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

LEONARDA RAMIREZ,)	
Complainant,)	
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V.)	OC
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)	
SAM'S CLUB,)	
Respondent.)	
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8 U.S.C. § 1324b Proceeding OCAHO Case No. 2024B00023

ORDER DIRECTING COMPLAINANT TO PROVIDE RESPONDENT'S MAILING ADDRESS

This case arises out of the antidiscrimination provisions of the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324b. On November 15, 2023, Complainant, Leonarda Ramirez, filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO). Complainant alleges that Respondent, Sam's Club, discriminated against her on account of her citizenship status and national origin, retaliated against her, and asked her for more or different documents than required for the employment eligibility verification process, in violation of §§ 1324b(a)(1), (a)(5), (a)(6).

On November 27, 2023, the Court sent Respondent a Notice of Case Assignment for Complaint Alleging Unfair Immigration-Related Employment Practices (NOCA) and a copy of the complaint via certified U.S. mail. OCAHO sent these documents to the address listed for Respondent on the Complaint and the Immigrant and Employee Rights Section (IER) Charge attached to the Complaint, in Calumet City, IL. The U.S. Postal Service tracking information indicates that while the package arrived in Calumet City, IL, there was "No Authorized Recipient Available," and ultimately, the packaged was labelled as "Unclaimed/Being Returned to Sender." The package was returned to OCAHO, with a label on the envelope indicating "Return to Sender, Unclaimed, Unable to Forward." There are no additional addresses listed for Respondent on either the Complaint or its attachments.

When OCAHO encounters difficulties in perfecting service, it can seek the assistance of a party. See 28 C.F.R. § $68.3(c)^1$ (stating "the Administrative Law Judge may direct that a party execute service of process" when OCAHO encounters difficulties in perfecting service).

¹ Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2020).

"OCAHO case law demonstrates that in instances when a complaint cannot be effectively served, it is dismissed without prejudice[.]" <u>Heath v. VBeyond Corp. & an Anon. Empl'r</u>, 14 OCAHO no. 1368a, 3–4 (2020) (citing <u>United States v. Iniguez-Casillas</u>, 6 OCAHO no. 870, 510, 512 (1996), and then citing <u>United States v. Baches-Corado</u>, 3 OCAHO no. 571 (1993)).² Accordingly, this Complaint may be dismissed if it cannot be effectively served.

As OCAHO is currently unable to serve the Complaint based on the information available to it, the undersigned directs Complainant to provide a working mailing address for Respondent. The Complainant must respond within <u>21 days of the issuance of this Order</u>. In responding to this order, Complainant may refer to 28 C.F.R. § 68.3(a), for a description of methods for OCAHO to serve the Complaint on a respondent-business.

SO ORDERED.

Dated and entered on January 31, 2024.

Honorable John A. Henderson Administrative Law Judge

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 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 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," OCAHO." or in the LexisNexis database the website or on at http://www.justice.gov/eoir/OcahoMain/ocahosibpage.htm#PubDecOrders.