

**UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
OFFICE OF THE CHIEF ADMINISTRATIVE HEARING OFFICER**

[REDACTED],	)	
	)	
COMPLAINANT,	)	
	)	
and	)	
	)	
UNITED STATES OF AMERICA,	)	8 U.S.C. § 1324b PROCEEDING
	)	
COMPLAINANT-INTERVENOR,	)	
	)	
v.	)	OCAHO CASE NO. 11B00132
	)	
HOME CARE GIVER SERVICES, INC. a/k/a HOME CARE ONE	)	
	)	
RESPONDENT.	)	
	)	
	)	

**COMPLAINT-IN-INTERVENTION**

Complainant-Intervenor, the United States of America, alleges as follows:

1. This action is brought on behalf of the Office of Special Counsel for Immigration-Related Unfair Employment Practices (the “Office of Special Counsel”) to enforce the provisions of the Immigration and Nationality Act (“INA”) relating to immigration-related unfair employment practices pursuant to 8 U.S.C. § 1324b.
2. In 1986, as part of an effort to advance new immigration policy, Congress amended the INA to require every employer to ensure that each employee is eligible to work in the United States, through the review of one or more specified documents establishing an employee’s identity and work authority. This employment eligibility verification process

is codified at 8 U.S.C. § 1324a(b).

3. Having mandated an employment eligibility verification process through 8 U.S.C. § 1324a(b), Congress also amended the INA to protect employees from employment discrimination based on citizenship status or national origin in the hiring, firing, or referral or recruitment for a fee of employees. This anti-discrimination provision is codified at 8 U.S.C. § 1324b.
4. The INA's anti-discrimination provision at 8 U.S.C. § 1324b(a)(1)(A) prohibits employers from subjecting applicants or employees to national origin discrimination in hiring or discharge.
5. This suit arises out of the discriminatory conduct of Home Care Giver Services, Inc. a/k/a Home Care One ("Respondent") in violation of the anti-discrimination provision of the INA, 8 U.S.C. § 1324b(a)(1)(A) with regard to discrimination against [REDACTED] ("Charging Party") based on her national origin.

### **JURISDICTION**

6. Pursuant to 8 U.S.C. §§ 1324b(c)(2) and (d)(1), the Office of Special Counsel is charged with investigating charges, initiating investigations, and prosecuting complaints alleging immigration-related unfair employment practices.
7. The Charging Party is a naturalized United States citizen from Bogota, Colombia and is protected from discrimination based on citizenship status or national origin under 8 U.S.C. § 1324b(a)(1).
8. Respondent is a for-profit Florida corporation that provides home health aides, certified nursing assistants, LPNs, and RNs to customers for assistance in their homes, with its principal place of business at 7525 NW 61st Terrace #1903, Parkland, FL 33067.

Respondent's registered agent is Michael R. Tilley, Esq., 2000 Glades Road, Suite 306, Boca Raton, FL 33431.

9. Respondent is a person or entity within the meaning of 8 U.S.C. § 1324b(a).
10. On February 22, 2011, less than 180 days after the Respondent discriminated against the Charging Party, the Office of Special Counsel accepted as complete a charge of national origin discrimination from the Charging Party ("Attachment A").
11. On June 27, 2011, the Charging Party received notice by certified mail from the Office of Special Counsel that the Office of Special Counsel was continuing its investigation of the charge. In this letter, the Charging Party was advised that she had the right to file her own complaint before an Administrative Law Judge ("Attachment B").
12. The Charging Party filed a complaint with OCAHO on September 14, 2011.
13. Jurisdiction of the Office of the Chief Administrative Hearing Officer is invoked pursuant to 8 U.S.C. § 1324b(e)(1).

#### **STATEMENT OF FACTS**

14. On or about November 29, 2010, the Charging Party was hired by the Respondent for a position in administrative services. The Charging Party was responsible for handling calls from customers, as well as other duties, and has more than ten years of relevant experience.
15. Between November 29, 2010 and January 10, 2011, the Charging Party was subjected to verbal harassment from her immediate supervisor, Marvella Brezenoff, including insults about the Charging Party's accent and her Hispanic and Colombian culture.
16. Despite the Charging Party's fluency in English, her supervisor would frequently criticize the Charging Party's pronunciation, and otherwise demonstrate her dislike of the Charging Party's accent and national origin.

17. Ms. Brezenoff told the Charging Party that she hated her, her pronunciation, her Spanish, and her “Latin way.”
18. Callers and prospective customers witnessed, via telephone, the harassing comments the Charging Party’s supervisor made based on the Charging Party’s national origin.
19. On or about January 10, 2011, the Charging Party found Ms. Brezenoff emptying the contents of the Charging Party’s purse. Ms. Brezenoff told the Charging Party that “Latin” people steal from the office, swore at her, and told her that she hated her and that she was fired.
20. Despite being qualified for the position and performing it adequately, the Charging Party was terminated by the Respondent on or about January 10, 2011.
21. The Charging Party was authorized to work at all relevant times between November 29, 2010 and January 10, 2011.
22. The Charging Party was replaced by one African-American individual and one Caucasian individual.

## COUNT I

### NATIONAL ORIGIN DISCRIMINATION AGAINST [REDACTED]

23. Complainant incorporates by reference the allegations set forth in Paragraphs 1 through 22 as if fully set forth herein.
24. The facts set forth in Paragraphs 1 through 22 are not exhaustive but are illustrative of the discrimination faced by the Charging Party between November 29, 2010 and January 10, 2011.
25. Respondent knowingly and intentionally committed national origin discrimination against the Charging Party when it terminated her based on her national origin.

26. Respondent's actions constitute an unfair immigration-related employment practice in violation of 8 U.S.C. § 1324b(a)(1)(A).

**REQUEST FOR RELIEF**

THEREFORE, Complainant respectfully requests:

- A. That the Administrative Law Judge assigned to this proceeding grant the following relief:
1. Order Respondent to cease and desist from the alleged illegal practices described in the complaint;
  2. Order Respondent to provide full remedial relief to the Charging Party, including back pay and an offer of reinstatement or, in the alternative, front pay.
  3. Take other appropriate measures to overcome the effects of the discrimination.
  4. Order Respondent to pay the maximum civil penalty authorized by statute for each violation of 8 U.S.C. § 1324b(a)(1) shown at trial to have been committed by Respondent.

5. Such additional relief as justice may require.

Respectfully Submitted,

THOMAS E. PEREZ  
Assistant Attorney General  
Civil Rights Division



SEEMA NANDA  
Acting Deputy Special Counsel  
Office of Special Counsel for Immigration-Related  
Unfair Employment Practices

SEBASTIAN ALOOT  
Acting Special Litigation Counsel  
Office of Special Counsel for Immigration-Related  
Unfair Employment Practices

PHIL TELFEYAN  
BYRON WONG  
Trial Attorneys  
U.S. Department of Justice  
Civil Rights Division  
Office of Special Counsel for Immigration-Related  
Unfair Employment Practices  
950 Pennsylvania Avenue NW  
Washington, D.C. 20530  
Telephone: (202) 616-5594  
Facsimile: (202) 616-5509

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