

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

April 24, 2024

VARUN MANGEWALA,	)	
Complainant,	)	
	)	
	)	8 U.S.C. § 1324a Proceeding
v.	)	OCAHO Case No. 2024B00051
	)	
	)	
SAIL INTERNET INC.,	)	
Respondent.	)	
_____	)	

Appearances: Varun Mangewala, pro se Complainant  
Collin D. Cook, Esq., David M. Shannon, Esq. and Ralph Hua, Esq., for  
Respondent  
Angela Hollowell-Fuentes, Esq., for the United States<sup>1</sup>

ORDER GRANTING IER MOTION TO FILE AMICUS BRIEF  
& NOTICE OF APPEARANCE

This case arises under the employment discrimination provisions of the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324b.

On December 9, 2023, Complainant filed a complaint alleging Respondent violated 8 U.S.C. § 1324b(a)(1)(B) by discriminating against him based on citizenship status and violate 8 U.S.C. § 1324b(a)(5) by retaliating against him.

On April 1, 2024, Respondent filed its Answer.

Also on April 1, 2024, Respondent filed a Motion to Dismiss. This motion seeks to dismiss the case based on a failure to follow the requirements of 28 C.F.R. § 68.4. Mot. Dismiss 1.

<sup>1</sup> As discussed below, Attorney Hollowell-Fuentes, a Trial Attorney with the U.S. Department of Justice, Civil Rights Division, Immigrant and Employee Rights Section, filed a Notice of Appearance in this matter on behalf of the United States pursuant to 28 C.F.R. § 68.33(f) on April 23, 2024.

Respondent argues that the Immigrant and Employee Rights Section (IER) of the Department of Justice's Civil Rights Division failed to meet its statutory and/or regulatory requirements. *Id.* at 1-4. Specifically, Respondent argues Complainant completed IER's online charge form on April 27, 2023, and "[n]othing indicates that IER . . . ever deemed this charge incomplete," and therefore IER's letter deadlines began running on April 27, 2023. *Id.* at 3. Respondent further argues these alleged deficiencies impact the Court's ability to hear the case.

On April 17, 2024, Complainant, appearing pro se, filed his opposition.

On April 23, 2024, Angela Hollowell-Fuentes filed a Notice of Appearance on behalf of Immigrant and Employee Rights Section (IER) of the Department of Justice's Civil Rights Division. The Notice of Appearance complies with 28 C.F.R. § 68.33(f), it shall be accepted.

On April 23, 2024, IER filed a "Notice of Filing of Statement of Interest, Or, In The Alternative, Motion For Leave to File."<sup>2</sup> Notice State. Interest 1. IER explains (generally) "given [IER]'s role

---

<sup>2</sup> IER styles this as a notice or in the alternative a motion. In taking the position it need not seek permission to submit matters into the record, IER relies on its interpretation of 28 U.S.C. § 517's applicability in this forum (and its interplay with OCAHO's regulations). As the Court explained in prior published decisions, it is disinclined to opine on the applicability of that statute to these proceedings. *Zakarneh v. Intel Corp.*, 16 OCAHO no. 1414a, 2 n. 5 (2022). "Regardless of the applicability of 28 U.S.C. § 517, IER must comply with OCAHO's procedural regulations." *Id.* at 2.

Additionally, the Court has previously explained there are practical reasons for the regulatory requirement to seek leave in advance of such a filing.

Requesting leave to file an amicus curiae brief is not merely an exercise in formalities. Amici curiae must seek leave because it is the Court, acting as a gatekeeper, that bears responsibility in shepherding the compilation of the administrative record. Separately, requiring amici curiae to seek leave allows for conservation of judicial resources as it provides the Court notice that there may be additional considerations to take under advisement prior to issuing a decision. *Zakarneh v. Intel Corp.*, 16 OCAHO no. 1414b, 2-3 (2022).

Further, as has been noted before, "IER has previously sought leave of court to file amicus briefs. See *Lundy v. OOCL (USA) Inc.*, 1 OCAHO no. 215, 1438, 1441 (1990); *Brown v. Balt. City Pub. Schs.*, 3 OCAHO no. 480, 831, 834 (1992); *Cruz v. Able Serv. Contractors, Inc.*, 6 OCAHO no. 837, 144, 146 (1996); *Diarrassouba v. Medallion Fin. Corp.*, 9 OCAHO no. 1076, 4 (2001); *Nickman v. Mesa Air Grp.*, 9 OCAHO no. 1113, 2 (2004)." *Zakarneh v. Intel Corp.*, 16 OCAHO no. 1414a at 2.

in enforcing – and educating the public about 8 U.S.C. § 1324b, the United States has a strong interest in ensuring the correct interpretation and application of the statute and its implementing regulations... IER... has a unique interest in ensuring the Court accurately interprets the statute and its implementing regulations.” Notice State. Interest 2. Unique to this case, IER states it seeks to ensure “this Court [has] correct information about the procedures IER followed in a case.” *Id.* IER expresses concern about the impact of a ruling “on what constitutes receipt of a charge and when the 120-day investigative clock begins.” *Id.* at 3..

The Court concurs with IER insofar as its submission would assist the Court in fully developing the record on this issue. IER’s Motion for Leave to File is GRANTED. The submission will be considered.

To ensure this issue is fully briefed, Respondent may submit additional reply evidence and argument related to its motion, which must be received by May 27, 2024.

Any party (Complainant or IER) who seeks to provide a response, may do so within 10 days of receipt of Respondent’s reply.

SO ORDERED.

Dated and entered on April 24, 2024.

---

Honorable Andrea R. Carroll-Tipton  
Administrative Law Judge

---

In any event, it remains unclear why IER would, as a practical matter, seek to surprise the presiding ALJ with a submission it strongly desires be considered. The best practice would be to file a motion seeking leave to file an amicus submission as soon as IER realizes it desires an opportunity to be heard, and then subsequently filing its submission after its been granted permission to do so.