. 791, 795 (Commr. 1988). However, USCIS is ultimately responsible for making the final determination regarding an alien’s eligibility for the benefit sought. *Id.* The submission of letters from experts supporting the petition is not presumptive evidence of eligibility; USCIS may evaluate the content of those letters as to whether they support the alien’s eligibility. *See id.* at 795-796. Thus, the content of the experts’ statements and how they became aware of the petitioner’s reputation are important considerations. Even when written by independent experts, letters solicited by an alien in support of an immigration petition are of less weight than preexisting, independent evidence of original contributions of major significance that one would expect of a researcher who has sustained national or international acclaim.

The above letters are all from the petitioner’s collaborators and immediate circle of colleagues. While such letters are important in providing details about the petitioner’s role in various projects, they cannot by themselves establish the petitioner’s acclaim beyond her immediate circle of colleagues. The ten regulatory criteria at 8 C.F.R. § 204.5(h)(3) reflect the statutory demand for “extensive documentation” in section 203(b)(1)(A)(i) of the Act. Opinions from witnesses whom the petitioner has selected do not represent extensive documentation. Independent evidence that already existed prior to the preparation of the visa petition package carries greater weight than new materials prepared especially for submission with the petition.

While the petitioner’s research is no doubt of value, it can be argued that any research must be shown to be original and present some benefit if it is to receive funding and attention from the scientific community. It does not follow that every researcher who performs original research that adds to the general pool of knowledge has inherently made a contribution of major significance to the field as a whole. The petitioner’s field, like most science, is research-driven, and there would be little point in publishing research that did not add to the general pool of knowledge in the field. According to the regulation at 8 C.F.R. § 204.5(h)(3)(v), an alien’s contributions must be not only original but of major significance. We must presume that the phrase “major significance” is not superfluous and, thus, that it has some meaning. To be considered a contribution of major significance in the field of science, it can be expected that the

results would have already been reproduced and confirmed by other experts and applied in their work. Otherwise, it is difficult to gauge the impact of the petitioner's work.

The evidence submitted by the petitioner fails to establish that she meets this criterion.

Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media.

Although not indicated specifically in the director's final decision, in his RFE, the director determined that the petitioner meets this criterion. We concur with his determination.

The documentation submitted in support of a claim of extraordinary ability must clearly demonstrate that the alien has achieved sustained national or international acclaim and is one of the small percentage who has risen to the very top of her field of endeavor. Review of the record, however, does not establish that the petitioner has distinguished herself to such an extent that she may be said to have achieved sustained national or international acclaim or to be within the small percentage at the very top of her field. Therefore, the petitioner has not established eligibility pursuant to section 203(b)(1)(A) of the Act and the petition may not be approved.

The burden of proof in visa petition proceedings remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, the petitioner has not sustained that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.