

# ACS Webinars

We will start momentarily at 2pm ET



*Slides download at:*

<http://boilthisdown.org/?p=1625>

## **ACS WEBINARS**

# ***US Immigration for Foreign-born Scientists – What You Should Know about Employer-Sponsored and Self-Petitions for Green Cards***



Speaker: Martin Lawler  
Lawler & Lawler



Moderator: David Harwell  
ACS Careers

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# **New Strategies for New Times**

- **Plenty of H-1B Visa Numbers This Year**
- **USCIS Restrictive Attitude**
- **Limited Immigrant Visa Numbers**
- **Recession Economy**

# H-1B Visas

## Professional/Specialist

- **6 Year Work Visa (3yrs + 3yr ext.)**
  - Employer must sponsor
  - Job requires a degree
  - Individual degree or = work experience
  - Prevailing wage
  - No worker shortage need be proven

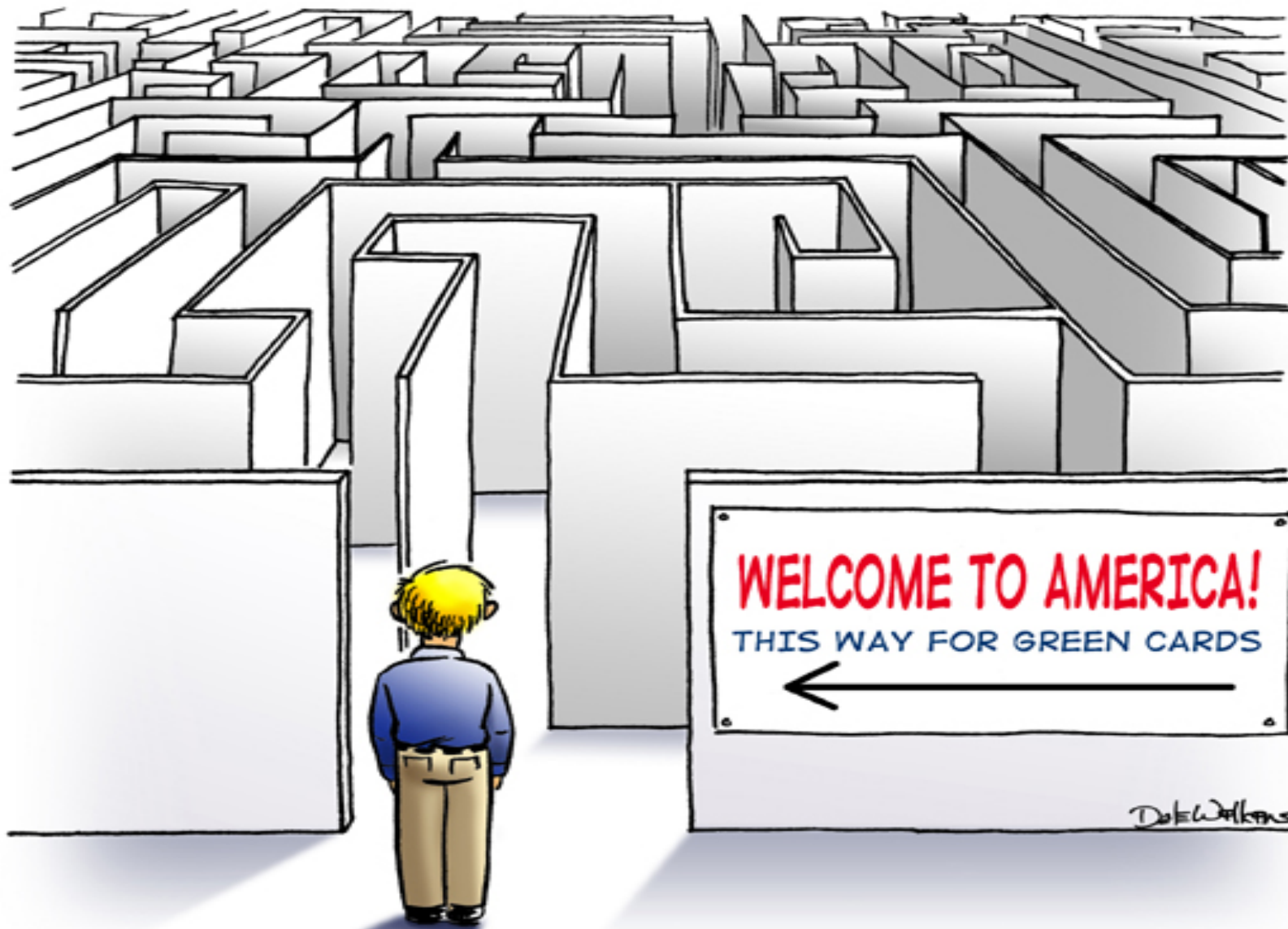
# H-1B Visa Numbers

- Available in April, Valid October 1 – 65,000 + 20,000 for U.S. Advanced Degree Holders (MS, PhD, etc.)
- Number Exempt
  - University jobs
  - Changing jobs
  - Chile/Singapore numbers
  - E-3 for Australians

# New USCIS Attitude

- **Restrictive in Recognizing Employer-Employee Relationship Exists with Sponsor**
  - For traveling professionals
  - Company founders - owners
- **New Memo Dated Jan. 8, 2010**

- **L-1 Intracompany Transferee**
  - 1 yr work abroad
  - For international company
  - For Executives, managers, specialized knowledge workers
- **New USCIS Restrictive Attitude on Definition of:**
  - Managers
  - Specialized knowledge workers



Dale Watkins

# Employment Based Procedure Green Card

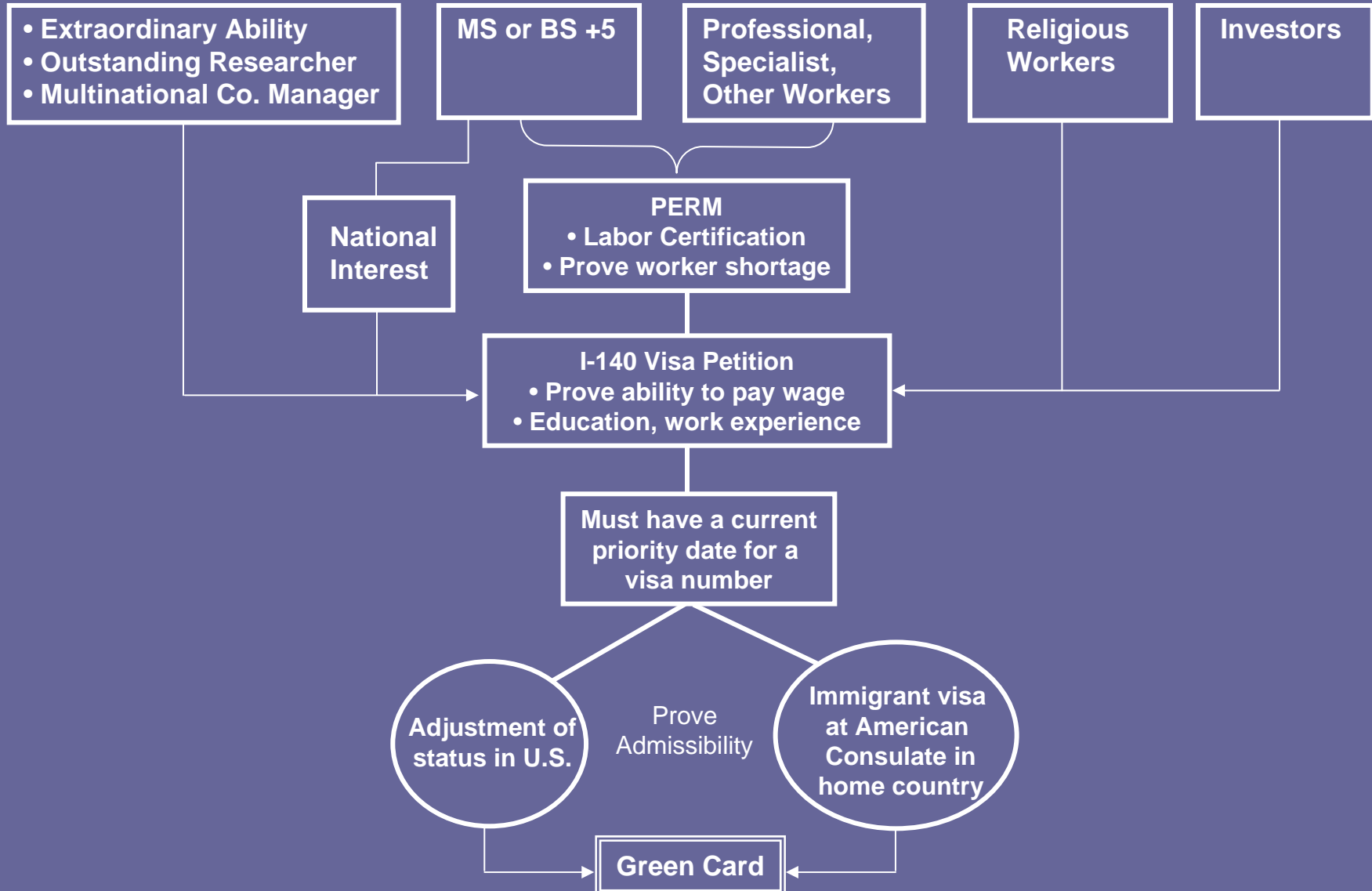
Preference 1

2

3

4

5



# Extraordinary Ability Criteria

- **Individual is One of that Small Percentage Who Has Risen to the Very Top of the Field of Endeavor**
- **Has Sustained National or International Acclaim and His/Her Achievements Have Been Recognized in the Field of Expertise and Have at Least 3 of the Following:**

- (i) ...lesser nationally or internationally recognized prizes or awards...
- (ii) ...membership in associations...which require outstanding achievements of members...
- (iii) Published material about the alien in professional or major trade publications or other media...
- (iv) ...participation, either individually or on a panel, as a judge of the work of others...
- (v) ...original scientific; scholarly...or business-related contributions of major significance...

- (vi) ...authorship of scholarly articles...in professional or major trade publications or major media;
- (vii) N/A;
- (viii) ...performed in a leading or critical role for organizations with a distinguished reputation;
- (ix) ...commanded a high salary...
- (x) ...N/A

# New Development

- ***Kazarian v. USCIS* (2010 US. App. LEXIS 4648 \*13-\*15)**
  - 9th Circuit Court held
  - USCIS cannot create criteria at whim; must apply rules

# Outstanding Researcher Criteria

- **Employer Sponsor Required**
- **Company Must Have at Least 3 Researchers**
- **Research (Not Design & Develop Products)**
- **Researcher Must Have 3y Work Exp**

# National Interest Waiver

- **Employer Not Required**
- **Must Show Labor Cert is not Available**
- **NIW is Under the EB-2, So Long Waits For Visa Numbers for People From China and India**

# Labor Certification “PERM”

- Employer Sponsor Per EB-2 or EB-3
- Prevailing Wage Must Be Offered
- Employee Must Have Education + Work Experience
- Recruiting to Prove Worker Shortage
- 1 – 3 Yr Process Before the I-140 Petition

# Wait Times

- Filing Date is “Priority Date”
- 140,000 Visa Numbers Given Out by Priority Date – Visa Bulletin at [http://travel.state.gov/visa/frvi/bulletin/bulletin\\_1360.html](http://travel.state.gov/visa/frvi/bulletin/bulletin_1360.html)
- Extra Long Wait for People Born in China & India
  - EB-2 China backlogged to 9/22/2005
  - EB-2 India backlogged to 2/1/2005
- EB-3 Wait Times – 7+ Years

# Overall Advice

- **Obtain Advanced Degrees**
- **Distinguish Yourself**
- **Be Self Promotional**
- **Get Involved in Professional Associations**
- **Patents**
- **Publish, Publish, Publish**

# Lawler and Lawler

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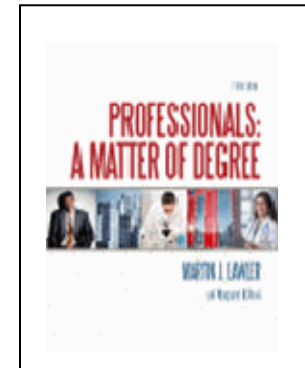
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Martin J. Lawler

## **Q&A SESSION**

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Please submit your questions for the speaker via the  
Chat Panel in GoToWebinar

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Upcoming Event:  
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***“Raising Capital with Angels: What They Don't Tell You at Business School”***



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