



OSC UPDATE

Office of Special Counsel for Immigration-Related Unfair Employment Practices

The Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC) investigates and prosecutes allegations of national origin and citizenship status discrimination in hiring, firing, and recruitment or referral for a fee, as well as unfair documentary practices during the employment eligibility verification process and retaliation under the anti-discrimination provision of the Immigration and Nationality Act (INA). In addition, OSC conducts outreach aimed at educating employers, workers and the general public about their rights and responsibilities under the INA's anti-discrimination provision.

Recap of OSC's Recent Enforcement Activity

In Fiscal Year 2011, OSC obtained \$151,353 in back pay for discrimination victims and \$735,120 in civil penalties. As of March 31, 2012, in Fiscal Year 2012, OSC has obtained \$79,787 in back pay and \$279,725 in civil penalties.

Information on OSC's enforcement work, including copies of all complaints, settlement agreements, and press releases, is available on OSC's [website](#).

Active Litigation

OSC filed five complaints between June 2011 and April 2012. Three of those cases later settled. Two of OSC's active suits allege a pattern or practice of document abuse against non-U.S. citizens.

OSC's [suit](#) against Mar-Jac Poultry, Inc., filed July 14, 2011, alleges that Mar-Jac had a pattern or practice of treating non-U.S. citizens differently than U.S. citizens in the employment eligibility verification process. Specifically, OSC alleges that Mar-Jac required non-citizen applicants to show immigration documents issued by the U.S. government before considering them for employment, but gave U.S. citizens greater latitude in showing documentation before considering them for employment, resulting in the potential loss of job opportunities for non-U.S. citizens.

In the case against Generations Healthcare, filed on September 11, 2011, OSC's [complaint](#) alleges that since at least since 2008, Generations Healthcare required foreign-born workers, and those perceived to be foreign-born, to produce specific employment eligibility documents. OSC also asserts that Generations Healthcare implemented a pattern or practice of discrimination by, among other ways, requiring that naturalized U.S. citizen applicants and non-U.S. citizen applicants specifically produce "List A" documents to establish their identity and work authorization because of their citizenship status and/or national origin, but not imposing the same requirement on native-born U.S. citizens.

In Home Care Giver Services Inc., OSC alleges in its [complaint](#) that between November 29, 2010 and January 10, 2011, a Columbian immigrant was subjected to verbal harassment from her immediate supervisor, that included insults

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OSC Employer Hotline:
1-800-255-8155
1-800-237-2515 (TDD)

OSC Worker Hotline:
1-800-255-7688
1-800-237-2515 (TDD)

What's New at OSC?

- **OSC's Webinar Series** - OSC is offering free [webinars](#) for workers, worker advocates, employers, and human resources representatives. Currently OSC is hosting two webinars each month. Contact OSC to request a webinar for your organization.
- **TPS Educational Video** - Do you have questions about Temporary Protected Status? Watch our new [video](#).
- **Technical Assistance Letters Available On-Line** – OSC's Technical Assistance letters going back to Fiscal Year 2009 are now available [on-line](#). Recent technical assistance letters address issues such as: how staffing companies should respond to employers who make discriminatory staffing requests based on citizenship status (see [letter](#)); pre-employment questions on a person's ability to read, write and speak English (see [letter](#)); using acceptable language for job postings in which the employer can only consider U.S. citizens (see [letter](#)).

Coming Up at OSC

- Webinars for fair employment practices agencies, refugee service providers
- Spanish language webinars
- More on-line educational videos

Temporary Protected Status Updates

Honduras and Nicaragua - On November 4, 2011, the Department of Homeland Security (DHS) formally announced an eighteen-month extension of the TPS designation for eligible Honduran and Nicaraguan nationals from January 5, 2012, to July 5, 2013. In addition, EADs for Honduran and Nicaraguan TPS beneficiaries bearing an expiration date of January 5, 2012, and category A-12 or C-19 were automatically extended for a six-month period, through July 5, 2012. Employers should accept the EADs as valid "List A" documents.

Employers should not request proof of Honduran or Nicaraguan citizenship or proof of re-registration, or ask for additional Form I-9 documentation if a worker presents an EAD that has been automatically extended. After July 5, 2012, TPS beneficiaries may present their new EADs on Form I-766 bearing an expiration date of July 5, 2013, to their employers as proof of employment authorization and identity. Please see the Federal Register Notices for [Honduras](#) and [Nicaragua](#) for more details. For more information you may visit <http://www.uscis.gov/tps>.

El Salvador - On January 10, 2012, the DHS formally announced an eighteen-month extension of the TPS designation for eligible Salvadoran nationals from March 10, 2012, to September 9, 2013. In addition, EADs for Salvadoran TPS beneficiaries bearing an expiration date of March 9, 2012, and category A-12 or C-19 were automatically extended for a six month period, through September 9, 2012. These automatically extended EADs are valid "List A" documents. Employers should not request proof of Salvadoran citizenship or proof of re-registration, or ask for additional Form I-9 documentation if a worker presents an EAD that has been automatically extended. The Federal Register notice includes instructions for correcting the expiration date on the I-9 forms of current employees with automatically extended EADs. Please see the Federal Register Notices for [El Salvador](#) for more details. For more information you may visit the USCIS TPS: [El Salvador website](#).

Liberia - On August 16, 2011, President Obama extended Deferred Enforced Departure (DED) through

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OSC Webinars

OSC invites you to participate in an upcoming webinar. Currently, OSC is offering worker/advocate and employer/HR webinars. To join, simply visit [OSC's webinar page](#), select the event you're interested in, and click on the adjacent link to register for the event. Registration is fast and free! For more information, to recommend webinar topics, or to obtain webinar participation details, visit [OSC's webinar page](#).

OSC Enforcement Activity (cont'd)

(Continued from page 1)

about the worker's accent and her Hispanic and Colombian culture. The complaint also alleges that despite the worker's fluency in English, her supervisor would frequently criticize her pronunciation, accent and national origin, and that the company terminated her based on her national origin. Specifically, the company subjected the Charging Party—a Colombian native—to insults and derogatory statements about her accent and Hispanic heritage and eventually terminated her in January 2011 because of her national origin.

In-Court Settlements

OSC reached settlements in three cases after filing complaints.

On August 22, 2011 OSC [settled](#) a suit filed on June 27, 2011, against Farmland Foods Inc. The [complaint](#) alleged that Farmland Foods engaged in a pattern or practice of document abuse by requiring all newly hired non-U.S. citizens and some foreign-born U.S. citizens at its Monmouth, Illinois plant to present specific and, in many cases, extra work-authorization documents beyond those required by federal law to establish work authorization. In addition to ending its impermissible document requests and modifying its employment eligibility verification process, Farmland paid \$290,400 in civil penalties, the highest civil penalty paid through settlement since enactment of the INA's anti-discrimination provision. Farmland also agreed to monitoring and reporting provisions, as well as training for their human resources personnel.

On December 30, 2011, OSC announced a [settlement](#) with Garland Sales Inc., resolving [allegations](#) that it engaged in discrimination by imposing unnecessary documentary requirements on individuals of Hispanic origin when establishing their eligibility to work in the United States, and that it retaliated against a worker for protesting his discriminatory treatment. According to the settlement, Garland agreed to pay \$10,000 to the United States, which was allocated to back pay for the injured parties and civil penalties, to submit to monitoring requirements

for two years, and to undergo training on proper employment eligibility verification practices.

On January 4, 2012, OSC [settled](#) a suit brought against the University of California San Diego Medical Center. That [complaint](#) alleged that the medical center subjected newly hired non-U.S. citizens to excessive demands for documents issued by the Department of Homeland Security in order to verify their employment eligibility, but did not require the same of U.S. citizens. Under the settlement, the medical center agreed to implement new employment eligibility verification policies and procedures that treat all employees equally regardless of citizenship status. In addition, the medical center paid a civil penalty of \$115,000, conducted supplemental training of its human resources personnel on their responsibilities to avoid discrimination in the employment eligibility verification process, and agreed to work with OSC to ensure compliance with proper employment eligibility verification processes across all University of California campuses, medical centers and facilities.

Out of Court Settlements

In addition to the complaints OSC filed, from July 1, 2011, to March 31, 2012, OSC settled eight matters out of court.

On December 13, 2011, OSC announced a [settlement](#) with S.W.J.J. Inc., or Sernak Farms, based in Weatherly, Pennsylvania, resolving allegations that Sernak engaged in citizenship status discrimination by preferring to hire temporary visa holders over U.S. citizen applicants and adversely treating its U.S. citizen employees. Another investigation regarding discriminatory job postings posted by Onward Healthcare [settled](#) for \$100,000 on March 28, 2012.

On March 22, 2012, OSC [resolved](#) allegations that Ross Stores, Inc. engaged in a pattern or practice of discrimination based on citizenship status while verifying employment eligibility at one of its stores in California.

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OSC Enforcement Activity (cont'd)

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On March 16, 2012, OSC entered into a [settlement](#) with Indrescom Security Technology Inc., resolving allegations that the company committed document abuse against a lawful permanent resident during the Form I-9 process.

On December 28, 2011, OSC reached a [settlement](#) with BAE Systems Ship Repair Inc., resolving allegations that a subsidiary company required newly hired lawful permanent residents to present permanent resident cards (Forms I-551) as a condition of employment.

On August 26, 2011, OSC reached a [settlement](#) agreement with Kinro Manufacturing Inc. in Goshen, Indiana, resolving allegations that the company engaged in a pattern or practice of document abuse by subjecting newly hired non-U.S. citizens to excessive demands for documents issued by DHS in order to verify their employment eligibility, but not requiring U.S. citizens to show any specific documentation.

On August 10, 2011, OSC reached a [settlement](#) with Summit Steel Fabricators Inc. in Houston, Texas resolving allegations that the company engaged in a pattern or practice of document abuse, by having a policy of requiring newly hired workers who are not U.S. citizens to present specific documentation, such as a permanent resident card or resident alien card, even if they had already presented other documents sufficient to establish their employment eligibility under federal law. U.S. citizens, by contrast, were not required to present any specific documents.

On July 21, 2011, OSC reached a [settlement](#) with Brand Energy and Infrastructure Services and its subsidiary, Industrial Services LLC (ISI), resolving allegations that an ISI office engaged in a pattern or practice of document abuse by requiring all newly hired non-U.S. citizens to present a DHS-issued document upon hire while allowing U.S. citizens to show their choice of documentation.

USCIS Announces New Employment Card Design

On October 25, 2011, USCIS announced it began issuing redesigned Employment Authorization Documents (EADs). The new card contains enhanced security features such as optically variable ink and laser-engraved fingerprints. Additionally, the “A#” field, found on prior EADs, has been changed to a “USCIS#” field on the new card. More information about the redesigned EAD can be found on USCIS’s website at www.uscis.gov under “[News Releases](#).”



TPS Updates (cont'd)

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March 31, 2013, for qualified Liberians and those persons without nationality who last habitually resided in Liberia. The President also automatically extended the employment authorization for Liberian nationals covered by DED for six months, until March 31, 2012. For detailed DED information on the DHS website, please click [Liberia](#) and [Deferred Enforced Departure Extended for Liberians Questions and Answers](#).

Sudan and South Sudan - On October 13, 2011, the USCIS announced through a [Federal Register](#) notice an extension of TPS for eligible Sudanese nationals for eighteen months, from November 3, 2011, through May 2, 2013. In addition, EADs for Sudanese TPS beneficiaries bearing an expiration date of November 2, 2011, and category A-12 or C-19 were automatically extended for a six month period, through May 2, 2012.

Also on October 13, 2011, the USCIS announced through a separate [Federal Register](#) notice the designa-

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TPS Updates (cont'd)

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tion of the new nation of South Sudan, because some individuals who are TPS beneficiaries under the current designation of Sudan may now be nationals of South Sudan. The automatic extension of EADs issued under the Sudan designation includes individuals who are now applying for TPS from South Sudan as well as Sudan. Employers should accept the auto-extended EADs as valid "List A" documents. Employers should not request proof of Sudanese or South Sudanese citizenship or proof of registration, or ask for additional Form I-9 documentation if a worker presents an EAD that has been automatically extended. Please see the Federal Register Notices for [Sudan](#) and [South Sudan](#) for more details.

Syrian Arab Republic (Syria) - On March 29, 2012, the USCIS announced through a [Federal Register](#) notice the designation of the Syrian Arab Republic (Syria)

for Temporary Protected Status for a period of eighteen months, from March 29, 2012, to September 30, 2013. The designation allows eligible Syrian nationals (and aliens having no nationality who last habitually resided in Syria) who have both continuously resided in and been continuously physically present in the United States since March 29, 2012, to be granted TPS. Please see the Federal Register Notice for [Syria](#) for more details. For more information please click this link to the USCIS website: [TPS Designated Country-Syria](#).

Workers and advocates can call OSC's hotline (1-800-255-7688) for immediate assistance if an employer has rejected a TPS recipient's documents, or if it has taken any action against a TPS recipient because of the worker's automatically extended EAD.

Spotlight on the DHS Citizenship and Immigration Services Ombudsman's Office

The U.S. Department of Homeland Security's Ombudsman's Office for Citizenship and Immigration Services (Ombudsman's Office) helps individuals and employers who need to resolve a problem with U.S. Citizenship and Immigration Services (USCIS) and makes recommendations to fix systemic problems and improve the quality of services provided by USCIS. In particular, the Ombudsman's Office can help in the following situations:

1. If an individual is facing an emergency or hardship caused by a mistake, error, or delay by USCIS;
2. If an individual is experiencing a problem with an application or petition that USCIS has been unable to be resolve;
3. If an individual's application or petition is pending beyond USCIS average processing times; and
4. If an individual believes that USCIS has made a mistake in processing an application or petition.

The Ombudsman's Office is an independent, confidential and impartial office within the Department of Homeland Security that accepts requests for help from the public at no charge. Since fiscal year 2011, OSC and the Ombudsman's Office have had a collaborative relationship on matters of shared interest. This relationship involves cross-training efforts to ensure that staff at each agency can identify matters that should be referred to the other agency, and joint outreach events. In March 2012, OSC participated in a number of stakeholder meetings that the Ombudsman's Office held for immigrant service providers and advocates in three states in the mid-west, Dearborn, MI, Kalamazoo, MI, Indianapolis, IN, and Chicago, IL. For more information on the Ombudsman's Office, visit its [website](#) or contact the Ombudsman's Office by email at cisombudsman@dhs.gov.

The map below indicates where OSC conducted outreach from October 1, 2011 to March 31, 2012



California

Los Angeles
Mission Viejo
San Diego
Santa Ana

District of Columbia

Georgia

Atlanta
Suwanee

Hawaii

Hilo
Honolulu
Kailua-Kona
Lahaina
Wailuku

Illinois

Chicago

Indiana

Indianapolis

Maryland

Baltimore
Cambridge
Largo
Princess Anne
Rockville
Salisbury
Silver Spring
Wheaton

Nevada

Las Vegas

New York

Binghamton

Ohio

Cleveland

Michigan

Dearborn
Detroit
Kalamazoo

Pennsylvania

Lancaster
Philadelphia

Tennessee

Memphis

Virginia

Alexandria
Charlottesville
Fairfax
Falls Church
Hampton
Harrisonburg
Herndon
Norfolk
Richmond
Tysons Corner
Woodbridge

Washington

Seattle

Upcoming OSC Outreach Events

Please contact us if you are interested in having an OSC speaker at your organization or a community event. We are scheduled to visit the following cities between June 1, 2012 and September 30, 2012 but please contact OSC's Public Affairs Specialist ([Beu.Blank@usdoj.gov](mailto:Beau.Blank@usdoj.gov)) even if your city is not listed.

<p>Arizona Phoenix: approx. Jun 21-23</p> <p>California San Francisco: approx. Sep 26-29</p> <p>Colorado Denver: approx. Jul 11-13</p> <p>District of Columbia Ongoing</p> <p>Florida Orlando: approx. Jun 6-8</p> <p>Georgia Atlanta: approx. Jun 18-22</p> <p>Illinois Chicago: approx. September</p> <p>Indiana Indianapolis: approx. Sep 4-6</p>	<p>Massachusetts Boston: approx. Jun 27-29</p> <p>Nevada Las Vegas: approx. July 14-19</p> <p>Michigan Dearborn: approx. Aug 23-25</p> <p>Minnesota Minneapolis: approx. Aug 8-10</p> <p>Mississippi Robinsonville: approx. Aug 28-31</p> <p>New York New York City: approx. Jun 20-22; Jul 29-Aug 1</p>	<p>North Carolina Chapel Hill: approx. Aug 15-17</p> <p>Charlotte: approx. Jun 6-9; Jul 11-13</p> <p>Ohio Columbus: approx. Jun 28-30</p> <p>Oregon Portland: approx. Aug 22-24</p> <p>Pennsylvania Philadelphia: approx. Jul 25-27</p> <p>South Carolina Hilton Head: approx. Aug 1-3</p>	<p>Texas Houston: approx. Sep 27-29</p> <p>San Antonio: approx. Sep 26-28</p> <p>Virginia Alexandria: ongoing</p> <p>Arlington: ongoing</p> <p>Richmond: approx. Jun 20-22</p>
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U . S . D E P A R T M E N T O F J U S T I C E

Office of Special Counsel for Immigration-Related
Unfair Employment Practices
Civil Rights Division
U.S. Department of Justice
950 Pennsylvania Avenue, N.W. (NYA)
Washington, D.C. 20530



Main Number: (202) 616-5594

Toll Free Information Number and Worker Hotline:
1-800-255-7688/(202) 616-5594 or 1-800-237-2515 (TDD for hearing impaired)
(Language interpretation available)

Employer Hotline: 1-800-255-8155 or 1-800-237-2515 (TDD for hearing impaired)

Fax Number: (202) 616-5509

Website Address: <http://www.justice.gov/crt/about/osc>

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**WE VALUE YOUR FEEDBACK! IS THERE A TOPIC YOU WOULD LIKE TO READ ABOUT IN OUR NEWSLETTER?
EMAIL US AT OSCCRT@USDOJ.GOV**