

8 U.S.C. § 1324b Proceeding
OCAHO Case No. 2024B00091

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>.

On November 15, 2024, Respondent filed a Motion for Summary Decision and a Motion to Stay Discovery Pending Decision on Motion for Summary Decision.

On November 26, 2024, Complainant submitted a filing titled “Complainant’s Motion for Summary Judgment.” In spite of the title, this filing was a Response to Respondent’s Motion.

On December 18, 2024, Complainant submitted a Motion for Summary Decision.

On February 3, 2025, Respondent filed its Reply to Complainant’s Response Filing and Response to Complainant’s Motion.

II. POSITION OF THE PARTIES

a. Complaint

The Complaint and its attachments² allege that Complainant accepted Respondent’s job offer and then began the onboarding process on October 10, 2023. Compl. 27.³

During the on-boarding process, Complainant presented documentation to verify his identity and employment eligibility in the form of a “State Drivers License” and “N565 Receipt Notice.” Compl. 10, 27. After concluding the on-boarding process, Complainant was scheduled for “full-time training” from October 23–27, 2023. Compl. 27.

On October 27, 2023, Respondent asked Complainant for more information about the status of his naturalization certificate. Compl. 27. In response, Complainant provided “some more forms” related to his prior status of Lawful Permanent Resident.

On October 30, 2023, Respondent stated they “cannot take the forms provided,” and requested “a different form of documentation.” Compl. 27–28. Absent different forms, Respondent explained it would “move forward with removing [Complainant] from the program.” Compl. 41.

On October 31, 2023, Respondent informed Complainant via email that “the N-565 receipt is not a document we can take,” and attached a link to USCIS’s website for acceptable documents to verify identity and employment eligibility. Compl. 28, 42. Additionally, Respondent told

² The Complaint had several attachments: (1) a letter from Complainant addressed to the Court titled “Emotional Distress Damage,” (2) Complainant’s “right to sue” letter issued by Immigrant and Employee Right’s Section (IER), (3) a copy of Complainant’s IER charge, (4) a sworn affidavit from Complainant, (6) screenshots of instructions for the Form I-9 from the United States Citizenship and Immigration Services’ (USCIS) website, (7) screenshots of email and phone communications between Complainant and employees of Respondent, and (8) an email from Complainant to the Court discussing his decision to file an OCAHO complaint.

³ Citations to the complaint refer to the pagination of the entire pdf document, not the internal pagination of the complaint form or any of its attachments.

Complainant he would “be compensated for [his] time spent at the center and whatever work was completed.” Compl. 43.

On November 3, 2023, Respondent confirmed it would “need to move forward with offboarding at this moment. Once [Complainant had] a work authorization document [he could] reach out to [his] recruiter.” Compl. 50.

On March 22, 2024, soon after filing his Complaint, Complainant provided a revised Complaint, in which he noted:

Centria Autism sent me back pay in the amount of \$2,195.09 on January 4, 2024. In good faith and without an order, the company went ahead and took the initiative to send the back pay, even though I didn’t ask for or negotiate it with them. . . . The purpose of this charge is to resolve the emotional damage that took place as a result of being wrongfully terminated and discriminated against by Centria Autism.

Compl. 56.

b. Answer

Respondent admits to many of the facts as alleged in the Complaint, but qualified some of those admissions as follows:

On September 28, 2023, an employee of Respondent told Complainant that “a receipt notice of his ‘citizenship replacement document’ would . . . work as a placeholder” for his Form I-9; however, Respondent later concluded the N-565 could not establish employment eligibility because that Form was not on the USCIS “Lists of Acceptable Documents.” Answer 2–3.

On November 3, 2023, Respondent “paid Complainant for the work completed from October 22, 2023 to October 28, 2023.” Answer 3.

On December 18, Complainant emailed Respondent “regarding rehire and attached his newly issued Form N-561, Replacement Certificate of Citizenship to prove that he was authorized to work in the United States.” Answer 4, Ex. K.

On December 18, 2023, Respondent “offered Complainant employment as a part-time Behavior Technician.” Answer 4, Ex. K.

On December 30, 2023, Complainant declined the job offer.” Answer 4, Ex. K.

As to the “backpay” identified by Complainant, Respondent noted “Complainant would have been able to work based on the N-565 receipt notice. . . . The paycheck covered the period from October 8, 2023, to December 16, 2023, because Complainant began his employment with another employer on December 18, 2023.” Answer 4, Ex. L.

c. Respondent's Position on Summary Decision

Respondent asserts that “while Respondent recognizes that the Administrative Law Judge (“ALJ”) may find a violation of certain alleged unfair immigration-related employment practices under 8 U.S.C. § 1324b(a)(1), Respondent has proactively addressed these concerns by providing back pay, exceeding statutory penalty requirements, and previously offering to rehire the Complainant.” Resp’t Mot. Summ. Dec. 1. Therefore, in Respondent’s view, “[b]ecause Complainant did not accept the offer of reemployment, and Respondent has met all statutory remedies available, no genuine issue of material fact remains, making summary decision appropriate.” *Id.*

In its Response, Respondent maintains that “[t]his forum is limited to granting equitable relief, back pay, and civil penalties for unfair immigration-related employment practices. Claims for pain and suffering, emotional distress, or severance pay are not within the jurisdiction or authority of the OCAHO to grant.” Resp’t Resp. 2. Regarding the statutorily permissible remedies, Respondent claims it “fulfilled” each one. *Id.* at 3.

Respondent provides its methodology for calculating backpay, noting it paid Complainant \$2,195.09, which “covered the period from his initial termination up to the point when the complainant declined an offer of re-employment, plus an additional few weeks compensation.” *Id.* at 3. On equitable remedies, Respondent argues “[b]y extending [an offer of re-employment], the respondent fulfilled its legal obligation to provide equitable relief through reinstatement. The complainant’s voluntary refusal to return absolves the respondent of further obligations related to reinstatement.” *Id.* Finally, Respondent argues a civil penalty is “unwarranted in this case,” because it “has not engaged in willful misconduct or bad faith and took proactive measures to ensure the complainant was made whole, even exceeding the necessary compensation.” *Id.*

d. Complainant's Motion for Summary Decision

Complainant, who is pro se, argues “Centria Autism didn’t meet its burden of production by putting forth a legitimate nondiscriminatory reason” for its actions. Complainant Mot. Summ. Dec. 1–2, 5.⁴ In Complainant’s view, the “losses or suffering inflicted” due to these discriminatory acts entitle him to both “compensatory and punitive damages.” *Id.* at 5–7.

In his response, Complainant opines on the lack of a genuine issue of material fact, noting Respondent admitted to rejecting his employment verification documents. Complainant Resp. 3.⁵ Complainant acknowledged Respondent paid him “back pay,” and offered him reemployment, but “further compensation is sought by the Complainant” for “emotional distress.” *Id.* at 3–7. He also re-attached his sworn affidavit and “Emotional Distress Damage Research Statement.” *Id.* at 8–14.

⁴ Complainant’s Motion for Summary Decision is not internally paginated, and so citations to the motion refer to the pagination of the entire pdf document.

⁵ Complainant’s response is likewise not internally paginated, and so citations to the response refer to the pagination of the entire pdf document.

III. ADMISSIBILITY OF EVIDENCE PRESENTED

To be admissible in this forum, “[e]vidence should be reliable, probative, and substantial.” *Sharma v. NVIDIA Corp.*, 17 OCAHO no. 14501, 6 (2024) (citing 5 U.S.C. § 556(d); 28 C.F.R. § 68.52(d)). In determining whether evidence meets this standard, the Court must first analyze whether the evidence is reliable (i.e., that there are indicia that the document is what the offering party purports it to be), and then whether the evidence is also sufficiently probative. *See United States v. Carpio-Lingan*, 6 OCAHO no. 914, 5 (1997); *United States v. Kodiak Oilfield Servs., LLC*, 16 OCAHO no. 1436b, 7 n.14 (2023). “Reliability can be analyzed by looking at whether documents ‘originate from the purported source’; whether other evidence calls into question a document’s reliability (i.e., disavowed correspondence); or whether a document is consistent or inconsistent with other record evidence.” *Sharma*, 17 OCAHO no. 14501, at 6. Meanwhile, “[p]robative value is determined by how likely the evidence is to prove some fact[.]” *United States v. Bensimon*, 172 F.3d 1121, 1126 (9th Cir. 1999) (internal citation omitted). “Evidence is relevant if: (a) it has a tendency to make a fact more or less probable than it would be without the evidence; and (b) the fact is of consequence in determining the action.” *United States v. Rose Acre Farms, Inc.*, 12 OCAHO no. 1285, 8 (2016) (quoting Fed. R. Evid. 401).

a. Respondent’s Documentary Evidence

Respondent submitted Exhibit A with its Motion for Summary Decision (an exhibit comprised of the exhibits attached to the Answer). This Exhibit contains: the original job offer, Complainant’s employee profile, correspondence between Complainant and Respondent, a copy of the check issued for Complainant’s work in October 2023, and a copy of the check issued in December 2023 for “back pay.” Exhibit A. All documentary evidence provided by Respondent is reliable. Complainant does not contest the reliability of any portion of the Exhibit, and where appropriate, all Exhibits are on letterhead, appear complete, are signed, are internally consistent and consistent with the larger submission. All documentary evidence provided by Respondent is probative. Complainant does not contest the probative value of any portion of the Exhibit, and each provides facts related to the employment history and post-employment history between Complainant and respondent. The Court will consider all documentary evidence provided by Respondent.

b. Complainant’s Documentary Evidence⁶

Complainant submitted the following: his IER charge and right-to-sue letter, an affidavit (from Complainant), screenshots from the USCIS webpage (related to employment eligibility verification), correspondence between Complainant and Respondent employees. Respondent does not contest the reliability of these documents, and they are internally and externally consistent with record evidence, and appear to be complete and are what Complainant holds them out to be. Complainant’s evidence is sufficiently reliable. Like Respondent’s evidence, Complainant’s evidence is similarly of high probative value as it relates to conditions precedent to the litigation,

⁶ Complainant includes a document titled “Emotional Distress Damage Research Statement: Case Study” drafted by Complainant and dated January 8, 2024; however this appears to be argument, not evidence.

or what transpired between Complainant and Respondent. The Court will consider all documentary evidence provided by Respondent.

IV. FINDINGS OF FACT

Based on the record evidence, the Court makes the following findings of fact:

1. On September 28, 2023, Respondent, Centria Autism, offered Complainant (and Complainant accepted) employment as a part-time Behavior Technician. Answer Ex. A.⁷
2. On September 28, 2023, the employee confirmed that “[a] receipt will work as a placeholder [to verify employment eligibility in the United States].” Answer Ex. B.
3. On October 9, 2023, Complainant provided to Respondent’s onboarding specialist a copy of his driver’s license issued by the State of Nevada and a Receipt Notice for Form N-565, Application for Replacement Naturalization/Citizenship Document. Answer Ex. C.
4. On October 26, 2023, a Respondent human resources employee instructed a Respondent payroll employee to request additional information from Complainant. Answer Ex. D.
5. On October 27, 2023, Complainant provided additional documentation, to wit: a biometrics appointment notice, and an approval notice for the Form I-181, Creation of Record of Lawful Permanent Residence. Answer Ex. E.
6. On October 27, 2023, Respondent determined these documents failed to establish Complainant’s eligibility for employment. Answer 3; Ex. E.
7. On October 30, 2023, a Respondent payroll employee determined the N-565 receipt notice was insufficient to verify employment eligibility, because she could not locate the N-565 on USCIS’s Lists of Acceptable Documents for the Form I-9. Answer Ex. F.
8. On October 30, 2023, the onboarding specialist informed Complainant that if he was unable to provide more documentation, his employment would be terminated. Answer Ex. F.
9. On October 30, 2023, Complainant asked the onboarding specialist to pay him through October 30, 2023. Answer Ex. F.
10. On October 31, 2023, Complainant contacted Respondent and with a USCIS webpage link, which indicated a “Receipt for a replacement of a lost, stolen, or damaged List C document may be presented in lieu of a List C document for a temporary period.” Answer Ex. G.

⁷ The Court references Exhibits from the Answer vice the Motion for Summary Decision because the exhibits are identical, and the cited facts are easier to locate in the unconsolidated submission which accompanied the Answer.

11. On November 3, 2023, Respondent paid Complainant \$437.81 for the work he completed from October 22, 2023, to October 28, 2023. Answer Ex. H.
12. On November 6, 2023, Respondent stated to Complainant that it “need[ed] to move forward with offboarding . . . at this moment. Once you have a work authorization document please feel free to reach out to your recruiter.” Answer Ex. I.
13. On November 6, 2023, Complainant’s employee profile with Respondent was updated to reflect that he was “unhired.” Answer Ex. B.
14. On December 18, 2023, Complainant emailed Respondent’s compliance team to inform them that he received his replacement naturalization certificate and would be willing to start working for them as soon as possible. Answer Ex. K.
15. On December 18, 2023, Respondent offered Complainant a part-time Behavior Technician role. Answer Ex. K.
16. On December 21, 2023, Respondent issued a \$2,195.09 check to Complainant for 165.47 hours constructively worked from October 8, 2023, to December 16, 2023. Answer Ex. L.
17. On December 30, 2023, Complainant emailed Respondent to reject the offer of employment. Answer Ex. K.

V. CONCLUSIONS OF LAW

a. Summary Decision

Summary decision is warranted “if the pleadings, affidavits, [and] material obtained . . . 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).⁸ Here, the parties agree there are no genuine issues of material fact, and both requested summary decision. Respondent’s posture (while not conceding liability expressly) presumes that the Court could, when viewing these facts in a light most favorable to Complainant, find a violation of Section 1324b(a)(6) of the statute.⁹

⁸ OCAHO’s Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2024).

⁹ Section 1324b(a)(6) makes it unlawful to request, “for purposes of satisfying the requirements of [8 U.S.C. § 1324a(b)] . . . more or different documents than are required under such section or refusing to honor documents tendered that on their face reasonably appear to be genuine shall be treated as an unfair immigration-related employment practice if made for the purpose or with the intent of discriminating against an individual in violation of [§ 1324b(a)(1)].”

Note that it is not clear Complainant would succeed at hearing as he would have to show Respondent requested additional documents “for the purpose or with intent” to discriminate, vice simply being confused. Nevertheless, Respondent, as the moving party in its Motion for Summary Decision argues “while Respondent recognizes that the Administrative Law Judge (“ALJ”) may

In asking the Court to view the facts this way (resolving ambiguity in favor of Complainant),¹⁰ the Respondent is asking the Court to advance its analysis to 8 U.S.C. § 1324a(g) wherein the Court is required to issue an Order which complies with 8 U.S.C. § 1324a(g)(2) (i.e. an Order contemplating a violation of the statute).

In considering the content of the statute, and its requirements, the Court first notes that Section 1324a(g)(2)(A) obligates the Court to ORDER Respondent to “cease and desist from such unfair immigration-related employment practices.” While inclusion of this language in the instant Order meets the statutory requirements, from a practical standpoint, the Court is aware that this record presents only one isolated incident of a potential unfair immigration-related employment practice, which was immediately remedied by the Respondent business (Indeed, it was remedied prior to the Complaint ever being filed.)

The next subsection of the statute provides an enumerated list of actions¹¹ that an Administrative Law Judge “*may*” require of a Respondent. 8 U.S.C. § 1324a(g)(2)(B) (emphasis added). Germane to the analysis, the Court notes the statute does not allow for any remedy not otherwise listed in the subsection. Specific to backpay, the statute ties it to reemployment, noting the Court may require a Respondent “hire individuals directly and adversely affected, with or without back pay.” 8 U.S.C. § 1324a(g)(2)(B)(iii).

With the clear guidance of the statute in mind, the Court now turns to the filings from the parties. Complainant, for his part, acknowledged Respondent paid him “back pay,” and offered him reemployment, however he argues an entitlement to “further compensation” which consists of “compensatory and punitive damages.” Complainant Mot. Summ. Dec. 1–2, 5; Complainant Resp. 3–7. Complainant seeks remedies that are not on offer in the statute, and thus he cannot establish, as a matter of law, an entitlement to them.

Respondent for its part, argues the proactive steps it took prior to the commencement of litigation should absolve it from any further obligations to the Complainant. The Court agrees with Respondent.

find a violation of certain alleged unfair immigration-related employment practices under 8 U.S.C. § 1324b(a)(1), Respondent has proactively addressed these concerns by providing back pay, exceeding statutory penalty requirements, and previously offering to rehire the Complainant.”

¹⁰ Alternatively, Complainant’s motion would offer the “light most favorable treatment” to Respondent, and, to the extent the Court is considering each motion for summary decision on its own merit, it’s not entirely clear Complainant has demonstrated liability as he focuses exclusively on a proposed remedy. In any event, because Respondent took the posture it did in its Motion, the analysis continues.

¹¹ These actions include ordering a Respondent to do any of the following: comply with the law, retain additional records (job applicant names and addresses) for a period of three years, **hire individuals directly and adversely affected, with or without backpay**, pay a civil penalty, post notices or otherwise educate the workforce about the statute, remove adverse paperwork from a personnel file, and/or lift work restrictions on impacted employees. 8 U.S.C. § 1324a(g)(2)(B)(i)–(viii) (emphasis added).

In coming to this conclusion, the Court considered Respondent, acting swiftly and on its own accord, sought to hire the affected individual and offered him backpay, consistent with 8 U.S.C. § 1324a(g)(2)(B)(iii). The Court finds little utility in additional remedial action designed to either educate Respondent and its workforce about the statute's requirements or create additional record retention requirements. Respondent's own course correction demonstrates it does not need these measures. Similarly, a civil penalty is unnecessary in this case (and was not requested by Complainant) because this Respondent business has engaged in one, isolated, instance of an unfair immigration-related employment practice, which it quickly recognized and then remedied. Such behavior should be encouraged, not punished.

VI. CONCLUSION

Complainant's Motion for Summary Decision is GRANTED in part (as to liability), and DENIED in part (as to "damages").

Respondent's Motion for Summary Decision is GRANTED.

Respondent's Motion to Stay Discovery is DENIED as MOOT.

Respondent is ORDERED to "cease and desist from such unfair immigration-related employment practices." 8 U.S.C. § 1324a(g)(2). *See also* 28 C.F.R. § 68.52(d)(1).

This is a Final Order. 28 C.F.R. § 68.52.

SO ORDERED.

Dated and entered on July 2, 2025.

Honorable Andrea R. Carroll-Tipton
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.