

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

DAMILOLA OBEMBE,	)	
Complainant,	)	
	)	
v.	)	8 U.S.C. § 1324b Proceeding
	)	OCAHO Case No. 2025B00031
	)	
SUS INFOTECH, INC.,	)	
Respondent.	)	
	)	

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ORDER ON INEFFECTIVE SERVICE OF COMPLAINT

I. BACKGROUND

This case arises under the antidiscrimination provisions of the Immigration and Nationality Act, as amended, 8 U.S.C. § 1324b. On January 28, 2025, Complainant Damilola Obembe filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO), alleging that Respondent Sus Infotech, Inc. discriminated against her on the basis of her national origin and citizenship status by failing to hire her. Compl. 8-9.

Complainant identifies a Jersey City, NJ address as the address at which to serve Respondent. Compl. 6.

On February 5, 2025, OCAHO sent Respondent a Notice of Case Assignment for Complaint Alleging Immigration-Related Employment Practices (NOCA) and a copy of the Complaint (collectively the Complaint package), via certified U.S. mail, to the address provided. The NOCA directed that an answer was to be filed within 30 days of receipt of the Complaint, that failure to answer could lead to default, and that proceedings would be governed by Department of Justice regulations.<sup>1</sup> NOCA 1-4.

The postal service tracking information for the Complaint package indicates that it was “returned to sender because the addressee was not known at the delivery address noted on the package.”

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<sup>1</sup> OCAHO Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2024). The rules are also available through OCAHO’s webpage on the United States Department of Justice’s website. See <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-regulations>.

## II. LEGAL STANDARDS

Under OCAHO’s Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2024), the court is responsible for service of the Complaint. 28 C.F.R. § 68.3(a). OCAHO’s Rules require that the Complaint contain “[t]he names and address of the respondents” and “a statement identifying the party or parties to be served.” 28 C.F.R. §§ 68.7(b)(2), 68.7(b)(5). The regulations provide that service may be effected “[b]y mailing to the last known address of such individual, partner, officer, or attorney or representative of record.” 28 C.F.R. § 68.3(a)(3). “Service of complaint . . . is complete upon receipt by addressee.” 28 C.F.R. § 68.3(b).

When OCAHO “encounters difficulty with perfecting service,” the court “may direct that a party execute service of process.” 28 C.F.R. § 68.3(c); *see, e.g., United States v. Oil Patch Petroleum*, 18 OCAHO no. 1508 (2023).<sup>2</sup> The regulations offer no guidance on the manner by which a party may properly effect service. Accordingly, the courts look to the Federal Rules of Civil Procedure, which may be relied upon as a “general guideline in any situation not provided for or controlled by [OCAHO’s] rule[.]” 28 C.F.R. § 68.1; *see also Wang v. Dropbox, Inc.*, 20 OCAHO no. 1605 at 2-3 (2024) (outlining options for complainant’s service of the complaint based on Federal Rule 4(h)).

## III. DISCUSSION

As discussed above, the Court was unable to serve Respondent at the address indicated. Complainant’s submission was also deficient in failing to identify an officer, director, or registered agent for Respondent’s business. 28 C.F.R. §§ 68.7(b)(2), 68.7(b)(5), 68.3(a)-(b). Because the Court “may direct a party to execute service of process,” when it “encounters difficulty with perfecting service,” the Court turns to Complainant for assistance in the service of the Complaint package. 28 C.F.R. 68.3(b).

Complainant may attempt to effect service in one of several ways. Complainant may file with the Court a supplement to the Complaint, identifying an officer, director, or registered agent for Respondent, as well as a working mailing address for this person. The Court will thereafter attempt to serve the Complaint on the person identified.

Alternatively, Complainant may request a waiver of service compliant with Federal Rule of Civil Procedure 4(d)(1), or she may request that the Court permit Complainant to personally serve Respondent.

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<sup>2</sup> 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 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 in the Westlaw database “FIMOCAHO,” or in the LexisNexis database “OCAHO,” or on the website at <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-decisions>.

Service may also be effected by any method identified in Federal Rule of Civil Procedure 4(e)(1), which allows any method allowed by the state law of the state in which the district court is located or in which service is effected. Fed. R. Civ. P. 4(h)(1)(A), 4(e)(1).

Respondent is located in New Jersey. Compl. 6. New Jersey's Rules of Court provide for several methods to serve a corporation, including serving "any person authorized by appointment or by law to receive service on behalf of the corporation, or on a person at the registered office of the corporation." *See* N.J.R. 4:4-4(a)(6).

Regardless of the method that Complainant chooses, if Complainant requests to effect service, service must be perfected in a manner that satisfies the federal and New Jersey rules. Complainant must submit a responsive filing within 60 days of the date of this Order.

A lawsuit may not proceed without an essential party being served with a copy of the complaint. "[W]hen a complaint cannot be served, the case may be dismissed without prejudice." US Tech Workers v. Cast 21, 19 OCAHO no. 1571, 2 (2024) (citing Ramirez v. Sam's Club, 18 OCAHO no. 1525, 2 (2024)). The Court now puts Complainant on notice that if Complainant takes no action within 60 day of this order, or offers no explanation for failing to effect service during that timeframe, the Court may dismiss the Complaint without prejudice.

SO ORDERED.

Dated and entered on March 13, 2025.

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Honorable John A. Henderson  
Administrative Law Judge