

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

ZAJI OBATALA ZAJRADHARA,)	
Complainant,)	
)	
)	8 U.S.C. § 1324b Proceeding
v.)	OCAHO Case No. 2024B00022
)	
HENGSHENG CORPORATION,)	
Respondent.)	
)	

ORDER OF DISMISSAL

This case arises under the antidiscrimination provisions of the Immigration and Nationality Act, as amended, 8 U.S.C. §1324b. On November 15, 2023, Complainant Zaji Obatala Zajradhara filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) against Respondent Hengsheng Corporation. Complainant alleges that Respondent discriminated against him on the basis of his national origin and citizenship status in violation of 8 U.S.C. § 1324b(a)(1).

On November 29, 2023, the Chief Administrative Hearing Officer (CAHO) sent by certified United States Postal Service (USPS) mail a Notice of Case Assignment for Complaint Alleging Unfair Immigration-Related Employment Practices (NOCA) and the Complaint (the “Complaint package”) to the Respondent at the address for Respondent provided in the Complaint. The Complaint package was returned to the Court as undeliverable due to an insufficient address.

On January 31, 2024, the Court sent by USPS certified mail an additional Complaint package to a different address for the Respondent listed on the Immigrant and Employee Rights Section (IER) charge attached to the complaint. This copy of the Complaint package was also returned to the Court as “unclaimed” and “unable to forward.” There were no additional addresses for the Respondent listed on the Complaint.

On March 7, 2024, Complainant attempted to file an Annual Corporation Report, which included alternate addresses for Respondent and its officers. The Court rejected this filing because it included no proof of service, no case name, no case number, and did not contain a motion or request for the Court. Complainant did not refile the document in accordance with the Court’s directive.

On May 2, 2024, the Court issued an Order of Inquiry. Zajradhara v. Hengsheng Corp., 19 OCAHO no. 1558 (2024).¹ The Court directed Complainant to respond within 30 days with a working mailing address for the Respondent. Id. at 2. The Court explained that Complainant could refer to 28 C.F.R. § 68.3(a)² for a description of methods for OCAHO to serve the Complaint on a respondent-business, and noted that Complainant could re-send the Annual Corporation Report, in compliance with OCAHO's filing requirements, in response to the Order of Inquiry. Id.

On June 24, 2024, Complainant filed his Layman's Response to the Court's Order of Inquiry. In this filing, Complainant does not provide a working mailing address for Respondent or include the Annual Corporation Report. Instead, Complainant argues that Respondent's use of a "fictitious mailing address" is a "deliberate attempt to evade service of process and avoid legal accountability." *See* Resp. Order of Inquiry 1 (citing United States v. Baches-Corado, 3 OCAHO no. 571, 1712 (1993)). Complainant requests that the Court: (1) issue an order compelling Respondent to provide a mailing address for service; (2) sanction Respondent for its evasion of service; and (3) hold an evidentiary hearing on Complainant's allegations. Id. at 3.

Complainant's filing also contained a new address for Respondent on the certificate of service page. Considering Complainant's pro se status, the Court sent a third copy of the Complaint and NOCA to this new address for Respondent on June 27, 2024, by USPS certified mail. The USPS website's mail tracking information for this package indicates that it arrived at the post office in Saipan, MP on July 17, 2024, but that the "address was vacant or the business was no longer operating at the location and no further information was available." Therefore, the package was "returned to the sender."

Presently, the Court is unable to serve the Complaint and NOCA in this matter on the Respondent at any address provided to the Court by Complainant. As the Court explained in its Order of Inquiry, "in instances when a complaint cannot be effectively serviced, it is dismissed without prejudice" Heath v. Vbeyond Corp., 14 OCAHO no. 1368a, 3–4 (2020) (citing United States v. Iniguez-Casillas, 6 OCAHO no. 870, 510, 512 (1996), and then citing Baches-Corado, 3 OCAHO no. 571, at 1713) (internal quotations omitted)).

¹ Citations to OCAHO precedents in bound volumes one through eight include the volume and case number of the particular decision followed by the specific page in the bound volume where the decision begins; the pinpoint citations which follow are to the pages, seriatim, of the specific entire volume. Pinpoint citations to OCAHO precedents after volume eight, 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 through the Westlaw database "FIM OCAHO," the LexisNexis database "OCAHO," and on the United States Department of Justice's website: <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-decisions>.

² OCAHO Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2023).

Complainant argues that the Respondent is attempting to evade service by using a fictional address in its job vacancy announcements and in the CW-1 visa process. However, OCAHO's Rules of Practice and Procedure for Administrative Hearings "do not permit Complainant or this Judge to waive service of the complaint." Iniguez-Casillas, 6 OCAHO no. 870, at 512. "While the Rules provide that a complaint may be mailed to the last known address of an individual, 28 C.F.R. § 68.3(a)(3), the Rules also specify that service of a complaint is complete upon receipt by addressee[,] 28 C.F.R. § 68.3(b)." Id. The Court has previously provided Complainant with guidance regarding manners of service of the Complaint and the opportunity to properly file with the Court an Annual Corporation Report for Respondent. Complainant has not offered a valid address, nor has he provided any evidentiary support for his arguments that Respondent has attempted to evade service. Because "service of the complaint cannot be effectuated, this action cannot proceed at this time." Id.; *see also* United States v. Rios-Villatoro, 14 OCAHO no. 1364, 2 (2020) (noting that while the Court was "sympathetic to the constraints placed upon the [complainant] and its ability to serve the complaint given the situation . . . given that there is no way to know when service may be attempted, the Court has determined that the best course is to dismiss the case until such time as the Complainant can effectuate service").³

Therefore, the Complaint is DISMISSED WITHOUT PREJUDICE. Practically, this means that Complainant may, within the limits of the statute of limitations, "refile the complaint if the Respondent is located and service can be accomplished." Iniguez-Casillas, 6 OCAHO no. 870, at 512. Complainant's requests for an order compelling Respondent to provide a mailing address, for the Court to sanction Respondent for evasion of service, and for an evidentiary hearing are therefore DENIED.

This is a Final Order.

SO ORDERED.

Dated and entered on August 20, 2024.

John A. Henderson
Administrative Law Judge

³ Complainant's citation to Baches-Corado is unavailing; in that case, the Court dismissed a complaint without prejudice where a complainant could not effectuate service. *See* 3 OCAHO no. 571, at 1712–13.

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.