



U.S. Citizenship
and Immigration
Services

(b)(6)

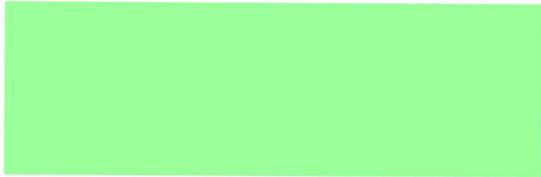


Date: **AUG 27 2013** Office: CALIFORNIA SERVICE CENTER FILE: 

IN RE: Petitioner: 
Beneficiary:

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b)

ON BEHALF OF PETITIONER IN THE FORM I-129 PROCEEDING:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case. This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions.

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The service center director revoked the approval of the nonimmigrant visa petition, and the Administrative Appeals Office (AAO) dismissed a subsequent appeal. The matter is now before the AAO on a motion to reconsider. The motion will be dismissed.

In the Petition for a Nonimmigrant Worker (Form I-129), the petitioner describes itself as a restaurant/catering establishment. It seeks to employ the beneficiary in what it designates as a "Financial Manager" position and to classify her as a nonimmigrant worker in a specialty occupation pursuant to section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(H)(i)(b).

U.S. Citizenship and Immigration Services (USCIS) regulations only entitle the "person or entity with legal standing" as an "affected party" to file a motion. *See* 8 C.F.R. §§ 103.3(a)(1)(iii)(B) and 103.5(a)(1). In addition, the regulation at 8 C.F.R. § 103.5(a)(4) states that "[a] motion that does not meet applicable requirements shall be dismissed."

Title 8 C.F.R. § 292.4(a) provides the AAO with the right to require "[f]urther proof of authority to act in a representative capacity." Although the attorney who submitted the Form I-290B had previously entered his appearance and represented the petitioner, the record of proceeding does not contain a new, properly executed Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, personally signed by both the attorney and by an authorized official of the petitioning entity for the Form I-290B filed in this matter.

Pursuant to 8 C.F.R. § 292.4(a), the AAO sent the attorney who submitted the Form I-290B a facsimile transmission on July 24, 2013, requiring him to submit a new, properly executed Form G-28, signed by the attorney and by an authorized official of the petitioning entity, to the AAO within fifteen calendar days as proof of his continued authority to act in a representative capacity on behalf of the petitioner. However, the attorney failed to respond to this request. The AAO therefore concludes that the motion was improperly filed and must be dismissed pursuant to 8 C.F.R. § 103.5(a)(4), which calls for the dismissal of a motion that does not meet applicable requirements.

ORDER: The motion is dismissed.