

ZAJI ZAJRADHARA,
 Complainant,
 v.
 MANBIN CORPORATION,
 Respondent.

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8 U.S.C. § 1324b Proceeding
 OCAHO Case No. 2024B00012

On June 12, 2024, Complainant filed a Response to the Order to Show Cause, and on June 17, 2024, he filed a Layman's Motion for Addendum Workforce Listing. In response to these filings, the Court issued an Order Discharging Order to Show Cause (In Part) & Accepting Answer on June 25, 2024. *Zajradhara v. Manbin Corp.*, 19 OCAHO no. 1553a (2024). The Court first found that Complainant's filings satisfied the Order to Show Cause with respect to his national origin claim and therefore allowed him to amend the Complaint to cure this jurisdictional deficiency. *Id.*

at 3–4. The Court then found that the filings did not satisfy the Order to Show Cause with respect to his retaliation claim and, as such, dismissed the claim without prejudice. *Id.* at 4–5.

On September 23, 2024, the Court issued an Order Dismissing Discrimination Claim – National Origin & General Litigation Order. *Zajradhara v. Manbin Corp.*, 19 OCAHO no. 1553b (2024). In the Order, the Court dismissed without prejudice Complainant’s national origin discrimination claim after he failed to follow the Court’s order to amend his complaint to cure the issues identified by the Court. *Id.* at 3.

On October 22, 2024, after Complainant refiled his Layman’s Motion for Addendum Workforce Listing, the Court issued an Order and Notice – Amended Complaint. *Zajradhara v. Manbin Corp.*, 19 OCAHO no. 1553c (2024). Through the Order, the Court gave Complainant an additional opportunity to pursue a national origin claim by filing a motion seeking leave to amend his complaint, along with a proposed amended complaint. *Id.* at 3.

On December 22, 2024, Complainant filed an Amended Response to Court Order, and Amended Claim for Employment Discrimination Under 8 U.S.C. § 1324b, Title VII, 20 CFR 655 et al., and the Northern Mariana Workforce Act (Amended Complaint). For the reasons that follow, the Complainant’s motion is not granted, as it still does not cure the issue previously outlined by the Court.

II. LAW AND ANALYSIS

“When a complainant appears pro se, the pleading standard may be ‘liberally construed.’” *Sharma v. NVIDIA Corp.*, 17 OCAHO no. 1450, 3 (2022) (quoting *Halim v. Accu-Labs Rsch., Inc.*, 3 OCAHO no. 474, 765, 777 (1992)). Here, Complainant’s filing did not specifically move the Court for leave to file an amended complaint; however, because Complainant is pro se, the Court will construe the filing as both the motion and a proposed amended complaint.

Although the “policy of favoring amendments to pleadings should be applied with ‘extreme liberality,’” *United States v. Webb*, 655 F.2d 977, 979 (9th Cir. 1981), a motion for leave to amend may be denied where the amendment would be futile. *See Cahill v. Liberty Mut. Ins. Co.*, 80 F.3d 336, 339 (9th Cir. 1996); *Johnson v. Buckley*, 356 F.3d 1067, 1077 (9th Cir. 2004) (“Futility alone can justify the denial of a motion to amend.”).

Nowhere in the proposed amended complaint does Complainant allege that Respondent employs between four and fourteen individuals (the deficiency outlined in previous orders); however, even if his filing could be most liberally construed in his favor (and this important data point were overlooked), the submission still does not meet the pleading standards of the forum.

In section VIII of the filing (the only section alleging violations of § 1324b, vice Complainant’s references to other law and regulation not covered by this forum), Complainant makes no factual allegations pertaining to national origin or national origin discrimination. Stated a different way, his national origin cannot be derived from the filing, it is unclear whether this Respondent is aware

of that national origin, and it is unclear how his national origin might have impacted Respondent's decision not to select him for the position at issue.¹ *See* Amended Compl. 5–6.

A thorough scouring of the proposed amendment reveals only that Complainant asserts this Respondent preferred “hiring and/or sponsoring *foreign* workers” over Complainant. *Id.* at 6 (emphasis added). Such language reflects a theory of citizenship status discrimination and not national origin discrimination. Allegations of preference for a “foreign” worker are inherently allegations based on citizenship status, not national origin, as the purported preference is one held irrespective of the worker's national origin.

Therefore, because the proposed amendment fails to plead the Court's subject matter jurisdiction over the national origin claim (once again) and, separately fails to state a claim of national origin discrimination, allowing the amendment would be futile. Accordingly, Complainant's motion seeking leave to amend is DENIED.

Because the motion seeking leave to amend is denied, the matter maintains the same status as before. Complainant is presently pursuing a claim of citizenship status discrimination against this Respondent. The case schedule (provided for parties' convenience below) remains the same.

Dispositive Motions Deadline: January 22, 2025²

Deadline for Responses to Dispositive Motions: February 21, 2025

Tentative Hearing: May 2025 in Saipan, CNMI

SO ORDERED.

Dated and entered on January 2, 2025.

Honorable Andrea R. Carroll-Tipton
Administrative Law Judge

¹ Complainant states his national origin is “U.S. citizen,” Amended Compl. 5; however, this is a description of his citizenship status, not national origin.

² The Complainant has already filed a Motion for Summary Decision. The Complainant may file a new or revised Summary Decision motion at any time before the January 2025 deadline. Respondent may also file its own dispositive motion at any time before the January 2025 deadline. If no other dispositive motions are filed, then the Court will consider the Complainant's previously filed motion as filed on January 22, 2025, with a response deadline of February 21, 2025.

Complainant may file a revised motion electronically; however he must still properly serve Respondent and provide a Certificate of Service that complies with the regulations. Respondent may also file any motion or response in this manner.