

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

February 25, 2025

VINAY SAINI,)	
Complainant,)	
)	
)	
v.)	8 U.S.C. § 1324b Proceeding
)	OCAHO Case No. 2025B00001
)	
)	
SHERIDAN COMMUNITY HOSPITAL, ET AL.,)	
Respondent.)	
_____)	

Appearances: Vinay Saini, pro se Complainant
Sarah J. Millsap, Esq., David A. Calles Smith, Esq., and Kimberly B. McNulty,
Esq., for Respondent

ORDER GRANTING RESPONDENT’S MOTION FOR LEAVE TO AMEND MOTION TO
DISMISS

I. PROCEDURAL HISTORY

On October 1, 2024, Complainant Vinay Saini filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) against Respondent Sheridan Community Hospital. Complainant alleges Respondent discriminated on the basis of national origin and citizenship status, retaliated against him, and asked him for more or different documents than required for the employment eligibility verification process, in violation of 8 U.S.C. §§ 1324b(a)(1), (a)(5), and (a)(6). Respondents filed their Answer and Affirmative Defenses on December 3, 2024.

On January 29, 2025, Respondents filed a Motion to Dismiss.

On February 4, 2025, the Court issued an Order Summarizing Prehearing Conference & Granting Complainant’s Motion for Extension of Time. *Saini v. Sheridan Community Hosp.*,

21 OCAHO no. 1645 (2025).¹ Through the Order, the Court granted Complainant an extension of time to respond to Respondents' Motion to Dismiss, making his response due on February 25, 2025. *Id.* at 2. The Court stayed discovery in this proceeding pending resolution of the Motion to Dismiss. *Id.* at 3. Finally, the Court amended the case caption to indicate the four additional respondents identified in the complaint. *Id.*; *see also* Compl. 13.

On February 12, 2025, Respondents filed a Motion for Leave to Amend Respondent's Motion to Dismiss, along with a brief in support of the Motion and a proposed Amended Motion to Dismiss. According to Respondents, the amendment serves to "address the allegation by Complainant . . . that certain other individuals are, and must be considered as, additional named Respondents in this action, in their individual capacities, rather than as agents of Sheridan." Mot. Leave to Amend 1.

On that same day, Complainant filed his Response in Opposition to Defendant's Motion for Leave to Amend Motion to Dismiss. Complainant maintains that Respondents "have been on notice that these other 'individuals and entities' are a party to this dispute from the start when the Complaint was filed on October 1, 2024," adding that Respondents even raised this defense in their Answer. Opp'n 2–3. As a result, Complainant argues that no good cause exists and that "he will be prejudiced by allowing such amendment." *Id.* at 3–4. Finally, on February 25, 2025, Complainant filed a response to the motion to dismiss.

II. DISCUSSION

Pursuant to 28 C.F.R. § 68.9(e),² an Administrative Law Judge may allow the amendment of any pleading³ "[i]f a determination of a controversy on the merits will be facilitated thereby," and "upon such conditions as are necessary to avoid prejudicing the public interest and the rights of the parties." This OCAHO Rule is similar to Rule 15 of the Federal Rules of Civil Procedure. The Federal Rules of Civil Procedure may be used as guidance in OCAHO proceedings. *See* 28 C.F.R.

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's Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2025).

³ The definition of "pleading" includes "the complaint, the answer thereto, any motions, any supplements or amendments to any motions or amendments, and any reply that may be permitted to any answer, supplement or amendment submitted to the Administrative Law Judge." 28 C.F.R. § 68.2.

§ 68.1; *Talebinejad v. MIT*, 17 OCAHO no. 1464a, 2 (2023) (quoting *United States v. Valenzuela*, 8 OCAHO no. 1004, 3 (1998)). Rule 15(a)(2) provides that “[t]he court should freely give leave when justice so requires,” however, “leave may be denied for undue delay, bad faith by the moving party, repeated failure to cure defects by previously-allowed amendments, futility of the proposed new claim, or undue prejudice to the opposing party.” *Custard Hut Franchise LLC v. H&J Jawad LLC*, 697 F. Supp. 3d 723, 729 (E.D. Mich. 2023) (citing *Foman v. Davis*, 371 U.S. 178, 182 (1962); *Duggins v. Steak ‘N Shake, Inc.*, 195 F.3d 828, 834 (6th Cir. 1999); *Fisher v. Roberts*, 125 F.3d 974, 977 (6th Cir. 1997)).

Complainant cites good cause as the standard for this motion to amend, but the citations of the law above make it clear that the Court should look favorably upon motions to amend where the arguments would be helpful in resolving the dispute, only disallowing the amendment in certain, limited circumstances. In arguing that Respondents “have been on notice” that they are “a party to this dispute from the start,” citing to statements made in their Answer, Opp’n 2–3, Complainant appears to be arguing that there is undue delay and possibly bad faith. The Court finds, however, that the issue of whether Complainant is asserting separate legal claims against the individuals identified in the sheet attached to the Complaint was unclear until the prehearing conference. As an initial matter, the IER Charge form included with the Complaint only identifies Sheridan Community Hospital as the employer. Compl. 17. Further, the Notice of Case Assignment that the Chief Administrative Hearing Officer issued to Respondents to initiate these proceedings listed Sheridan Community Hospital as the only respondent. Notice Case Assign. 1. While Respondents identified the issue in their answer, *see* Answer 2 n.1, it was not until the January 28, 2025, prehearing conference that Complainant provided this clarification, and the case caption was formally amended in the February 4 Order. *Saini*, 21 OCAHO no. 1645, at 1, 3. At this point, Respondents had already filed their Motion to Dismiss via facsimile, but promptly filed the instant motion, along with the amended Motion to Dismiss. The Answer serves to preserve the argument as a defense, but it was not clear that such a defense was required until recently. The Court finds that Respondents’ request to amend the Motion to Dismiss was brought timely and in good faith.

Complainant also indicates that he is prejudiced by the proposed amendment because his response to the original motion to dismiss is due shortly, and Respondents have not responded to his interrogatories. Opp’n 3. These proceedings are still at an early stage, and Respondents in their motion noted they are “agreeable to additional time for Complainant to respond to the Amended Motion to Dismiss.” Mot. Leave to Amend 4; *see also United States v. JS Design & Build, LLC*, 17 OCAHO no. 1460a, 3 (2022) (finding amendment would not result in prejudice in part due to “the early stage in litigation”). Thus, the prejudice identified by Complainant is easily remedied.

Most importantly, whether the additional Respondents are proper parties is a central issue that must be resolved. Allowing both parties to provide arguments greatly assists the Court in resolving the issue. *Cf. United States v. Sunshine Building Maint., Inc.*, 6 OCAHO no. 913, 1067, 1074 (1997) (“Prejudice to an opposing party has been held to mean undue difficulty in prosecuting . . . a lawsuit as a result of a change in tactics or theories on the part of the other party.”).

Therefore, Respondent's Motion for Leave to Amend Motion to Dismiss is GRANTED, and the Amended Motion to Dismiss and brief in support are ACCEPTED and function as the operative motion in this matter. Complainant has until March 18, 2025, to amend his response to address the Amended Motion to Dismiss.

SO ORDERED.

Dated and entered on February 25, 2025.

Honorable Jean C. King
Chief Administrative Law Judge