

ZAJI OBATALA ZAJRADHARA,	)	
Complainant,	)	
	)	
v.	)	8 U.S.C. § 1324b Proceeding
	)	OCAHO Case No. 2024B00064
	)	
TAGA INC., D/B/A EZ OUTLET,	)	
Respondent.	)	
	)	

ORDER OF DISMISSAL – NATIONAL ORIGIN DISCRIMINATION & RETALIATION  
AND ORDER ENTERING DEFAULT – CITIZENSHIP-STATUS DISCRIMINATION

On March 7, 2024, Complainant, Zaji Obatala Zajradhara, filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) against Respondent, Taga, Inc., d/b/a EZ Outlet (“Taga, Inc.”). Complainant alleges that Respondent engaged in citizenship status discrimination, national origin discrimination, and retaliation in violation of the antidiscrimination provisions of the Immigration and Nationality Act, as amended, 8 U.S.C. §§ 1324b(a)(1) and (a)(5).

<sup>2</sup> The deadline accounts for the fact that May 4, 2024, was a Saturday. *See* 28 C.F.R. § 68.8(a).

On May 30, 2024, the Court issued an Order to Show Cause in which it directed Respondent to file an answer satisfying 28 C.F.R. § 68.9(c) within twenty-one days of the Order. *Zajradhara v. Taga, Inc. d/b/a EZ Outlet*, 19 OCAHO no. 1577 (2024).<sup>3</sup> Further, the Court ordered Respondent to demonstrate good cause for not timely filing an answer by May 6, 2024. *Id.* at 2. The Court cautioned Respondent that if it failed to respond to the Order, “the Court may enter judgment by default against [it], pursuant to 28 C.F.R. § 68.9(b).” *Id.* The Court did not receive a response to the Order to Show Cause from Respondent.

On July 11, 2024, the Court issued a separate Order to Show Cause – Deficient Complaint in which it directed Complainant to demonstrate the Court’s jurisdiction over his national origin discrimination claim, as well as why the Court should not dismiss his retaliation claim for failure to state a claim. *Zajradhara v. Taga, Inc. d/b/a EZ Outlet*, 19 OCAHO no. 1577a (2024). Complainant was to respond to the Order by August 26, 2024. *Id.* at 3. On August 27, 2024, the Court received Complainant’s Response to the Order to Show Cause – Deficient Complaint.

For the reasons outlined below, the Court now dismisses Complainant’s claims of national origin discrimination and retaliation. Regarding Complainant’s remaining claim of discrimination based on citizenship status, the Court enters a default judgment of liability against Respondent for violating 8 U.S.C. § 1324b(a)(1), and bifurcates proceedings to determine damages.

## II. DEFAULT

While this Court generally disfavors default judgments, 28 C.F.R. § 68.9(b) authorizes such a measure, and this Court has employed it on certain occasions when a respondent has failed to file an answer or respond to an order. *See, e.g., United States v. Moses Sportswear, Inc.*, 6 OCAHO 841, 187 (1996); *United States v. Koy Chinese & Sushi Rest.*, 16 OCAHO no. 1416a (2022); *United States v. Commander Produce, LLC*, 16 OCAHO no. 1428c (2022).

It is this Court’s longstanding practice to issue an order to show cause before entering default judgment against a party. *See United States v. Shine Auto Serv.*, 1 OCAHO no. 70, 444 (1989) (Vacating Order Denying Default Judgement). This case is no exception to that practice. *See Taga, Inc.*, 19 OCAHO no. 1577, at 2. In the Order to Show Cause, the Court noted that the USPS website’s tracking service indicated that the Complaint and Notice of Case Assignment, which informed Respondent it had to file an answer within thirty days or be in default, were “delivered,

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<sup>3</sup> Citations to OCAHO precedents in bound volumes one through eight include the volume and case number of the particular decision followed by the specific page in the bound volume where the decision begins; the pinpoint citations which follow are to the pages, seriatim, of the specific entire volume. Pinpoint citations to COAHO precedents after volume eight, where the decision has not yet been reprinted in a bound volume, are to pages within the original issuances; the beginning page number of an unbound case will always be 1 and is accordingly omitted from the citation. Published decisions may be accessed through the Westlaw database “FIM OCAHO,” the LexisNexis database “OCAHO,” and on the United States Department of Justice’s website: <https://www.justices.gov/eoir/office-of-the-chief-administrative-hearing-officer-decisions>.

individual picked up at post office.” *Id.* The Court received a completed domestic return receipt (PS Form 3811) with a printed name in the “Received by” section and a signature. Thus, the record reflects that the Respondent received the Complaint and the NOCA. The Order to Show Cause was sent to the same address and was not returned by the postal service. Respondent has yet to respond to the Order to Show Cause, has not responded to this Court’s second Order to Show Cause to Complainant, nor to Complainant’s response, and has not otherwise participated in this hearing.

The Ninth Circuit Court of Appeals, the court in which this case arises, sets forth seven factors which may be considered by courts in exercising discretion as to the entry of default judgment. *Eitel v. McCool*, 782 F.2d 1470, 1471–72 (9th Cir. 1986).<sup>4</sup> These are: (1) the merits of the plaintiff’s substantive claim; (2) the sufficiency of the complaint; (3) the sum of money at stake in the action; (4) the possibility of prejudice to the plaintiff; (5) the possibility of a dispute concerning material facts; (6) whether the default was due to excusable neglect; and (7) the strong policy underlying the Federal Rules of Civil Procedure favoring decision on the merits. *Id.*

“When default is entered as a result of the respondent’s failure to file an answer, the Court ‘accept[s] as true all of the factual allegations of the complaint[.]’” *Commander Produce*, 16 OCAHO no. 1428c, at 5 (quoting *United States v. Cont’l Forestry Serv. Inc.*, 6 OCAHO no. 836, 140, 142 (1996)); see also *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917–18 (9th Cir. 1987).

### III. NATIONAL ORIGIN DISCRIMINATION

On the Complaint form, Complainant indicated that Respondent-business employs fifteen or more individuals. Compl. 6. This Court’s Order to Show Cause pointed out that OCAHO does not have subject matter jurisdiction over national origin claims when an employer has more than fourteen employees and warned Complainant that if he cannot assure the court of its subject matter jurisdiction, the claim may be dismissed. *Taga, Inc.*, 19 OCAHO no. 1577a, at 2. In his response, Complainant reiterates his claim without addressing the numerosity question. See generally C’s Resp. Included in the Response is a letter from the Department of Labor in the Commonwealth of the Northern Mariana Islands (CNMI) indicating that it did not have workforce listing records for Respondent during the period Complainant sought. C’s Resp., 5.

“[T]he Court may not issue a default judgment if the Court lacks subject matter jurisdiction over a complainant’s claims.” *Heath v. VBeyond Corp.*, 14 OCAHO no. 1368a, 2 (2020). “The party invoking jurisdiction has the burden to establish that OCAHO has subject matter jurisdiction.” *Zajradhara v. HDH Co., Ltd.*, 16 OCAHO no. 1417, 2 (2022) (internal citations omitted). OCAHO does not have subject matter jurisdiction over national origin claims when an employer

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<sup>4</sup> OCAHO ALJs are bound by decisions from the appropriate federal circuit in which a case arises. *United States v. A&D Maint. Leasing and Repairs, Inc.*, 19 OCAHO no. 1568, 2 n.2 (2024) (CAHO Order) (citing 28 C.F.R. § 68.56 and *United States v. Allen Holdings, Inc.*, 9 OCAHO no. 1059, 5 (2000)).

has more than fourteen employees. *Taga, Inc.*, 19 OCAHO no. 1577a, at 2 (citing 8 U.S.C. § 1324b(a)(2)(B)). Lastly, Complainant does not state a claim for relief in this circumstance. *See* 28 C.F.R. § 68.10 (the “Administrative Law Judge may dismiss the complaint...without a motion from the respondent, if the Administrative Law Judge determines that the Complainant has failed to state a claim upon which relief can be granted.”).

As Complainant alleged that Respondent had more than fourteen employees, and did not otherwise address the issue in his Response other than to indicate that he sought information from the Department of Labor, the Court declines to enter default judgment because the Complaint is not sufficient. The Court dismisses the claim based on national origin for failure to state a claim and for lack of subject matter jurisdiction.

#### IV. RETALIATION

Complainant alleged in the Complaint that Respondent retaliated against him by not selecting him for the desired position “due to [his] #1 winning a CNMI DOL settlement against it (and) #2 – for my repeated attempts at bringing the rampant visa fraud of this company to [the Department of Justice’s] attention.” Compl. 11. In the Order to Show Cause – Deficient Complaint, the Court recognized that Complainant does not clearly allege that Respondent took adverse action due to his filing of a charge with IER, participation in an OCAHO proceeding, or to interfere with a right or privilege under § 1324b (i.e., to be free of discrimination based on national origin or citizenship status). *Taga, Inc.*, 19 OCAHO no. 1577a, at 3. The Court then ordered Complainant to show cause why the retaliation claim should not be dismissed for failure to state a claim. *Id.*

In his response, Complainant argues that “his attempts to inform the CNMI Department of Labor about Taga Inc.’s as well as other foreign companies’ misleading job postings and potential visa fraud constitute ‘protected activity.’” C’s Response to OTSC, 3.

“To state a claim for retaliation under § 1324b, a complainant ‘must show that the respondent took an adverse action to discourage a complainant from activity related to the filing of an IER charge or an OCAHO proceeding, or to interfere with her rights or privileges secured specifically under § 1324b.’” *Zajradhara v. Manbin Corp.*, 19 OCAHO no. 1553, 3 (2024) (citing *Patel v. USCIS Boston*, 14 OCAHO no. 1353, 2 (2020)).

Complainant’s efforts to uncover alleged visa fraud committed by Respondent do not demonstrate an attempt by him to pursue a right or privilege secured under § 1324b. Section 1324b provides a remedy for discrimination “with respect to the hiring, or recruitment or referral for a fee, of the individual for employment or the discharging of the individual from employment,” when done based on the individual’s national origin or citizenship status; it does not provide a remedy to individuals where they believe an employer has violated the regulations governing particular visa programs.<sup>5</sup> As such, Complainant’s actions in informing the CNMI DOL or the Department of

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<sup>5</sup> “While OCAHO has subject-matter jurisdiction to hear a claim of visa fraud, such a claim must be brought by the Government.” *Montalvo v. Kering Americas, Inc.*, 14 OCAHO no. 1350, 3 (2020).

Justice of alleged visa fraud committed by Respondent does not constitute “protected activity.” Therefore, Complainant has failed to allege facts giving rise to an inference that Respondent chose not to select him because he engaged in “protected activity.” Consequently, the Court declines to enter default judgment on this claim and dismisses Complainant’s retaliation claim.

## V. CITIZENSHIP STATUS DISCRIMINATION

As noted above, under *Eitel*, two of the factors courts in the Ninth Circuit consider when determining whether to grant default judgment are “the merits of plaintiff’s substantive claim” and “the sufficiency of the complaint.” *Eitel v. McCool*, 782 F.2d 1470 at 1471–72. The Ninth Circuit has indicated that “these two factors require that a plaintiff state a claim on which the [plaintiffs] may recover.” *PepsiCo, Inc. v. Calif. Security Cans*, 238 F. Supp. 2d 1172, 1175 (C.D. Cal. 2002). District courts have been inconsistent in whether they apply a lower pleading standard or a prima facie standard when reviewing the propriety of default judgment in Title VII discrimination cases.<sup>6</sup> This Court need not resolve the tension over which standard is appropriate, however, because the factual allegations in the Complaint satisfy both a pleading standard and a prima facie standard.

“For a claim to constitute discrimination under Section 1324b(a)(1), ‘[t]he employer [must] . . . treat some people less favorably than others’ because of a protected characteristic.” *Heath v. Tringapps, Inc.*, 15 OCAHO no. 1410, 6 (2022) (quoting *United States v. Life Generations Healthcare, LLC*, 11 OCAHO no. 1227, 19 (2014)). To establish a prima facie claim for employment discrimination, Complainant must demonstrate that: “(1) he is a member of a protected class; (2) he was qualified for [the position]; (3) he suffered an adverse employment decision; and (4) he was [] treated differently than similarly situated [individuals who were not members of the protected class].” *Reed v. Dupont Pioneer Hi-Bred Int’l, Inc.*, 13 OCAHO no. 1321a, 3 (2019).

Complainant indicated in the Complaint that he applied for work at Respondent’s business on September 27, 2023, and that the position’s duties involved “basic managerial, sells [sic], customer service,” and he checked the box stating that he was qualified for the position. Compl. 6.

Respondent did not hire Complainant for the position, and Complainant alleges this decision was made based on his status as a United States citizen, and that Respondent eventually “renewed a foreign citizen” for the open position. *Id.* at 6–7.

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<sup>6</sup> Cf. *EEOC v. Zoria Farms, Inc.*, No. 1:13-cv-01544-DAD-SKO, 2016 WL 8677142 (E.D. Cal. May 13, 2016) (analyzing the two factors using the prima facie standard); and *Stitt v. Focusmicro, Inc.*, No. 14-5872-DMG, 2015 WL 13915426, \*4 (C.D. Cal. June 16, 2015) (same); with *EEOC v. Global Horizons, Inc.*, No. CV-11-3045-EFS, 2015 WL 11004480, \*2 (E.D. Wash. Sept. 28, 2015) (finding that the two factors would be satisfied if EEOC “alleges facts to support a finding that [it] would recover on the asserted Title VII claims against Global”); and *Saif v. McPherson*, No. 3:18-CV-859-CAB-KSC, 2020 WL 13653837, \*2 (S.D. Cal. July 7, 2020) (“The court must examine the complaint to determine whether plaintiff adequately pled a claim for relief” and citing to *Ashcroft v. Iqbal*, 557 U.S. 662, 678 (2009) and *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)).

When accepting all these facts as true, and construing this pro se Complainant's complaint liberally, the Court finds that the Complainant established both an inference of discrimination and satisfied a prima facie case of discrimination in hiring. As Respondent has not appeared and contested these allegations, the Complainant has met his burden to demonstrate that he was discriminated against based on his citizenship status.

Considering the remaining *Eitel* factors, the Court sees no prejudice to Complainant, and failure to find default would leave the Complainant with no recourse, so this factor weighs in favor of default. Despite receiving notice, Respondent has not appeared and has not indicated why it has not filed an Answer, thus the Court is unaware of what facts would be in dispute and whether there was excusable neglect in its failure to participate in these proceedings. While the Court is cognizant of the policy against default judgments, the Court would be unable to resolve the case as to the claim for discrimination based on citizenship status. Accordingly, as the factors favor default judgment, the Court enters default judgment against Respondent, and finds Respondent liable for citizenship-status discrimination in violation of 8 U.S.C. § 1324b(a)(1)(B).

## VI. BIFURCATION OF DAMAGES

“If the court determines that the allegations in the complaint are sufficient to establish liability, it must then determine the amount and character of the relief that should be awarded. This is because the allegations of the amount of damages suffered are not necessarily taken as true.” *Wecosign, Inc. v. IFG Holdings, Inc.*, 845 F. Supp. 2d 1072, 1078–79 (C.D. Cal. 2012) (internal citations and quotations omitted). “Federal Rule of Civil Procedure 55(b) provides that when damages are not certain when entering default, courts may conduct hearings to determine the amount of damages.” *United States v. Sanjay Jeram Corp. d/b/a Econ. Lodge*, 15 OCAHO no. 1412, 2 (2022) (citing *United States v. Cruz*, 3 OCAHO no. 453, 595, 597–98 (1992)). In the Ninth Circuit, “[i]t is well settled that a default judgment for money may not be entered without a hearing unless the amount claimed is a liquidated sum or capable of mathematical calculation.” *Davis v. Fendler*, 650 F.2d 1154, 1161 (9th Cir. 1981). “However, a ‘hearing’ under this rule need not include live testimony, but may instead rely on declarations submitted by the parties, so long as notice of the amount requested is provided to the defaulting party.” *Wecosign, Inc.*, 845 F. Supp. 2d at 1079 (citing C.D. Cal. R. 55-2); see also *Yelp Inc. v. Catron*, 70 F. Supp. 3d 1082, 1100–01 (N.D. Cal. 2014).

When an OCAHO ALJ determines that a company has engaged in discrimination, the ALJ must issue a cease and desist order, and may also impose a number of other potential remedies. 28 C.F.R. §68.52(d). An order for payment of back wages is typical to compensate the Complainant for earnings lost as a result of unlawful discrimination, and this is what Complainant seeks; specifically, he seeks backpay from September 27, 2023. *Coraizaca v. Yesterday's Restaurant*, 2 OCAHO no. 305, 14, 16 (1991); Compl. 11.

An award of back pay, however, is reduced by the amount of interim earnings or amounts earnable “with reasonable diligence by the individual . . . discriminated against . . .” 8 U.S.C. § 1324b(g)(2)(C); *Ogunrinu v. Law Resources & Arnold & Porter Kay Scholer LLP*, 13 OCAHO

no. 1332j, 20 (2021). The “aggrieved party has a duty to mitigate its damages using an honest, good faith effort.” *Id.* at 21.

This Decision and Order provides an opportunity for Complainant to show the amount of back wages that would compensate him for earnings he lost, reduced by any interim earnings, or demonstrate efforts he has made to find employment since he was not hired for the position. In the Complaint, Complainant did not indicate either the salary he would have earned had he been hired, or any interim earnings, or his efforts at finding employment.

In order to make this showing, Complainant must file an affidavit in support of his demand for back pay. That affidavit should recite: (a) the rate of pay, gross and net, he would have earned with Respondent had he been hired; (b) interim earnings, i.e., money earned from September 27, 2023, until the date of his response to this Order; (c) identify all employers by address and pay rate, the dates of each employment and the amount of pay received; (d) specify any periods of unemployment; (e) state efforts in obtaining other employment; and (f) specify any unemployment compensation received. Complainant must also state that the information is the truth and nothing but the truth, and Complainant must sign it.

The Court puts Respondent on notice that it may also impose a civil penalty pursuant to 8 U.S.C. § 1324b(g)(2)(B)(iv).<sup>7</sup> OCAHO ALJs have granted the maximum amount of civil penalty in default cases. *See United States v. Educ. Emp. Enter.*, 1 OCAHO no. 257, 1671, 1673 (1990); *United States v. Prime Landscape Mgmt., Inc.*, 2 OCAHO no. 204, 1379, 1381 (1990).

## VII. FINDINGS OF FACT

1. Complainant, Zaji Obatala Zajradhara, is a United States citizen residing on the island of Saipan in the Commonwealth of the Northern Mariana Islands. *See* Compl. 1–2.
2. Respondent, Taga Inc., d/b/a EZ Outlet, is a registered business entity operating on the island of Saipan. Compl. 4.
3. Respondent-business employs more than fourteen individuals. Compl. 4.
4. On September 27, 2023, Complainant applied for an open position at Respondent-business which duties involved “basic managerial, sells [sic], customer service.” Compl. 6.
5. Complainant was qualified for the position for which he applied. Compl. 6.

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<sup>7</sup> Pursuant to 28 C.F.R. § 85.5, the applicable penalty range depends on the date of the violation and the date of assessment. As here, if the violation occurred after November 2, 2015, the fine range is determined by the date of assessment. *See Ogunrinu*, 13 OCAHO no. 1332j, at 24–25. 28 C.F.R. § 85.5, which modifies the civil penalty amount outlined in 8 U.S.C. § 1324b(g)(2)(B)(iv) based on inflation, provides the range for the civil penalty. 28 C.F.R. § 68.52(d)(2). The current penalty range is between \$575 and \$4,610, but as the Court does not impose the penalty at this time, that range may change.

6. Respondent did not select Complainant for the open position; rather, it opted to renew the employment of a foreign citizen to fill the position. Compl. 6–7.
7. On March 18, 2024, the Chief Administrative Hearing Officer issued a Notice of Case Assignment (NOCA) and a copy of the Complaint to Respondent via United States Postal Service certified mail. The NOCA directed Respondent to file an answer to the Complaint within thirty (30) days of its receipt, otherwise it would be at risk of being found in default.
8. The USPS website’s tracking service indicates the Complaint and NOCA were delivered to and received by Respondent on April 4, 2024.
9. Respondent’s Answer was due no later than May 6, 2024.
10. To date, Respondent has not filed an Answer to the Complaint and did not respond to the Order to Show Cause.

## VIII. CONCLUSIONS OF LAW

### National Origin Discrimination Claim

1. “[T]he Court may not issue a default judgment if the Court lacks subject matter jurisdiction over a complainant’s claims.” *Heath v. VBeyond Corp.*, 14 OCAHO no. 1368a, 2 (2020).
2. “The party invoking jurisdiction has the burden to establish that OCAHO has subject matter jurisdiction.” *Zajradhara v. HDH Co., Ltd.*, 16 OCAHO no. 1417, 2 (2022) (internal citations omitted).
3. Because OCAHO does not have subject matter jurisdiction over national origin claims when an employer has more than fourteen employees, *Zajradhara v. Taga, Inc. d/b/a EZ Outlet*, 19 OCAHO no. 1577a, 2 (2024)(citing 8 U.S.C. § 1324b(a)(2)(B)), the Court does not have subject matter jurisdiction over Complainant’s national origin discrimination claim.
4. Complainant cannot state a claim for relief for national origin discrimination when an employer has more than fourteen employees. *See* 28 C.F.R. § 68.10 (the “Administrative Law Judge may dismiss the complaint...without a motion from the respondent, if the Administrative Law Judge determines that the Complainant has failed to state a claim upon which relief can be granted.”).

### Retaliation Claim

5. “To state a claim for retaliation under § 1324b, a complainant ‘must show that the respondent took an adverse action to discourage a complainant from activity related to the filing of an IER charge or an OCAHO proceeding, or to interfere with her rights or



privileges secured specifically under § 1324b.’” *Zajradhara v. Manbin Corp.*, 19 OCAHO no. 1553, 3 (2024) (citing *Patel v. USCIS Boston*, 14 OCAHO no. 1353, 2 (2020)).

6. Complainant’s efforts to uncover alleged visa fraud committed by Respondent do not demonstrate an attempt by him to pursue a right or privilege secured under § 1324b.
7. Complainant has failed to allege facts giving rise to an inference that Respondent chose not to select him because he engaged in “protected activity.”

#### Citizenship-Status Discrimination Claim

8. “For a claim to constitute discrimination under Section 1324b(a)(1), ‘[t]he employer [must] . . . treat some people less favorably than others’ because of a protected characteristic.” *Heath v. Tringapps, Inc.*, 15 OCAHO no. 1410, 6 (2022) (quoting *United States v. Life Generations Healthcare, LLC*, 11 OCAHO no. 1227, 19 (2014)).
9. The Complaint meets the standard for a prima facie claim for employment discrimination, in which a Complainant must demonstrate that: “(1) he is a member of a protected class; (2) he was qualified for [the position]; (3) he suffered an adverse employment decision; and (4) he was [] treated differently than similarly situated [individuals who were not members of the protected class].” *Reed v. Dupont Pioneer Hi-Bred Int’l, Inc.*, 13 OCAHO no. 1321A, 3 (2019).
10. The Complaint states a claim of citizenship-status discrimination in violation of 8 U.S.C. § 1324b(a)(1)(B).

#### Default

11. While this Court generally disfavors default judgments, 28 C.F.R. § 68.9(b) authorizes such a measure, and this Court has employed it on certain occasions when a respondent has failed to file an answer or respond to an order. *See, e.g., United States v. Moses Sportswear, Inc.*, 6 OCAHO 841, 187 (1996); *United States v. Koy Chinese & Sushi Restaurant*, 16 OCAHO no. 1416a (2022); *United States v. Commander Produce, LLC*, 16 OCAHO no. 1428c (2022).
12. The factors a court may consider in exercising discretion to enter default are: (1) the merits of the plaintiff’s substantive claim; (2) the sufficiency of the complaint; (3) the sum of money at stake in the action; (4) the possibility of prejudice to the plaintiff; (5) the possibility of a dispute concerning material facts; (6) whether the default was due to excusable neglect; and (7) the strong policy underlying the Federal Rules of Civil Procedure favoring decision on the merits. *Eitel v. McCool*, 782 F.2d 1470, 1471-72 (9th Cir. 1986).
13. “When default is entered as a result of the respondent’s failure to file an answer, the Court ‘accept[s] as true all of the factual allegations of the complaint[.]’” *United States v.*

*Commander Produce, LLC*, 16 OCAHO no. 1428c, 5 (2022)(quoting *United States v. Cont'l Forestry Serv. Inc.*, 6 OCAHO no. 836, 140, 142 (1996).

14. Weighing the factors, the Court exercises its discretion to enter default judgment for citizenship-status discrimination, but not for the claims of discrimination based on nationality or retaliation.
15. Because Respondent is in default due to its failure to file an answer, the Court will “accept as true all of the factual allegations of the complaint[.]” *United States v. Commander Produce, LLC*, 16 OCAHO no. 1428c, 5 (2022).
16. The allegations contained in the Complaint establish every element of a violation of § 1324b(a)(1)(B).
17. Respondent is liable for citizenship-status discrimination in violation of 8 U.S.C. § 1324b(a)(1)(B).

#### IX. ORDERS

Complainant’s claim of national origin discrimination is DISMISSED.

Complainant’s claim of retaliation is DISMISSED.

Respondent is LIABLE for violating 8 U.S.C. § 1324b(a)(1)(B) by discriminating on basis of citizenship status in refusing to hire Complainant.

Complainant is ORDERED to submit a written affidavit or declaration supporting an award of backpay damages related to his claim of citizenship-status discrimination. The submission is due no later than December 20, 2024. Respondent may file a response by January 20, 2025.

SO ORDERED.

Dated and entered on October 22, 2024.

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Honorable Jean C. King  
Chief Administrative Law Judge