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

January 5, 2026

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| SYED ASAD HUSSAIN,<br>Complainant, | ) | |
| v. | ) | 8 U.S.C. § 1324b Proceeding<br>OCAHO Case No. 2025B00028 |
| DEVELOPLUS, INC.,<br>Respondent. | ) | |

Appearances: Judith L. Wood, Esq., for Complainant
Richard M. Wilner, Esq., for Respondent

ORDER DISMISSING COMPLAINT WITH PREJUDICE – FINAL ORDER

## I. PROCEDURAL HISTORY

This case arises under the antidiscrimination provisions of the Immigration and Nationality Act, as amended, 8 U.S.C. § 1324b.

On January 13, 2025, Complainant, Syed Asad Hussain, filed a Complaint against Respondent, Developlus, Inc., alleging Respondent discriminated against him and retaliated against him.

On March 5, 2025, Respondent filed a Motion to Dismiss.

On March 10, 2025, the Court issued an Order Granting Stay of Answer Deadline, in which it noted that, if Complainant is represented, that representative must submit a Notice of Appearance in accordance with 28 C.F.R. § 68.33(f). What then followed were a series of submissions by a Syed Ahad Hussain (a relative of Complainant), who, at no point in time demonstrated he had the requisite supervision or qualifications to appear in this forum on behalf of anyone. *See Hussain v. Developlus, Inc.*, 21 OCAHO no. 1649b (2025).[1]

[1] 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 begins; the pinpoint citations which follow are thus to the pages, seriatim, of the specific entire volume. Pinpoint citations to OCAHO precedents subsequent to 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

After each failed attempt by Mr. Syed Ahad Hussain to demonstrate he had the requisite supervision or skills to represent individuals in the forum, the Court provided Complainant with additional time to secure representation and/or respond to the pending Motion to Dismiss. In its most recent Order, the Court informed Complainant he could move the Court for additional time to secure representation, and that any response to the Motion to Dismiss must be filed by October 1, 2025 to be considered timely.

No Opposition was filed.[2]

The Court now adjudicates the Motion to Dismiss, finding this Complaint should be dismissed with prejudice.

## II. THE COMPLAINT

According to the Complaint, Complainant is a native and citizen of Pakistan. Compl. 2. As to his immigration status in the United States, he relays he has an "EW3 other worker (PERM labor certification) Immigrant Visa… Permanent Residency with out work authorization." Compl. 2.

Complainant alleges the Respondent business has "15 or more employees." Compl. 4.

Complainant alleges discrimination in hiring based on national origin and citizenship, and alleges Respondent retaliated against him. Compl. 6.

Complainant alleges Respondent did not hire him when he applied for the position of "Production Worker" on September 23, 2021. Compl. 6.

As to retaliation, Complainant alleges he was "intimidated, threatened, coerced, or retaliated against" on September 12, 2024, but the Complaint Form provides no further details.

As an attachment to his Complaint, Complainant provides his IER Charge "Detail View," which shows he contacted IER on October 10, 2024. Compl. 85. While it is difficult to discern what, precisely, is happening with the Complainant's immigration status, the IER Charge makes it appear as though he has or had matters pending before other federal government agencies involving his immigration status (USCIS and/or consular processing).[3] Compl. 17-19.

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omitted from the citation. Published decisions may be accessed in the Westlaw database "FIMOCAHO," or in the LexisNexis database "OCAHO," or on the website at https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-decisions.

[2] Attorney Judith L. Wood filed a Notice of Appearance on October 2, 2025. She filed neither an Opposition to the Motion to Dismiss, nor a motion seeking an extension of the Opposition filing deadline.

[3] Indeed, later in the attachment, there are receipts for Immigrant Visa Application Processing Fees, other documents from the National Visa Center, correspondence pertaining to immigrant visa interviews. Compl. 33-48.

Complainant also attaches correspondence from IER and correspondence from Respondent business. The correspondence discusses a provision of money (from Complainant to Respondent) in exchange for "fees" in October of 2021. Compl. 28-9. There also appears to be a dispute[4] which arose between these two parties pertaining to the processing of a visa for Complainant. Compl. 49-68.

The earliest reference to protected activity appears to be the charge lodged with IER in October of 2024, which postdates the September 2024 date identified by Complainant.

## III. RESPONDENT'S MOTION

Respondent leverages the plain language of the statute and relevant OCAHO precedent to argue that Complainant is not a protected individual, and thus, cannot bring a claim of citizenship status discrimination. As to retaliation, Respondent argues Complainant has failed to plead sufficient facts to establish retaliation.

In lodging its argument about Complainant's inability to bring a citizenship discrimination allegation, Respondent explains[5] that:

> Respondent business initiated a PERM (labor certification) application with the U.S. Department of Labor on behalf of Complainant as a warehouse worker. The PERM application was certified on or about September 23, 2021.
>
> Thereafter, Respondent caused an I-140 Petition for Alien Worker to be filed with [USCIS]. This petition was approved on November 22, 2021, and ultimately forwarded to the National Visa Center of the United States Department of State for consular processing in Islamabad, Pakistan once a priority date became current.
>
> On or about September 18, 2023, Complainant was informed by Respondent that it was unable to continue processing the case for him… an immigrant visa was never issued to Complainant by the U.S. Consulate in Islamabad and Complainant remains in Pakistan.

Mot. To Dismiss 2-3.

[4] Complainant includes what appears to be a contractual agreement between the two parties, signed only by Complainant. Compl. 72-77.

[5] While the Court will limit its analysis to the four corners of the Complaint, Respondent provides a more coherent summation of the interaction between Complainant, Respondent, and the federal government relative to Complainant's immigration status. Respondent's clear summation is consistent with the disjointed presentation of information in the Complaint – consequently the Court will consider it as a helpful explanation of the contents within the four corners of the Complaint.

## III. LAW & ANALYSIS

### A. Motion to Dismiss Standards

"In considering a motion to dismiss, the court must limit its analysis to the four corners of the complaint." *Udala v. N.Y. State Dep't of Educ.*, 4 OCAHO no. 633, 390, 394 (1994). Moreover, "[t]he complainant's allegations of fact are accepted as true and all reasonable inferences derived therefrom are drawn in the complainant's favor." *Zajradhara v. Am. Sinopan, LLC*, 20 OCAHO no. 1581, 6 (2024).

### B. Subject Matter Jurisdiction – National Origin Claim

OCAHO "lacks subject matter jurisdiction over a national origin discrimination claim if the employer employs less than four or more than fourteen employees." *United States v. Facebook, Inc.*, 14 OCAHO no. 1386b, 6–7 (2021); *see also Zajradhara v. Misamis Constr. (Saipan) Ltd.*, 15 OCAHO no. 1396a, 2 (2022). Here, Complainant pleads Respondent employs more than fourteen individuals. Compl. 4. Accordingly, that claim is DISMISSED WITH PREJUDICE.[6]

### C. Failure to State A Claim Upon Which Relief Can Be Granted – Citizenship Claim

The Court may dismiss a complaint for failure to state a claim upon which relief may be granted. *See* 28 C.F.R. § 68.10.[7]

> To succeed on a citizenship discrimination claim under the statute, a complainant bears the burden of establishing they were a protected individual at the time of the alleged discrimination. *See Zu v. Avalon Valley Rehab Ctr.*, 14 OCAHO no. 1376, 6 (2020) (citing, inter alia, *McNier v. S.F. State Univ.*, 7 OCAHO no. 947, 411, 417 n.3 (1997) (explaining that the key date for assessing an individual's protected status is the date of the alleged discrimination).

*Contreras v. Cavco Indus., Inc. d/b/a Fleetwood Homes*, 16 OCAHO no. 1440c, 3 (2024).

When it comes to citizenship discrimination, the statute covers a discrete group of individuals, specifically "citizen[s] or national[s] of the United States… alien[s] admitted for permanent residence [with additional caveats.]" 8 U.S.C. § 1324b(a)(3).

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[6] Dismissal with prejudice is appropriate when no foreseeable amendment could cure the defect in the Complaint. Indeed, "[l]eave to amend should be granted unless the pleading could not possibly be cured by the allegation of other facts, and should be granted more liberally to pro se plaintiffs." *Ramirez v. Galaza*, 334 F.3d 850, 861 (9th Cir. 2003). However, a court "does not abuse its discretion in denying leave to amend where amendment would be futile." *Flowers v. First Hawaiian Bank*, 295 F.3d 966, 976 (9th Cir. 2002).

[7] This rule is modeled after Federal Rule of Civil Procedure 12(b)(6). *S. v. Discover Fin. Servs., LLC*, 12 OCAHO no. 1292, 7 (2016) (citing *United States v. Spectrum Tech. Staffing Servs., Inc.*, 12 OCAHO no. 1291, 8 (2016); and then citing 28 C.F.R. § 68.1).

Complainant is a citizen of Pakistan, and was never admitted for permanent residence. Because, by way of his own pleading, Complainant makes clear he is not a protected individual, this claim is DISMISSED WITH PREJUDICE.

D. Failure to State a Claim Upon Which Relief Can Be Granted – Retaliation Claim

While Complainant is not a "protected individual" relative to his citizenship claim, his status is irrelevant to a claim of retaliation, which protects "any individual" from retaliation. *See* 8 U.S.C. § 1324b(a)(5); *see also R.O. v. Crossmark, Inc.*, 11 OCAHO no. 1236, 12 (2014). For the reasons that follow, the Complainant fails to state a claim under a retaliation theory.

A prima facie case of retaliation may be established by pleading the following: "an individual engaged in conduct protected by § 1324b; the employer was aware of the individual's protected conduct; the individual suffered an adverse employment action; and there was a causal connection between the protected activity and the adverse action." *Monty v. USA2GO Quick Stores*, 16 OCAHO no. 1443c, 11 (2024) (citing *Chellouf v. Inter Am. Univ. of P.R.*, 12 OCAHO no. 1269, 5–6 (2016)); *see also Kama v. Mayorkas*, 107 F.4th 1054, 1059 (9th Cir. 2024).

The first clear protected activity contained (but not expressly pled) in the Complaint appears to be Complainant's contact with IER, which occurred in October 2024. Complainant alleges the retaliatory action occurred in 2021. A causal link can never be established when the proposed retaliatory action occurs before the protected activity.[8] This temporal reality is, thus, fatal to this allegation. This claim is DISMISSED WITH PREJUDICE.

## IV. CONCLUSION AND ORDER

Complainant's national origin discrimination, citizenship-status discrimination, and retaliation, claims are DISMISSED WITH PREJUDICE for the reasons outlined above. With no surviving claims, the Complaint in its entirety is DISMISSED WITH PREJUDICE.

This is a Final Order. [9]

SO ORDERED.

Dated and entered on January 5, 2026

Honorable Andrea R. Carroll-Tipton
Administrative Law Judge

[8] Even if the Court used the September 2024 date identified by Complainant the result would be the same.

[9] In conformity with 28 C.F.R. § 68.52(e), this is the Final Order in this case. OCAHO Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2024).

## 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.