

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

April 1, 2025

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| SYED ASAD HUSSAIN, |) | |
| Complainant, |) | |
| |) | |
| |) | 8 U.S.C. § 1324b Proceeding |
| v. |) | OCAHO Case No. 2025B00028 |
| |) | |
| |) | |
| DEVELOPLUS, INC., |) | |
| Respondent. |) | |
| _____ |) | |

Appearances: Syed Asad Hussain, pro se Complainant
Richard M. Wilner, Esq., for Respondent

AMENDED NOTICE OF APPEARANCE INSUFFICIENT UNDER 28 C.F.R. § 68.33(c)(3) –
AMENDED NOTICE OF APPEARANCE REJECTED

I. PROCEDURAL HISTORY

This case arises under the antidiscrimination provisions of the Immigration and Nationality Act, as amended, 8 U.S.C. § 1324b.

On January 13, 2025, Complainant, Syed Asad Hussain, filed a Complaint against Respondent, Developlus, Inc., alleging Respondent discriminated against him and retaliated against him.

On March 10, 2025, the Court issued an Order Granting Stay of Answer Deadline, in which it noted that, if Complainant is represented, that representative must submit a Notice of Appearance in accordance with 28 C.F.R. § 68.33(f).

On March 18, 2025, the “NAB Council” submitted a filing titled “Notice of Appearance as Attorney¹ or Accredited Representative for Syed Asad Hussain” signed by “Aady” Hussain.

¹ Unlike an DHS Form G-28, a “Notice of Appearance” in OCAHO is not a fillable form; rather it is document created by the filing party. Here, this proposed representative would have typed the word “attorney” in the title of the initial Notice of Appearance – as in “attorney or accredited

Because the status of the proposed representative was unclear, on March 20, 2025, the Court issued a Notice & Order wherein it identified several issues pertaining to the identity and status of the proposed representative. *Hussain v. Developplus, Inc.*, 21 OCAHO no. 1649a (2025).² Specifically, the Court informed the Complainant and his proposed representative of the requirements of 28 C.F.R. § 68.33(c)(3):

If Complainant’s proposed representative is not a licensed attorney (or law student), then the proposed representative must submit a “written application with the Administrative Law Judge demonstrating that the individual possesses the knowledge of administrative procedures, technical expertise, or other qualifications necessary to render valuable service in the proceeding and is otherwise competent [to represent individuals or entities in the forum]” 28 C.F.R. § 68.33(c)(3). [footnote omitted]

Hussain, 21 OCAHO no. 1649a, at 2.³

representative;” raising the specter that the signatory may be a licensed attorney (even though he is not).

It was only when pressed, by way of a Court Notice and Order, that the signatory revealed he is not licensed to practice law; rather he is a paralegal who is an accredited representative in other EOIR fora (but not OCAHO). Such a conscious inclusion of an inaccurate designation alongside an accurate one is not expressly false; however, it also could give rise to candor-related considerations.

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 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>.

³ In the March 20, 2025 Order, the Court noted that an application would be untimely based on the governing regulation; however, the Court, sua sponte, indicated Complainant’s proposed representative could have additional time to file an application.

On March 25, 2025, the Court received an Amended Notice of Appearance in which Mr. “Addy”⁴ Hussain informed the Court of his legal name (stating he is “also known as Syed Ahad Hussain”), and he is the “founder of NAB Council, a law firm.” Amended Not. Appear. 1. He identifies himself as “a paralegal governed by the California Business and Professions Code.” *Id.*

As to his background and expertise, Mr. Hussain states the law firm he “founded” “specializes in advocacy related to regulatory compliance, equal employment opportunities, affirmative action legislation, and diversity, equity, and inclusion in the context of potential discrimination lawsuits.” Amended Not. Appear. 1. He further states he is “a fully accredited representative authorized to represent individuals before the Board of Immigration Appeals, the Immigration Courts, and the U.S. Department of Homeland Security... in immigration matters...” *Id.*

II. LAW & ANALYSIS

As was noted in the previous Notice and Order, OCAHO regulations contemplate several options for representation in the forum. When a Complainant elects representation, the representative must be either an attorney, law student (with faculty or attorney supervision), or an individual with the requisite knowledge and expertise.

Mr. Syed Ahad Hussain noted he is accredited to practice in Immigration Court and before the Board of Immigration Appeals (BIA), and he correctly notes the regulatory provisions which govern representation and accreditation in these fora; however, accreditation in these fora does not automatically confer status in this one.

OCAHO proceedings are unique within EOIR as they are governed by the Administrative Procedures Act (APA). *See* 28 C.F.R. § 68.1.⁵ APA proceedings have more or different requirements (vice proceedings not covered by the APA like removal proceedings or appeals to the BIA). *Compare* 28 C.F.R. pt. 68 (2024) *with* 8 C.F.R. pts. 1003, 1292 (2024) (For context, Title 8 covers Aliens and Nationality and Title 28 covers Judicial Administration.)

⁴ There is variance in the spelling of this name throughout the Amended Notice of Appearance. In the body of the submission it is “Addy;” however, in the signature block it is “Aady.” This is certainly peculiar, and it was only when pressed, by way of a Court Notice and Order, that the signatory provided his legal name. This peculiarity, in tandem with the title of the filing, certainly does not reduce the potential for candor-related concerns.

⁵ 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>.

Germane to this issue, Title 8 and Title 28 have different requirements relative to representation and accreditation.

Title 8 has a more expansive approach to representation than Title 28. *Compare* 8 CFR 1292.1(a)(3)(iii) (allowing “reputable individuals” with “a pre-existing relationship or connection with the person entitled to representation (e.g. as a relative, neighbor, clergyman, business associate or personal friend)...;” *with* 28 C.F.R. § 68.33 (where no such option exists).

Title 8 has an accreditation process memorialized in regulation; by contrast, Title 28 does not. Rather, Title 28 functionally requires the Administrative Law Judge to “accredit” on a case-by-case and representative-by-representative basis. *See* 28 CFR 68.33(c)(3)(i)-(iii) (detailing an “application” followed by an “inquiry on qualifications or ability,” and concluding with potential “denial.”).

Indeed, even the criteria in the regulations are distinct when considering the prospect of “accreditation” under Title 8 or its OCAHO Title 28 functional equivalent. The regulations at Title 8 require accredited non-attorneys to possess “broad knowledge and adequate experience in immigration law and procedure.” 8 C.F.R. § 1292.12(a)(6). Title 28 requires something different.

Specifically, Title 28 requires “knowledge of administrative procedures, technical expertise, or other qualifications.” 28 C.F.R. § 68.33(a)(3). Stated more concretely, representation in OCAHO proceedings require an unsupervised non-attorney representative to have a sufficient expertise in APA-covered proceedings, including (but not limited to) motions practice, discovery, and hearings. Additionally, in cases arising under 8 U.S.C. § 1342b (like this one), an unsupervised non-attorney may also need sufficient expertise in citizenship and national origin discrimination matters (and retaliation).⁶

As the OCAHO regulations state, an unsupervised non-attorney must submit an application (in writing) in order to appear, and “[t]he application shall set forth *in detail* the requesting individual's qualifications to represent the party.” 28 C.F.R. § 68.33(a)(3)(i) (emphasis added). That detail is crucial, because, without it, the Administrative Law Judge cannot properly conduct the “inquiry” required by regulation. 28 CFR § 68.33(c)(3)(ii).

Here, the Amended Notice of Appearance does not provide sufficient detail demonstrating requisite knowledge and technical expertise to litigate cases in this forum. Instead, it provides conclusory summation of areas of “advocacy” in which the “law firm” engages. It does not disentangle Mr. Hussain’s experience from the experience of others in the firm; it does not shed light on Mr. Hussain’s experience in APA-covered proceedings or other civil litigation (like

⁶ This expertise could, ostensibly, be garnered by a sufficient amount of experience litigating matters arising under Title VII of the Civil Rights Act, 42 U.S.C. § 2000e-2.

proceedings which apply the Federal Rules of Civil Procedure); and to the extent it references Title 8 accreditation, it provides no further detail as to the type or volume of cases or matters litigated before the BIA or in immigration court.

While there are no set criteria in regulation for the application or inquiry,⁷ in a case like this one, a sufficient application could have addressed (among other potential qualifications or experience): whether the proposed non-attorney representative has any attorney supervision (and if so, by whom); specificity as to the number and type of APA-covered (or similar) proceedings in which the proposed non-attorney representative has appeared or has otherwise participated (and what tasks that individual performed on the case); what, if any, technical expertise the proposed non-attorney representative has relative to federal employment discrimination matters; and whether or how the non-attorney would familiarize himself with the precedential case law and regulatory requirements of the forum.⁸

Because the written application of Mr. Syed Ahad Hussain does not demonstrate the requisite knowledge and expertise required by 28 C.F.R. § 68.33(c)(3), the undersigned now issues this Order DENYING (without prejudice) the privilege of appearing (on this matter) to Mr. Syed Ahad Hussain because he “does not possess the requisite qualifications to represent others” based on the application he provided. 28 C.F.R. § 68.33(c)(3)(iii).

III. CONCLUSION

Complainant, at present, is appearing pro se. Complainant shall be provided with additional time to secure representation (if he chooses to do so). He may also, of course, continue to proceed pro se. If Complainant needs additional time to secure representation, he may request it by filing a written motion. *See* 28 C.F.R. § 68.11(a) (“[A]ny application for an order or any other request shall be made by motion . . . in writing . . .”).

⁷ Precedential case law can provide some clarity, although competence of a “lay” representative is not a frequently-litigated issue. In one published decision, the Court determined a lay representative was qualified after he submitted an application noting his acquisition of a juris doctorate degree (but not current law license), familiarity with administrative processes, and a resume indicating relevant work experience in agencies and in courts. *See Alberto Izquierdo v. Victoria Nursing & Rehab. Ctr.*, 10 OCAHO no. 1131, 1-3 (2009).

⁸ This list in no way serves to limit future non-attorneys who seek to apply to represent individuals, rather it is provided only to serve as helpful explanation here –providing context and clarity by way of contrast.

The Court will attach to this Order Mr. Hussain's Amended Notice of Appearance (as he failed to include Respondent on the Amended Notice's Certificate of Service). Attaching the filing ensures Respondent has a complete record. This is a one-time courtesy to Complainant. Complainant (or any future representative of Complainant) is cautioned against failing to include opposing party on future certificates of service (failure to include all required parties may result in a rejection of the filing in the future). An example of a certificate of service is available at the conclusion of this Order (as the Court also provides a certificate of service in each order issuance).

This Order shall also be served on Mr. Syed Ahad Hussain to ensure he is aware of the outcome of his application.

Complainant shall have until August 1, 2025 to secure representation (if he chooses to do so) and respond to the pending motion to dismiss. Any proposed representative must file a Notice of Appearance. 28 C.F.R. § 68.33(f).

SO ORDERED.

Dated and entered on April 1, 2025.

Honorable Andrea R. Carroll-Tipton
Administrative Law Judge