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THE CREDIBILITY PROBLEM IN EXTRAORDINARY ABILITY CASES: WHY EVIDENCE MATTERS MORE THAN EVER IN EB-1 AND O-1 PETITIONS

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In visa categories such as EB-1 and O-1, evidence is the cornerstone of the petition. The USCIS Policy Manual identifies the types of evidence that may support O-1 and EB-1 petitions, underscoring that these classifications are fundamentally evidence-driven. In EB-1 cases, the central issue is whether the beneficiary has achieved sustained national or international acclaim and reached the top of the field. O-1 petitions similarly require evidence of distinction, extraordinary ability, or extraordinary achievement in the beneficiary's profession. USCIS decides these cases based on documentary proof. Put simply, evidence is the lens through which the agency determines whether a beneficiary is truly extraordinary. Where evidence is central, credibility is essential. That is precisely why caution is warranted when evidence appears formulaic, crowdsourced, or manufactured.

One increasingly visible pattern in EB-1 and O-1 petitions is the repetition of strikingly similar combinations of supporting documentation: the same professional memberships, the same categories of awards, similar judging invitations, comparable forms of published material, and increasingly familiar expert opinion structures and narratives. In many instances, these strategies are not developed independently based on the beneficiary's unique career trajectory, but are influenced by online discussion forums, Reddit threads, WhatsApp groups, Discord communities, YouTube videos, paid consultants, and informal immigration networks where beneficiaries exchange information about "what worked" in prior cases.

This concern becomes particularly relevant in the context of paid publications, staged awards, or carefully developed judging opportunities. The issue is not necessarily whether money changed hands or whether an opportunity was strategically pursued. Public relations firms serve legitimate business purposes, some reputable awards involve nomination or participation fees, and professional visibility is often a normal aspect of career advancement. Nor is there anything inherently improper about pursuing speaking, judging, or leadership opportunities. The more difficult inquiry is whether the evidence genuinely reflects independent recognition within the field or whether it appears manufactured primarily to satisfy an immigration criterion.

There is a meaningful difference between media recognition that arises because a beneficiary's work generated genuine professional attention and media coverage obtained primarily to create "published material" evidence. Likewise, there is a difference between a respected and competitive award recognized within a profession and an accolade that appears prestigious in title but carries limited significance in practice. Judging opportunities may strongly support extraordinary ability where a beneficiary was selected because of recognized expertise; however, where judging opportunities appear carefully arranged primarily to generate immigration evidence, questions regarding probative value inevitably arise.

The concern becomes more serious when supporting evidence contains exaggerated, unsupported, or potentially misleading information. In extraordinary ability petitions, the question is not simply whether a document fits a regulatory category, but whether the underlying claims are accurate, independently supported, and reflective of genuine professional recognition. When publicity-generated articles, curated awards, or arranged judging opportunities include overstated claims, credibility concerns begin to emerge. In these evidence-driven classifications, unsupported factual assertions carry greater consequences because they go to the central question USCIS must decide whether the beneficiary has truly achieved distinction in the field.

A related concern is the increasing reliance on Artificial Intelligence to develop extraordinary ability narratives. When relied upon uncritically, AI may generate generalized expert letters, polished but unsupported narratives, or language that overstates the evidentiary record. In extraordinary ability petitions, persuasive drafting cannot substitute for independently verifiable facts. We also refer our readers to a prior blog, "To What Extent Can Immigration

Practitioners Ethically Rely on Chat GPT to Aid their Practice", https://blog.cyrusmehta.com/2023/09/to-what-extent-can-immigration-practitioners-ethically-rely-on-chatgpt-to-aid-their-practice.html, where we demonstrate that a support letter for an O-1B petition generated by ChatGPT may be polished but superficial. It is incumbent on the applicant to provide more details and not simply rely on the AI generated product. The USCIS may also be able to detect a letter generated by AI and not give it the same weight.

This phenomenon is understandable. Extraordinary ability classifications remain among the most subjective areas of immigration law. Unlike petitions based on clearly defined educational or occupational requirements, EB-1 and O-1 petitions often require USCIS to evaluate concepts that are inherently more difficult to assess objectively, including distinction, acclaim, originality, influence, recognition, or significance within a field. Given this uncertainty, it is natural for beneficiaries to seek predictability and to look toward examples of successful cases, online discussions, and recurring forms of evidence that appear to have persuaded USCIS in prior filings.

To be clear, there is nothing inherently improper about shared information or recurring forms of evidence. Professional memberships, judging opportunities, media coverage, published articles, and industry awards may all serve as highly probative evidence in the appropriate context. Online communities may also play an important educational role by helping applicants better understand complex regulatory criteria that might otherwise seem inaccessible. Similarly, artificial intelligence can be an effective tool for organization, drafting, issue spotting, and synthesizing large volumes of information.

The concern, however, arises when strategy becomes so standardized that evidence begins to appear curated for immigration purposes rather than reflective of genuine professional distinction. Extraordinary ability petitions are not intended to function as checklist exercises. The inquiry is not whether a beneficiary has assembled the same evidence discussed online or obtained credentials others have successfully relied upon. Rather, the relevant question is whether the evidence persuasively demonstrates that this beneficiary has attained sustained acclaim, distinction, or extraordinary achievement within the field.

Recurring evidence is not inherently weak or improper, and beneficiaries need not avoid it simply because others have used it successfully. The problem is not

repetition, but the use of evidence chosen mainly to satisfy a regulatory category rather than to reflect genuine professional distinction. That is when credibility concerns begin to arise, especially if the supporting evidence is exaggerated, unsupported, or detached from authentic recognition in the field.

This issue also raises ethical concerns. Immigration attorneys must critically evaluate evidence, not simply compile it. Third-party materials, particularly publicity-driven articles, questionable awards, or strategically arranged judging opportunities, require close review when their claims seem exaggerated, unsupported, or unrelated to genuine professional recognition. The fact that similar evidence succeeded in earlier cases does not make it reliable, and meeting a regulatory category does not prove the underlying claims are true. When factual assertions cannot be independently verified, the issue is no longer just evidentiary weakness, but credibility. The USCIS can potentially charge the noncitizen applicant with fraud or misrepresentation, which would result in permanent inadmissibility under section 212(a)(6)(C)(i) of the Immigration and Nationality Act (INA). Knowingly, submitting fraudulent material about one's credentials can also incur criminal liability under federal penal statutes such as 18 USC 1001. An attorney who knowingly assists their client in submitting such material can also be charged criminally with aiding or abetting conspiracy. Moreover, the attorney would also be violating their ethical obligations under the state analog of ABA Model Rule 3.3 and pursuant to 8 CFR 1003.102(c) for knowingly making a false statement, which is part of the federal rules that sanction immigration practitioners.

Recent developments further reinforce the importance of evidentiary credibility in extraordinary ability petitions. In *Matter of Texperts, Inc*., 29 I&N Dec. 491 (AAO 2026), the Administrative Appeals Office issued a significant precedent decision confirming that USCIS may continue to preserve findings relating to fraud or willful misrepresentation even after a petition has been withdrawn. Although the case arose in the H-1B context, the AAO's reasoning rests upon broader USCIS authority and immigration principles that are not confined to a single visa category. For evidence-driven petitions such as EB-1 and O-1 filings—where eligibility often turns on documentary submissions—the practical implication is difficult to ignore: withdrawal may not necessarily resolve concerns arising from unsupported or misleading evidence once it enters the administrative record. The decision serves as an important reminder that, in evidence-driven petitions, credibility concerns may outlast the petition

itself.

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