

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

May 14, 2026

MICHAEL BROWNE,	)	
Complainant,	)	
	)	
v.	)	8 U.S.C. § 1324b Proceeding
	)	OCAHO Case No. 2026B00004
	)	
UBER TECHNOLOGIES, INC.,	)	
Respondent.	)	
	)	

Appearances: Daniel L. Low, Esq., and Lindsey M. Grunert, Esq., for Complainant
Molly Jennings, Esq., and April N. Williams, Esq., for Respondent

ORDER GRANTING RESPONDENT’S MOTION TO DISMISS AMENDED COMPLAINT
(JOB APPLICATIONS 9 AND 10 ONLY)

I. PROCEDURAL HISTORY

On November 14, 2025, Complainant, Michael Browne, filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) against Respondent, Uber Technologies, Inc., alleging it violated the antidiscrimination provisions of the Immigration and Nationality Act, as amended, 8 U.S.C. § 1324b(a)(1)(B).

On February 6, 2026,¹ Respondent filed a Motion to Dismiss for Failure to State a Claim.

On February 11, 2026, Complainant filed an Opposition to Respondent’s Motion to Dismiss.

On February 23, 2026, Respondent filed a Motion for Leave to File Reply in Support of Its Motion to Dismiss along with an attached Reply in Support of Its Motion to Dismiss.

On February 24, 2026, the Court granted the motion and accepted Respondent’s Reply in Support of Its Motion to Dismiss as a filing. *See Browne v. Uber Technologies, Inc.*, 22 OCAHO no. 1683a (2026).²

¹ Respondent (timely) filed its Answer on the same day.

² Citations to OCAHO precedents reprinted in bound Volumes 1 through 8 reflect the volume number and the case number of the particular decision, followed by the specific page in that volume where the decision

On March 5, 2026, the Court issued an order that denied Respondent’s Motion to Dismiss with respect to eight of the ten allegations in the complaint, found that the remaining two allegations did “not meet the pleading standard and could be dismissed,” and allowed Complainant the opportunity to submit an amended complaint with respect to those allegations. *See Browne v. Uber Technologies, Inc.*, 22 OCAHO no. 1683b, 7 (2026).³

On March 18, 2026, filed its Amended Complaint and Addendum for the remaining two allegations.

On April 1, 2026, Respondent filed a Motion to Dismiss the Amended Complaint for Failure to State a Claim.

On April 13, 2026, Complainant filed an opposition to Respondent’s Motion to Dismiss the Amended Complaint.

On April 23, 2026, respondent filed a Motion for Leave to File Reply, along with an attached reply brief in support of its Motion to Dismiss the Amended Complaint.⁴

II. AMENDED COMPLAINT

Complainant alleges he is a U.S. citizen and that Respondent discriminated against him based on his citizenship status when it rejected him from ten jobs for which he applied. Am. Compl. Addendum 15-22.

Because the Court previously found that the original complaint was sufficient for eight job

begins; the pinpoint citations which follow are thus to the pages, seriatim, of the specific entire volume. Pinpoint citations to OCAHO precedents after Volume 8, 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 in the Westlaw database “FIM-OCAHO,” the LexisNexis database “OCAHO,” or on the United States Department of Justice’s website at <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-decisions>.

³ The Order was amended on April 13, 2026, to change the tile only. *See id.* at 1 n.1.

⁴ The Court will exercise its discretion to accept Respondent’s Reply, as it would “further record development and provide an opportunity for parties to be heard on novel issues or argument.” *See Sharma v. NVIDIA Corp.*, 17 OCAHO 1450j, 3 (2023) (citing *Heath v. Ameritech Global*, 16 OCAHO 1435, 3 (2022)); *see also United States v. Walmart Inc. (Bethlehem)*, 17 OCAHO no. 1475d, 7 (2023) (accepting reply brief addressing which “portions of the response the Court should consider”).

applications identified,⁵ the Court now considers only the two remaining job applications⁶ discussed in the Amended Complaint Addendum (marked in the addendum as Job Applications No. 9 and 10). *See Browne*, 22 OCAHO no. 1683b, at 5-6.

For Job Application No. 9 (Senior Scientist, “Eats Growth”), Complainant asserts that he applied for the job on August 4, 2025, that he was qualified for the job, and that he was rejected without an interview because of his citizenship status. Am. Compl. Addendum 20-21. On nexus between non-selection and protected class, he alleges that he was interviewed in connection with a different job application (Job Application No. 4) on April 18, 2025, and was told he would be a good fit for the company and that he should apply to jobs advertised on the company’s career website. *Id.* at 20. He also alleges that he was asked if he required visa sponsorship for employment during an interview on June 12, 2025, for another position (Job Application No. 8). *Id.* He asserts that the question was not justified because he lists his U.S. citizenship on his resume. *Id.*

For Job Application No. 10 (Senior Scientist, “Competitive Intelligence”), Complainant asserts that he applied for the job on August 10, 2025, that he was qualified for the job, and that he was not hired following an interview because of his citizenship status. *Id.* at 21-22. On nexus between non-selection and protected class, he alleges that he was interviewed in connection with a different job application (Job Application No. 4) on April 18, 2025, and was told he would be a good fit for the company and that he should apply to jobs advertised on the company’s career website. *Id.* at 21. He also alleges that he was asked if he required visa sponsorship for employment during an interview on June 12, 2025, for another position (Job Application No. 8). He claims he was interviewed for Job Application No. 10 in August 2025, but was not asked technical questions, and was rejected just four days later.⁷ He believes this interview was “perfunctory” and that Respondent did not intend to hire him because it already knew of Respondent’s citizenship.

III. POSITIONS OF THE PARTIES

A. Respondent’s Motion to Dismiss Amended Complaint

Through its motion, Respondent argues Complainant’s amended complaint did not state a claim of discrimination on the basis of citizenship status for Job Applications No. 9 and 10. Mot. to Dismiss Am. Compl. 1, 4-9.

⁵ These jobs are: Data Scientist (Reference No. U7941), Data Scientist (Reference No. U5221), Data Scientist (Reference No. U299), Data Scientist (Reference No. U7199), Data Scientist (Reference No. U7887), Data Scientist (Reference No. U1363), Applied Scientist (Reference No. U604), and Data Scientist (Reference No. U238). *See Browne*, 22 OCAHO no. 1683b, at 5 n.5; Compl. 9, 15-19.

⁶ These jobs are Senior Scientist, “Eats Growth,” and Senior Scientist, “Competitive Intelligence.” *See Browne*, 22 OCAHO no. 1683b, at 6 n.10; Am. Compl. Addendum 20-22.

⁷ The Amended Complaint Addendum states that Complainant was rejected for this position on September 2, 2026. This date appears to be a typographical error (since that date has not yet occurred) and, from context, appears to refer to 2025.

Respondent argues the allegations related to other jobs for which Complainant replied are not relevant without any indication that the same individuals were making hiring decisions. *Id.* at 5. Respondent states that Complainant's own complaint alleges that there were different processes for Job Applications 4 and 8 than for Job Applications 9 and 10 because they were subject to the Permanent Labor Certification (PERM) process.⁸ *Id.* at 6; *see also Browne*, 22 OCAHO no. 1683b, at 5 ("Complainant's theory for [Job Applications 1-8] relies on the PERM process and its requirements pertaining to use of newspapers to advertise vacancies.").

Respondent argues that the allegations that are specific to Job Applications 9 and 10 do not state a claim for discrimination on the basis of citizenship status. Mot. to Dismiss Am. Compl. 7-8. For Job Application 9, it argues that Complainant presented "little more than speculation and conjecture." *Id.* at 7. While the Amended Complaint for Job Application 10 now asserts that he had a brief and "perfunctory" interview for the role, Respondent argues that this is insufficient to link the employment action to Complainant's citizenship status. *Id.* at 8; Am. Compl. Addendum 22.

Respondent seeks dismissal with prejudice of the Amended Complaint with respect to Job Applications 9 and 10 because Complainant has still not stated a viable claim despite having two opportunities to do so. Mot. to Dismiss Am. Compl. 8-9.

B. Complainant's Opposition

Complainant argues the Amended Complaint sufficiently detailed that Respondent encouraged him to apply for the roles because he was well-qualified but rejected him after inquiring about his citizenship. Opp'n 3. He argues that his amended allegations should be read in the light most favorable to him in conjunction with the other allegations. *Id.* at 3-4.

Complainant disagrees with Respondent's contention that Job Applications 4 and 8 are irrelevant and asserts that the company's encouragement that he apply for the roles supports his contention that he was qualified. *Id.* at 4-6. He argues that Respondent asking about his visa status shortly before it rejected him for the roles at issue here supports the allegation that he was not hired because of his citizenship. *Id.* at 5.

With respect to Job Application 10 specifically, Complainant argues that because he was not asked technical questions during his interview, Respondent had no legitimate, non-discriminatory reason not to hire him or advance him to a technical interview. *Id.* at 6. Complainant argues that "[a] perfunctory interview where the complainant's protected status is known is sufficient to give rise to an inference of discrimination." *Id.* at 7.

C. Respondent's Reply

In its reply, Respondent argues that Complainant has not raised an inference of discrimination even if the Court reads all allegations together. Reply 1. Respondent argues that Complainant did not identify legal authority that suggests a "general encouragement to apply for other roles, months

⁸ The Court previously explained the PERM process and its advertisement requirements. *See Browne*, 22 COAHO no. 1683b, at 2 n.5.

before an application is submitted,” could lead to an inference of discrimination. *Id.* at 3. For Job Application 9, Respondent argues there was no “temporal nexus” between Respondent asking Complainant’s citizenship status in an interview and declining to hire him several months later. *Id.* For Job Application 10, Respondent argues the allegations considered together “*undercut* any inference of discrimination” because Complainant claims that Respondent did not want to hire people who shared his citizenship status “but still elected to take the time to interview him with full knowledge of his citizenship status.” *Id.* at 4 (emphasis in original).

IV. LAW AND ANALYSIS

A. Law – Failure to State A Claim Upon Which Relief Can Be Granted

Under 28 C.F.R. § 68.10(b),⁹ an Administrative Law Judge (ALJ) “may dismiss the complaint” if “the complainant has failed to state a claim upon which relief can be granted.” “In considering a motion to dismiss, the court must limit its analysis to the four corners of the complaint.” *Udala v. New York State Dep’t Educ.*, 4 OCAHO no. 633, 390, 394 (1994). The factual allegations are accepted as true and all reasonable inferences derived therefrom are drawn in the complainant’s favor. *Id.*

Complaints before OCAHO must include: “A clear and concise statement of facts, upon which an assertion of jurisdiction is predicated”; “The alleged violations of law, with a clear and concise statement of facts for each violation alleged to have occurred”; and “A short statement containing the remedies and/or sanctions sought to be imposed against the respondent.” 28 C.F.R. § 68.7(b)(1)-(4); *see also Qun Wang v. Meta Platforms, Inc.*, 21 OCAHO no. 1656a, at 2 (2025).

“Statements made in the complaint only need to be ‘facially sufficient to permit the case to proceed further,’ . . . as ‘[t]he bar for pleadings in this forum is low.’” *Qun Wang*, 21 OCAHO no. 1656a, at 2-3 (quoting *Sharma v. NVIDIA Corp.*, 17 OCAHO no. 1450, 3 (2022)).

Complaints “must contain sufficient minimal allegations to satisfy § 68.7(b)(3) and give rise to an inference of discrimination.” *Wangperawong v. Meta Platforms, Inc.*, 18 OCAHO no. 1510c, 7 (quoting *Jablonski*, 12 OCAHO no. 1272 at 6). Such an inference is drawn when a complaint “include[s] information that links the protected class and the employment action in question.” *Qun Wang*, 21 OCAHO no. 1656a at 3. The complaint must “‘identif[y] a theory by which [the] Respondent allegedly violated 8 U.S.C. § 1324b’ in a way that ‘succinctly yet clearly’ informs a respondent why a complainant has brought the suit.” *Id.* (quoting *Sharma*, 17 OCAHO no. 1450, at 7). “[P]leadings are sufficient if ‘the allegations give adequate *notice* to the respondents of the charges made against them.’” *Sharma*, 17 OCAHO no. 1450, at 3 (quoting *Santiglia v. Sun Microsystems, Inc.*, 9 OCAHO no. 1097, 10 (2003) (emphasis added in *Sharma*)).

⁹ OCAHO’s Rules of Practice and Procedure for Administrative Hearings, being the provisions contained in 28 C.F.R. part 68 (2026), generally govern these proceedings and are available in the Electronic Code of Federal Regulations. *See* <https://www.ecfr.gov/current/title-28/chapter-I/part-68>.

B. Analysis – Failure to State A Claim Upon Which Relief Can Be Granted

The Court previously found that Complaint sufficiently alleged that Complainant is a U.S. citizen, and that the allegations included specific job titles, dates of application, and job duties for the jobs currently at issue [as in Allegations 1 through 8]. *Browne*, 22 OCAHO no. 1683b, at 5. Nothing in the Amended Complaint changes this analysis. In the prior Order, the Court noted that “[s]uch specificity allows Respondent to ‘divine each position at issue.’” *Id.* (quoting *Qun Wang*, 21 OCAHO 1656a, at 3). The Complainant pleads the positions at issue with sufficient specificity in the Amended Complaint. Am. Compl. Addendum 20-22.

The key question, then (and consistent with the analysis in the previous Order), is whether Complainant articulated a sufficient theory regarding a nexus to his protected class. *See Browne*, 22 OCAHO no. 1683b, at 5-6.

For Job Application No. 9, his theory focuses entirely on other job applications. Am. Compl. Addendum 20-21. He notes that he interviewed for Job Application No. 4 and was encouraged to apply for roles posted on Uber’s career website on April 18, 2025, and interviewed for Job Application 8 and was asked if he required visa sponsorship on June 12, 2025. *Id.* at 20. The only connection to Job Application No. 9 he suggests is that he applied for that job after these other experiences (on August 4, 2025) and was rejected without an interview. *Id.* at 20-21.

However, his theory that he was not interviewed or selected because Respondent had previously learned of his citizenship status is undercut by his allegations involving Job Application no. 10. *Id.* at 21-22. For that job, he asserts that he applied on August 10, 2025 (after his application for Job Application no. 9 and after he claims to have been asked about his visa status) and was granted an interview (which he says was conducted on August 29, 2025). *Id.* at 21. While he argues the interview was “perfunctory” because he was not asked technical questions, his allegations indicate that he participated in a meaningful discussion, as he was asked about prior work experience and was able to discuss his educational and professional background.¹⁰ *Id.* at 21-22.

With respect to Job Applications no. 9 and 10 (when considered together), Complaint has articulated a conflicting theory in which Respondent learned of his citizenship status and, as a result, decided to reject him without an interview for one job application but interview him in response to another field several days later only to ultimately reject him from that too. While Complainant has identified a theory regarding nexus, its inconsistency does not “*reasonably* suggest a nexus between Respondent’s decision not to hire Complainant and Complainant’s status as a U.S. Citizen.” *Montalvo v. Kering Americas, Inc.*, 14 OCAHO no. 1350, 5 (2020) (emphasis added).

¹⁰ Complainant cites *Hertz v. Gap, Inc.*, No. 95 CIV. 10187 (JFK), 1997 WL 777375 (S.D.N.Y. Dec. 17, 1997) for the proposition that the court denied summary judgment in an age discrimination claim when “a ‘perfunctory interview’ was conducted after plaintiff’s age became known to the potential employer.” Opp’n 7. However, Complainant’s allegations in this case do not appear to be analogous to the facts in that case. The Amended Complaint indicates Complainant’s interview was more substantial than the quick two-question interview at issue in *Hertz*. *Hertz*, No. 95 CIV. 10187 (JFK), 1997 WL 777375, at *2.

Complainant also states that he believes “non-citizen, foreign workers were slotted into the roles,” but he made this assertion “in a general and conclusory fashion” without any clear explanation as to why he holds this belief with respect to these positions. Am. Compl. Addendum 21-22; *A.S. v. Amazon Webservices Inc.*, 14 OCAHO no. 1381d, 16 (2021).

Complainant’s theory presents such an attenuated connection between Respondent’s decision not to hire him and his citizenship status that he fails to “provide ‘clear and concise’ factual allegations sufficient to raise an inference of discrimination.” *A.S.*, 14 OCAHO no. 1381d, at 16 (quoting 28 C.F.R. § 68.7(b)(3)). Given this lack of clarity, Complainant has provided insufficient “information that links the protected class and the employment action in question.” *Qun Wang*, 21 OCAHO 1656a, at 3; *see also Thompson v. Sanchez Auto Services, LLC*, 12 OCAHO no. 1302, 7-8 (2017) (dismissing a national origin discrimination claim for failure to state a claim when that complaint was “bereft of any allegations related to [] national origin apart from cursory assertions”).

The Court will therefore grant Respondent’s motion to dismiss for failure to state a claim with respect to Job Applications no. 9 and 10. As the Court previously gave Complainant the opportunity to amend his Complaint, it will now dismiss the Amended Complaint (regarding Job Applications no. 9 and 10) with prejudice. *See Browne*, 22 OCAHO no. 1683b, at 7 (giving this Complainant leave to amend the prior Complaint); *Thompson*, 12 OCAHO no. 1302, at 8 n.12 (dismissing a complaint with prejudice when granting leave to amend would be futile).

V. CONCLUSION

Because Complainant has not satisfied this forum’s pleading standard for the Job Applications no. 9 and 10 in the Amended Complaint, Respondent’s Motion to Dismiss is GRANTED, as to these two allegations.

With respect to Job Applications no. 9 and 10 in the Amended Complaint, the Complaint is DISMISSED (again, in part) with prejudice.¹¹

Pursuant to the Court’s April 2, 2026, order, Respondent shall file any amended answer within 14 days following the date this order is issued. *See Browne v. Uber Technologies, Inc.*, 22 OCAHO no. 1683c (2026).

SO ORDERED.

Dated May 14, 2026.

Honorable Andrea R. Carroll-Tipton
Administrative Law Judge

¹¹ To be clear, Allegations involving Applications 1 through 8 remain.