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

May 5, 2025

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

Appearances: Zaji Obatala Zajradhara, pro se Complainant
Stephen J. Nutting, Esq., for Respondent

FINAL ORDER OF DISMISSAL

I. PROCEDURAL HISTORY

This case was last before the Court on April 8, 2025, when this Court set aside the default judgment entered against Respondent and deferred a decision on Respondent's summary judgment motion to permit the Complainant limited discovery on the issue of the number of employees Respondent has, and thus whether Complainant can bring a claim under 8 U.S.C. § 1324b(a)(1). *Zajradhara v. Taga Inc.*, 19 OCAHO no. 1577e (2025).[1] Complainant was given until April 22, 2025, to file his discovery requests with the Court for approval. *Id.* at 8. Complainant did not file any discovery requests with the Court. Instead, on April 9, 2025, he submitted two filings titled "Formal Response Challenging the Court's Decision to Lift Default Judgment and Motion for Leave to

[1] 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 OCAHO 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.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-decisions.

Appeal (Motion to Reconsider)," and "Supra Motion to Reinstate Default Judgement Based on New Evidence of Respondent's Prior Knowledge through Counsel and Affiliated Entities." This order addresses these most recent filings, and in finding that neither contains evidence contravening the evidence provided by Respondent regarding its number of employees, both motions are denied and summary decision is awarded in favor of Respondent.

The full procedural history was more fully set forth in *Zajradhara v. Taga Inc.*, 19 OCAHO no. 1577e, 1, but in brief, Complainant, Zaji Zajradhara, filed a complaint against Respondent, Taga Inc., on March 7, 2024, alleging claims of citizenship status and national origin discrimination, and retaliation, in violation of 8 U.S.C. §§ 1324b(a)(1) and (a)(5).

After Respondent failed to file a timely answer or respond to the Court's two Orders to Show Cause, the Court issued an order dismissing Complainant's national origin discrimination claim for lack of jurisdiction and his retaliation claim for failure to state a claim. *Zajradhara v. Taga Inc.*, 19 OCAHO no. 1577b, 3–5 (2024). The complaint did, however, state a claim of citizenship status discrimination, and so because Respondent failed to participate in the proceedings, the Court entered default judgment against it on that claim and ordered Complainant to submit an affidavit regarding his damages by December 20, 2024. *Id.* at 5–6, 10.

When Complainant did not submit a damages calculation by the deadline, the Court issued an order giving him a second opportunity and warning him that his request for damages would be waived should he fail to respond. *Zajradhara v. Taga Inc.*, 19 OCAHO no. 1577c (2025).

It was during this second response window that Respondent participated for the first time in this litigation by filing a submission explaining the reason for its failure to litigate and challenging Complainant's request for damages (which the Court had yet to receive). Respondent's business owner claimed that her husband (and the store's manager) fell ill and returned home to Korea in March 2023, where he later died on April 4, 2024, and that as a result, she could not answer the complaint by the original deadline of May 6, 2024.

That same day, the Court received Complainant's damages calculation of $43,476.75, and on February 5, 2025, Complainant filed an opposition to Respondent's submission.

On March 18, 2025, Respondent filed a Response to Complainant's Request for Damages and Motion to Lift Default Judgment and Motion for Summary Decision. Complainant filed an opposition to this motion the next day.

Then, on April 3, 2025, Complainant filed three separate motions with the Court, which the Court addressed in the April 8, 2025 decision. Finally, on April 9, 2022, Complainant filed the motions addressed in this Order.

II. POSITION OF THE PARTIES

a. Motion to Reconsider

Complainant's Motion to Reconsider challenges the Court's factual and legal conclusions in its April 8, 2025, Order. That Order found, in relevant part, that Respondent had met the three-factor standard for vacating a default judgment, which was whether the defaulting party's culpable conduct led to the default, whether the party has a meritorious defense, and whether reopening the default judgment would prejudice the non-defaulting party. *Taga Inc.*, 19 OCAHO no. 1577e, at 4, *citing TCI Grp. Life Ins. Plan v. Knoebber*, 244 F.3d 691, 695–96 (9th Cir. 2001).

i. Respondent's Non-culpable Conduct

Complainant first argues the Court erred both in law and fact when finding that Respondent's default was not the result of culpable conduct due to extreme personal difficulty following the owner's husband's death in April 2024 and her unfamiliarity with the U.S. legal system. Mot. Reconsider 3.

As factual errors underlying this conclusion, Complainant points out that the business owner "was in Saipan for six months in 2024 . . . , overlapping with the May 30 and July 11, 2024, Orders to Show Cause, yet failed to act," and that an alleged "CNMI 2023 Annual Report" shows Respondent-business was linked to other businesses who were represented by the counsel ultimately retained by Respondent, "undermining claims of ignorance." Mot. Reconsider 3. Complainant then argues the Court erred legally when it misapplied Ninth Circuit case law which "deems conduct culpable absent an explanation inconsistent with 'willful' failure," and "ignored *Kamal Griffin*, 3 OCAHO no. 568, where a similar delay without justification upheld default."[2] Mot. Reconsider 3.

ii. Respondent's Meritorious Defense

Complainant then argues the Court erred when it "accepted Respondent's claim of employing only two individuals." Mot. Reconsider 3.

As factual errors underlying this conclusion, Complainant claims that "Respondent refused discovery of payroll, visa records, and attestations—requested on August 26, 2024 (Motion to Close Record, Apr. 3, 2025) —casting doubt on the listings' veracity," and "[Respondent's] [t]ies to Mr. Koo and Jin Joo Corporation suggest a broader network of employees, per Complainant's February 5, 2025, filing." Mot. Reconsider 3. Complainant then argues the Court erred legally when it found that Respondent's evidence of employee headcount constituted "specific facts" sufficient to constitute a meritorious defense under Ninth Circuit case law. Further, Complainant maintains OCAHO precedent holds that in fraud cases, an employer's number of employees is irrelevant for purposes of jurisdiction. Mot. Reconsider 3 (citing *United States v. Marcel Watch Co.*, 1 OCAHO no. 143, 998–99 (1989)).

[2] No default was ever entered nor default judgment granted in *Kamal Griffin*, and so it is unclear how Complainant concluded it stood for such a proposition. The Court finds it was correct in not relying on that case when choosing to lift the default judgment, as the issues in that case are irrelevant to those presented in this case.

iii. Prejudice Towards Complainant

Finally, Complainant claims the Court erred when it "found no 'tangible harm' [to Complainant] beyond delay." Mot. Reconsider 4.

As factual errors underlying this conclusion, Complainant claims his unemployment and "severe financial strain" have been "exacerbated by a five-month delay post-judgment," and "Respondent's refusal to produce records hinders evidence preservation." Mot. Reconsider 4. He then argues that the Court erred legally when it misapplied Ninth Circuit case law, which "defines prejudice as harm to a party's ability to pursue claims. The Court ignored Mr. Zajradhara's pro se status and economic vulnerability, contravening *Mesle* . . . ." Mot. Reconsider 4.

b. Supra Motion

Complainant's supra motion in large part repeats the arguments from his Motion to Reconsider. The only new claim the Court identified is that certain emails between Complainant and Respondent's counsel demonstrate it was aware of the litigation "before and after the default judgment, yet failed to act until March 18, 2025," thereby refuting the Court's finding that Respondent's delay did not constitute "culpable conduct." Supra Mot. 2

c. Motion for Leave to Appeal

In his motion to reconsider, Complainant also "requests leave to appeal based on" grounds of alleged violations of due process, judicial bias, and misapplication of the law. Mot. Reconsider 6. OCAHO's Rules of Practice and Procedure only provide for administrative review of interlocutory orders issued in cases arising under 8 U.S.C. §§ 1324a and c, but not those arising under § 1324b, like this case. *See* 28 C.F.R. § 68.53.[3] The only type of review provided by the Rules for orders issued in § 1324b cases is judicial review of a final agency order by the "the United States Court of Appeals for the circuit in which the violation is alleged to have occurred or in which the employer resides or transacts business," 28 C.F.R. § 68.57,[4] or review by the Attorney General if the Attorney General so directs, 28 C.F.R. § 68.55. The Court's April 8, 2025 Order was not a final agency order, as it deferred summary decision to allow Complainant to conduct discovery. Accordingly, that order is not subject to review and, in any event, this Court's order renders the motion moot. Complainant's motion for leave to appeal is DENIED AS MOOT.

III. LAW & ANALYSIS

a. Reconsideration

[3] OCAHO's Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2024).

[4] A litigant need not request leave to file an appeal of a final order under 8 U.S.C. § 1324b.

"Reconsideration is an 'extraordinary remedy, to be used sparingly in the interests of finality and conservation of judicial resources.'" *Sharma v. NVIDIA Corp.*, 17 OCAHO no. 1450g, 3 (2023) (quoting *Adidas Am., Inc. v. Payless Shoesource, Inc.*, 540 F. Supp. 2d 1176, 1179 (D. Or. 2008)).[5] "OCAHO's Rules of Practice and Procedure do not contemplate motions for reconsideration of interlocutory orders[,]" and so the Court uses Federal Rule of Civil Procedure 54(b) as permissive guidance. *A.S. v. Amazon WebServs., Inc.*, 14 OCAHO no. 1381b, 2 (2021); 28 C.F.R. § 68.1.

"T]he decision to grant or deny a motion for reconsideration pursuant to Federal Rule 54(b) is a discretionary one," and such motions are disfavored. *Sharma*, 17 OCAHO no. 1450g, at 3. Courts in the Ninth Circuit view the following as grounds for reconsideration:

> (1) material differences in fact or law from that presented to the Court and, at the time of the Court's decision, the party moving for reconsideration could not have known of the factual or legal differences through reasonable diligence;
> (2) new material facts that happened after the Court's decision;
> (3) a change in the law that was decided or enacted after the Court's decision; or
> (4) the movant makes a convincing showing that the Court failed to consider material facts that were presented to the Court before the Court's decision.

Id. at 4 (citing *Motorola, Inc. v. J.B. Rodgers Mech. Contractors*, 215 F.R.D. 581, 586 (D. Ariz. 2003).

Here, Complainant's request for reconsideration most closely resembles the fourth ground. First, the argument that the owner of Respondent-business "was in Saipan for six months in 2024 . . . overlapping with the May 30 and July 11, 2024, Orders to Show Cause" does not alone demonstrate that her failure to respond to the Court's orders was done deviously, deliberately, willfully, or in bad faith. *See TCI Grp. Life Ins. Plan v. Knoebber*, 244 F.3d 691, 698 (9th Cir. 2001). While the record does not show precisely when the business owner was in Saipan, it does show, and the Court found, that the manager, her husband, passed away in Korea on April 4, 2024, when the Complaint was filed, that she was caring for him in South Korea, and the store was closed at that point. Resp't Resp. Decl. 1-2; *Taga Inc.*, 19 OCAHO no. 1577e at 6. Complainant's argument does not alter the basis of the Court's decision that this is sufficiently close in time to the orders to show cause to support the claim that the failure to respond was due to a personal emergency, a failure which the Ninth Circuit excused based on similar facts in *TCI Grp.*

Complainant's second claim, that Respondent had access to counsel, is purportedly supported by attachments to the motion, Ex. 1, which contains what Complainant represents to be five emails between himself and Respondent's counsel. However, these emails are not presented as copies of the emails, but appear to be the emails retyped, or perhaps cut and pasted, in a different format,

[5] As this case arises in the Commonwealth of the Northern Mariana Islands, the Court consults caselaw from the United States Court of Appeals for the Ninth Circuit. *See* 28 C.F.R. § 68.57.

and do not include the entire email string. The Court does not find these exhibits to be reliable as the Court has no way of verifying if these are accurate, and they do not provide the overall context of the conversations, assuming they are accurate. Complainant could and should have attached the original emails in PDF format, a format he did use for communications between himself and the Court. As a result, the Court will not consider these emails as probative evidence that could serve to contravene Respondent's own evidence included with its Motion for Summary Decision. *See Parker v. Wild Goose Storage, Inc.*, 9 OCAHO no. 1081, 3 (2002) ("[E]vidence to support or resist a summary decision must be presented through means designed to ensure its reliability.").

Even if the Court were to consider the email transcriptions, they do not prove what Complainant claims they do, namely, that Respondent had retained counsel both before and after the default judgment who could have participated in the litigation on its behalf. The earliest email transcription is dated December 14, 2024, well after the Complaint, orders to show cause and default judgment. Supra Mot. 8. In it, Complainant informed Respondent's counsel that he had an action pending against Respondent, for which he had obtained a default judgment. *Id.* However, nowhere in the transcriptions does counsel indicate Respondent was his client at that time. Indeed Complainant's statement in the transcriptions goes only so far as to say that Respondent-business is "associated with [counsel's] client," which itself is an unsubstantiated claim, but even if true, does not prove that counsel had been retained by this specific Respondent-business. The remainder of the transcription makes general references to the many cases Complainant currently has pending before this Court, without naming this Respondent.

Lastly, Complainant did not show that this argument and these facts were not available to him at the time of the prior order, or that he could not have uncovered them with a reasonable exercise of diligence. *Sharma*, 17 OCAHO no. 1450g, at 3.

Accordingly, the Court does not find a basis to disturb its conclusion that Respondent was not culpable in bringing about the default judgment.

Second, the statement that 8 U.S.C. § 1324b(a)(2)(A)'s jurisdictional requirement that an employer have at least three employees at the time of the discrimination does not apply in cases of visa fraud is a misstatement of the law. The caselaw cited by Complainant in support of this position, *United States v. Marcel Watch Co.*, 1 OCAHO no. 143 (1990) offers no such support, and quite clearly states the opposite. There, the Court unequivocally states that § 1324b(a)(1)'s prohibition does not apply to "a person or entity that employs three or fewer employees." *Id.* at 998 (quoting § 1324b(a)(2)(A)). That case dealt with the issue of whether an employer with more than fifteen employees could be sued for national origin discrimination under both Title VII and § 1324b, with the Court finding in the negative. *See id.* at 998–1000. As such, the Court's holding was not dependent upon § 1324b's application to employers with less than three employees, as those were not the facts of that case.

Complainant also argues that Respondent refused certain discovery requests on August 26, 2024, but he attached no evidence of such request. Moreover, the Court in its April 8 Order provided Complainant with an opportunity to conduct discovery on this precise issue, yet he declined to submit a discovery request. Respondent presented credible evidence that it employed a maximum

of two individuals during the relevant period, and Complainant failed to present any rebuttal evidence. As a result, the Court finds no basis to disturb its finding that Respondent presented a meritorious defense to Complainant's claim of citizenship status discrimination.

Third, and finally, the Court acknowledges Complainant's unemployment and financial hardship. However, "harm to a party's ability to pursue claims" refers to their legal ability to pursue their claims, not their ability to fund the pursuit of those claims. *See FOC Fin. LP v. Nat'l City Commercial Capital Corp.*, 612 F. Supp.2d 1080, 1084 (D. Ariz. 2009) (finding that a plaintiff's argument that it may become bankrupt did not constitute prejudice for purposes of reinstating a default judgment). Lifting the default judgment does not affect Complainant's ability to address the legal issue of whether this Court can hear this claim given the number of employees, especially considering the Court offered him an opportunity to conduct discovery on the issue of Respondent's number of employees. Complainant is in the same position he would have been in had the default judgment never been entered. *See TCI Grp.*, 244 F.3d at 701 ("[M]erely being forced to litigate on the merits cannot be considered prejudicial for purposes of lifting a default judgment.") And while Complainant claims that "Respondent's refusal to produce records hinders evidence preservation," he has not submitted any evidence that Respondent received and refused to answer his discovery requests, nor that the discovery he seeks to obtain is no longer available since the lifting of the default judgment. Accordingly, the Court declines to disturb its conclusion that lifting the default judgment will not result in any prejudice for Complainant.

And so, because Complainant has failed to show the Court did not consider material facts presented to the Court before its April 8, 2025 Order, his Motion to Reconsider is DENIED.

b. Summary Decision

As mentioned in its previous order, "[o]nce the moving party satisfied its initial burden of demonstrating both the absence of a material factual issue and that the party is entitled to judgment as a matter of law, the nonmoving party must come forward with contravening evidence to avoid summary resolution." *United States v. Four Seasons Earthworks, Inc.*, 10 OCAHO no. 1150, 3 (2012) (citing *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986)). "[T]he party opposing the motion for summary decision 'may not rest upon the mere allegations or denials' of its pleadings, but must 'set forth specific facts showing that there is a genuine issue of fact for the hearing.'" *United States v. 3689 Commerce Pl., Inc.*, 12 OCAHO no. 1296, 4 (2017) (quoting 28 C.F.R. § 68.38(b)).

The Court already found that Respondent met its burden by presenting evidence showing it employed less than three individuals at all times during the relevant period, and that as a result, "the burden then rest[ed] on Complainant to present any contravening evidence." *Taga*, 19 OCAHO no. 1577e, at 7. The Court then afforded Complainant the opportunity to conduct discovery. *See id.* at 8. Complainant ignored the Court's offer and instead submitted evidence in the form of unreliable correspondence records and unsubstantiated suggestions of "a broader network of employees." Mot. Reconsider 3; Supra Mot. Ex. 1. These amount to mere allegations, and therefore are insufficient to contravene Respondent's evidence. With nothing more, and even

when viewing the evidence in the light most favorable to Complainant, the Court must find Respondent is entitled to judgment as a matter of law.

IV. FINDINGS OF FACT

1. Complainant, Zaji Zajradhara is a United States citizen.

2. Respondent is a company located in Saipan, in the Commonwealth of the Northern Mariana Islands.

3. Respondent employed fewer than three people in 2023 and 2024.

V. CONCLUSIONS OF LAW

1. Complainant Zaji Obatala Zajradhara, is a protected individual within the meaning of 8 U.S.C. § 1324b(a)(3).

2. Respondent, Taga Inc., D/B/A EZ Outlet, is an entity within the meaning of 8 U.S.C. § 1324b(a)(1).

3. OCAHO has subject matter jurisdiction only for claims based upon citizenship status if the employer employs more than three employees, and as the Respondent did not have more than three employees when the alleged discrimination occurred, this forum does not have subject matter over this claim. 8 U.S.C. § 1324b(a)(2)(a).

4. The Complainant cannot state a claim for citizenship status discrimination when the Respondent does not employ more than three employees when the discrimination occurred. 8 U.S.C. § 1324b(a)(2)(a).

5. Summary judgment shall enter where, as here, pleadings, affidavits, and any other materials material show that there is no genuine issue of material fact and that the party is entitled to summary decision. 28 C.F.R. § 68.38(c).

6. "[T]he party opposing the motion for summary decision 'may not rest upon the mere allegations or denials' of its pleadings, but must 'set forth specific facts showing that there is a genuine issue of fact for the hearing,'" and the Complainant did not provide evidence to show a genuine issue of material fact as to whether Taga Inc., D/B/A/ EZ Outlet employed more than three people. *United States v. 3689 Commerce Pl., Inc.*, 12 OCAHO no. 1296, 4 (2017) (quoting 28 C.F.R. § 68.38(b)).

VI. ORDERS

Complainant's Motion for Reconsideration and Supra Motion to Reinstate Default Judgment are DENIED;

Complainant's Motion for Leave to Appeal is DENIED AS MOOT; and

Respondent's Motion for Summary Decision is GRANTED, and the complaint is DISMISSED.

SO ORDERED.

Dated and entered on May 5, 2025.

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Honorable Jean C. King
Chief Administrative Law Judge

Appeal Information

This order shall become the final agency order unless modified, vacated, or remanded by the Attorney General. Provisions governing the Attorney General's review of this order are set forth at 28 C.F.R. pt. 68. Within sixty days of the entry of an Administrative Law Judge's final order, the Attorney General may direct the CAHO to refer any final order to the Attorney General for review, pursuant to 28 C.F.R. § 68.55.

Any person aggrieved by the final order has sixty days from the date of entry of the final order to petition for review in the United States Court of Appeals for the circuit in which the violation is alleged to have occurred or in which the employer resides or transacts business. *See* 8 U.S.C. § 1324b(i)(1); 28 C.F.R. § 68.57. A petition for review must conform to the requirements of Rule 15 of the Federal Rules of Appellate Procedure.