



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF A-N-

DATE: JUNE 6, 2019

APPEAL OF NEBRASKA SERVICE CENTER DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, an attorney specializing in the field of claims management, seeks classification as an individual of extraordinary ability in business. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director of the Nebraska Service Center denied the Form I-140, Immigrant Petition for Alien Worker, concluding that the Petitioner had satisfied only two of the ten initial evidentiary criteria, of which he must meet at least three.

On appeal, the Petitioner submits a brief and additional evidence and asserts that he meets at least three of the ten criteria.

Upon *de novo* review, we will sustain the appeal.

I. LAW

Section 203(b)(1)(A) of the Act makes visas available to immigrants with extraordinary ability 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 into the United States will substantially benefit prospectively the United States.

The term “extraordinary ability” refers only to those individuals in “that small percentage who have risen to the very top of the field of endeavor.” 8 C.F.R. § 204.5(h)(2). The implementing regulation at 8 C.F.R. § 204.5(h)(3) sets forth two options for satisfying this classification’s initial evidence requirements. First, a petitioner can demonstrate a one-time achievement (that is, a major, internationally recognized award). If that petitioner does not submit this evidence, then he or she must provide documentation that meets at least three of the ten categories listed at 8 C.F.R. § 204.5(h)(3)(i) – (x) (including items such as awards, published material in certain media, and scholarly articles). The regulation at 8 C.F.R. § 204.5(h)(4) allows a petitioner to submit comparable material if he or she is able to demonstrate that the standards at 8 C.F.R. § 204.5(h)(3)(i)-(x) do not readily apply to the individual’s occupation.

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination and assess whether the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) (discussing a two-part review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); *see also Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013); *Rijal v. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011). This two-step analysis is consistent with our holding that the “truth is to be determined not by the quantity of evidence alone but by its quality,” as well as the principle that we examine “each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true.” *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010).

II. ANALYSIS

The Petitioner is currently employed as the managing attorney of [REDACTED], a firm providing guidance on personal injury law and navigating the claims management system to United Kingdom nationals in California. As he has not established that he has received a major, internationally recognized award, he must demonstrate that he satisfies at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x).

A. Evidentiary Criteria

The Director found that the Petitioner met the two following criteria: judging at 8 C.F.R. § 204.5(h)(3)(iv), and leading or critical role at 8 C.F.R. § 204.5(h)(3)(viii). The record contains evidence that the Petitioner has participated as a judge of the work of others at several claims management conferences, including multiple years of the annual [REDACTED]. It also contains evidence demonstrating that the Petitioner, as the founder of the [REDACTED] served in a leading role for an organization having a distinguished reputation. Accordingly, we agree with the Director that he has met the criterion for judging and for leading or critical role.

The Petitioner also establishes that he meets the criterion for published material pursuant to 8 C.F.R. § 204.5(h)(3)(iii). The record contains published articles in professional publications that are about

the Petitioner relating to his work in claims management. For example, the record contains a *Claims Management Magazine* article titled [REDACTED] [REDACTED] discussing the Petitioner's formation of [REDACTED] and including an interview with him regarding the future of claims management companies. Information about this magazine in the record indicates that it is a publication for professionals in the claims management field. Accordingly the Petitioner has demonstrated that he meets the published material criterion. Since he has established that he fulfills at least three regulatory criteria, we will evaluate the totality of the evidence in the context of the final merits determination below.

B. Final Merits Determination

As the Petitioner has submitted the requisite initial evidence, we will evaluate whether he has demonstrated, by a preponderance of the evidence, his sustained national or international acclaim and that he is one of the small percentage at the very top of the field of endeavor, and that his achievements have been recognized in the field through extensive documentation. In a final merits determination, we analyze a petitioner's accomplishments and weigh the totality of the evidence to determine if her successes are sufficient to demonstrate that he has extraordinary ability in the field of endeavor. See section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2), (3); see also *Kazarian*, 596 F.3d at 1119-20.¹ In this matter, we determine that the Petitioner has shown his eligibility.

The Petitioner indicates that he has worked as an attorney within the claims management industry since 1999, beginning his career as a trainee solicitor and then an assistant solicitor working "on both the Claimant and Defendant Insurance side, exclusively handling personal injury matters." The record demonstrates that in 2003 the Petitioner founded [REDACTED], a firm focused on personal injury claims and advising claims management companies, and served as its managing attorney. In 2009, while employed with [REDACTED] the Petitioner founded [REDACTED] and served as its chairman. In 2016, the Petitioner founded [REDACTED] continuing to serve as a managing attorney of this firm.

The record reflects that the Petitioner has frequently authored articles and been interviewed about claims management regulation in professional publications within his field. For example, in addition to the article referenced above, the Petitioner provided a *Modern Claims Magazine* article in which he addresses the [REDACTED]. In a *Modern Law Magazine* feature, the Petitioner is notably the chair of a roundtable discussion. The record also contains several other roundtable discussions, question and answer articles, and opinion editorials in various professional publications in which the Petitioner is featured as expert on issues in the field.

The Petitioner also documented that he has received frequent invitations to speak at professional events and that the invitations were predicated on his expertise in claims management. For example,

¹ See also USCIS Policy Memorandum PM 602-0005.1, *Evaluation of Evidence Submitted with Certain Form I-140 Petitions; Revisions to the Adjudicator's Field Manual (AFM) Chapter 22.2, AFM Update AD11-14 4* (Dec. 22, 2010), <https://www.uscis.gov/policymanual/HTML/PolicyManual.html> (stating that USCIS officers should then evaluate the evidence together when considering the petition in its entirety to determine if the petitioner has established by a preponderance of the evidence the required high level of expertise of the immigrant classification).

the invitation to speak at the [redacted] keynote session states “[a]s a prominent commentator on the future of the personal injury claims sector, we feel that the delegates would really value your perspective on ... the challenges and opportunities that smaller [claims management companies] face...” Furthermore, in July 2011, the Petitioner was invited to participate in a meeting of the United Kingdom Ministry of Justice’s [redacted] [redacted] focused on a review of existing claims management regulation. A letter in the record from [redacted] managing partner of [redacted] explains that [redacted] primary purpose is to advise the Ministry of Justice “on all matters relating to the Claims Management Sector.” [redacted] and the Petitioner as its representative, was subsequently invited to join the [redacted] permanently, and the record includes evidence demonstrating that the Ministry of Justice has sought the Petitioner’s input on claims management regulation issues. This evidence is consistent with a finding that the Petitioner has achieved a “career of acclaimed work in the field.” See H. Rep. No. 101-723, at 59 (Sept. 19, 1990).

Regarding the Petitioner’s sustained acclaim in the United Kingdom, the record reflects that, in addition to being frequently featured in professional publications and as a speaker at conferences, the Petitioner has served on multiple judging panels for claims industry conferences and awards since 2010. Notably, in 2012 he served as the chair of the judging panel for the [redacted]. He also judged, among others, the 2013 [redacted] and the 2015 [redacted] [redacted] an industry event “designed to celebrate the successes and talents of those in the claims industry.” The record further shows that under the Petitioner’s leadership, [redacted] has received industry awards, including the [redacted] award at the 2012 [redacted] [redacted] and the [redacted] award at the 2015 [redacted]. The Petitioner has established that his work in claims management, and the recognition it has brought him in addition to his years serving as [redacted] representative on the [redacted], places him as one of the small percentage at the top of his field.

In summary, the Petitioner has demonstrated his extraordinary ability in business. The totality of the evidence establishes that he possesses a level of expertise that is consistent with a finding that he is one of a small percentage at the very top of the field of endeavor and that he has documented sustained international acclaim. See section 203(b)(1)(A) of the Act; 8 C.F.R. § 204.5(h)(2), (3); *Kazarian*, 596 F.3d at 1119-20. See also *Matter of Price*, 20 I&N Dec. 953, 956 (Assoc. Comm’r 1994).

III. CONCLUSION

For the reasons discussed above, the Petitioner has established that he meets at least three of the evidentiary criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x). He has also demonstrated sustained national acclaim and that his achievements have been recognized through extensive documentation. Lastly, the Petitioner has shown that he intends to continue working in his area of expertise and that he will substantially benefit prospectively the United States. He therefore qualifies for classification as an individual of extraordinary ability. In visa petition proceedings, the petitioner bears the burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Skirball Cultural Ctr.*, 25 I&N Dec. 799, 806 (AAO 2012). Here, that burden has been met.

Matter of A-N-

ORDER: The appeal is sustained.

Cite as *Matter of A-N-* ID# 2794643 (AAO June 6, 2019)