

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

September 23, 2024

ZAJI ZAJRADHARA,)	
Complainant,)	
)	
v.)	8 U.S.C. § 1324b Proceeding
)	OCAHO Case No. 2024B00012
)	
MANBIN CORPORATION,)	
Respondent.)	
_____)	

Appearances: Zaji Obatala Zajradhara, pro se Complainant
Stephen Nutting, Esq., for Respondent

ORDER DISMISSING DISCRIMINATION CLAIM – NATIONAL ORIGIN & GENERAL
LITIGATION ORDER

I. BACKGROUND

This case arises under the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324b.

On October 17, 2023, Complainant, Zaji Obatala Zajradhara, filed a complaint against Respondent, Manbin Corporation, alleging Respondent discriminated against him on the basis of national origin and citizenship status, and retaliated against him in violation of 8 U.S.C. §§ 1324b(a)(1) and (a)(5).

On October 30, 2023, this office sent Respondent a Notice of Case Assignment for Complaint Alleging Unfair Immigration-Related Employment Practices (NOCA) and a copy of the Complaint, via certified U.S. mail. The U.S. Postal Service (USPS) website tracking service indicates that the Complaint and NOCA were delivered on November 16, 2023, making an answer due no later than December 16, 2023. *See* 28 C.F.R. §§ 68.3(a), 68.9(a).¹ Respondent did not file an answer by this date.

On January 10, 2024, Complainant filed a “Request for Summary Judgment.” Complainant appears to request that the Court “grant him damages” due to the Respondent’s failure to file an answer to the Complaint. *See generally* Req. Summ. Judgment.

¹ OCAHO Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2024).

The Court sent an additional copy of the NOCA and Complaint to an alternate Respondent address on February 20, 2024. That NOCA and Complaint were delivered on March 9, 2024, making an answer due no later than April 8, 2024. *See* 28 C.F.R. §§ 68.3(a), 68.9(a).

On April 25, 2024, the Court issued (to Complainant) an Order to Show Cause – Jurisdiction & Deficient Complaint. *Zajradhara v. Manbin Corp.*, 19 OCAHO no. 1553 (2024).² The Court directed Complainant to file a response within 30 days of receipt of the order addressing the Court’s subject matter jurisdiction over his national origin discrimination claim, and addressing why his retaliation claim should not be dismissed for failure to state a claim. *Id.* at 3.

On June 4, 2024, Respondent, through counsel, filed an Entry of Appearance, an Answer, and a Motion to Allow Late Filing of Pleading. Respondent requested the Court accept the late-filed Answer.

In response to Respondent’s request to allow its late-filed answer, Complainant filed an opposition. In his opposition, Complainant writes that Respondent’s untimely filed answer reflects “blatant disregard of established legal procedures.” Complainant’s Opp’n 1.

On June 12, 2024, Complainant filed a response to the Court’s Order to Show Cause. Complainant writes that although his Complaint alleged that Respondent employed fewer than four employees, “after further review and investigation, the Complainant realizes this was an error,” and Respondent employs between 4 and 14 employees. Resp. 1. Complainant asked for the opportunity to amend his Complaint to cure this deficiency. *Id.* Separately, on June 17, 2024, Complainant filed a Laymans’ Motion for Addendum Workforce Listing, attaching Commonwealth of the Northern Mariana Islands Department of Labor (CNMI DOL) Workforce Listings for the Respondent from First Quarter 2022 through Fourth Quarter 2023.

On June 25, 2024, the Court issued an Order Discharging Order to Show Cause (In Part) & Accepting Answer. *Zajradhara v. Manbin Corp.*, 19 OCAHO no. 1553a (2024). In that order, the Court first found Complainant satisfied the Order to Show Cause with respect to his national origin claim and granted him the opportunity to amend his Complaint to cure the deficiency. *Id.* at 3–4. Second, it found Complainant did not satisfy the Order to Show Cause with respect to his retaliation claim and dismissed the claim without prejudice. *Id.* at 4–5. Finally, the Court accepted Respondent’s late-filed Answer after it found good cause existed for the late filing. *Id.* at 5.

² 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>.

II. DISMISSAL WITHOUT PREJUDICE – NATIONAL ORIGIN CLAIM

In the June 25, 2024 Order, the Court acknowledged that Complainant’s response to the Order to Show Cause left it “satisfied it has subject matter jurisdiction over Complainant’s national origin allegation. *Zajradhara*, 19 OCAHO no. 1553a, at 3. The Court also recognized that “[b]ased on his submission, Complainant may be able to cure deficiencies relating to his national origin claim, and he will be provided an opportunity to do so.” *Id.* at 3.

The Court then granted Complainant leave to file an amended complaint to cure the deficiency. *Id.* at 4. However, the Court cautioned Complainant that “if [he] fails to amend his Complaint, he must understand the allegation may be dismissed because the pleading is deficient.” *Id.* (citing 8 U.S.C. § 1324b(a)(2)(b) and 28 C.F.R. § 68.10(b)). To date, the Court has not received a submission from Complainant (the deadline was August 16, 2024).

As the Court previously explained: “Statements made in the complaint only need to be ‘facially sufficient to permit the case to proceed further,’ . . . as ‘[t]he bar for pleadings in this forum is low.’” *Sharma v. NVIDIA Corp.*, 17 OCAHO no. 1450, 3 (2022) (citing *United States v. Mar-Jac Poultry, Inc.*, 10 OCAHO no. 1148, 10 (2012), and then citing *United States v. Facebook, Inc.*, 14 OCAHO no. 1386b, 5 (2021)). “[P]leadings are sufficient if ‘the allegations give adequate notice to the respondents of the charges made against them.’” *Id.* (quoting *Santiglia v. Sun Microsystems, Inc.*, 9 OCAHO no. 1097, 10 (2003)); *see also Mar-Jac Poultry, Inc.*, 10 OCAHO no. 1148, at 9.

Because Complainant did not file an amended complaint to cure the deficiency identified by the Court (after having ample time to do so), the Court will now DISMISS WITHOUT PREJUDICE the deficient national origin allegation from the Complaint.

II. CASE SCHEDULE

Remaining is Complainant’s allegation of citizenship-status discrimination in violation of § 1324b(a)(1). With regard to that allegation, the Court sets the following case schedule:³

Discovery Closes: December 23, 2024

Dispositive Motions Deadline: January 22, 2025⁴

Deadline for Responses to Dispositive Motions: February 21, 2025

Tentative Hearing: May 2025 in Saipan, CNMI

³ The parties are located on Saipan, in the Commonwealth of the Northern Mariana Islands, across the international date line. Their location creates a significant time difference rendering a telephonic prehearing conference impracticable.

⁴ 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.

III. GENERAL LITIGATION ORDER

These proceedings will be governed by OCAHO's Rules of Practice and Procedure for Administrative Hearings, 28 C.F.R. pt. 68, available at <https://www.govinfo.gov/content/pkg/CFR-2021-title28-vol2/pdf/CFR-2021-title28-vol2-part68.pdf>. The parties are encouraged to review these Rules carefully, as well as to avail themselves of the other resources on OCAHO's website, which include published, precedential decisions organized both chronologically and by topic. *See* <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-decisions>.

A. Electronic Filing

Litigants before OCAHO may register to participate in OCAHO's Electronic Filing Pilot Program.⁵ Through this Program, the parties may receive orders from the Court by email, and may likewise file case-related filings by email. The Court has enclosed with this Order E-filing Registration and Certification Forms, Instructions for Filing by Email, and Instructions for Decrypting Secure Messages. Both parties must return their completed registration forms, and the Court may then issue an order approving this case for electronic filing, before parties may begin filing by email.

B. Settlement Officer Program

OCAHO provides parties the opportunity to participate in OCAHO's Settlement Officer Program.⁶ This program is a no-cost, voluntary dispute resolution program. Settlement discussions are subject to the confidentiality provisions of 5 U.S.C. § 574. If the parties reach a settlement, then 28 C.F.R. § 68.14 applies. Both parties must submit written consent to refer this case to the Program. The parties can ask for a referral to the Program up to 30 days prior to a hearing.

C. Discovery

Discovery may begin on the date the Court issues this Order.

The parties must cooperate with each other in honoring discovery requests. In advance of bringing any discovery dispute to the Court's attention, the parties must meet and confer in good faith to attempt to resolve the matter without the Court's intervention. *See* 28 C.F.R. § 68.23(b)(4).

Pursuant to 28 C.F.R. § 68.6(b), except when the discovery is used as an exhibit for a motion or as evidence during the hearing, copies of Interrogatories, Requests for Production of Documents,

⁵ *See* Executive Office for Immigration Review, Officer of the Chief Administrative Hearing Officer Electronic Filing Pilot Program, 79 Fed. Reg. 31143, *available at* https://www.justice.gov/eoir/pages/attachments/2015/03/24/79fedreg31143_05-30-2014.pdf.

⁶ *See* EOIR Policy Memorandum 20-16, *available at* <https://www.justice.gov/eoir/page/file/1300746/dl?inline>.

Requests for Admissions, Deposition Notices and transcripts, and responses to such should not be sent to the Court.

A party must respond to a request for discovery within 30 calendar days from receipt of the request. Requests for discovery and objections to such requests must be specific. A notice of deposition does not require a written response; however, any objection to a notice of deposition must be served promptly on the moving party.

The parties are expected to make a good faith effort to coordinate deposition dates with the opposing party before noting a deposition. An agreed-upon deposition date is presumptively binding. A party seeking to change an agreed-upon date has a duty to coordinate a new date before changing the agreed-upon date. Unless otherwise ordered by the Court or agreed upon by the parties, 14 days shall be deemed reasonable notice for noting a deposition occurring within the continental United States, 21 days shall be sufficient for a deposition conducted outside of the continental United States.

All discovery requests must be issued at a sufficiently early time to assure that they are answered before the expiration of the discovery deadline set by the Court. Unless otherwise ordered by the Court, no discovery deadline will be extended because written discovery requests remain unanswered at its expiration.

Discovery motions, including motions to compel, must be filed within 21 calendar days after receipt of a deficient response or after the response to the discovery is due, whichever occurs first. Motions to compel and other discovery motions must be accompanied by the discovery requests and responses and a declaration stating that the moving party has made a good faith effort to resolve the discovery dispute. 28 C.F.R. § 68.23(b). The declaration shall indicate the efforts made to resolve the dispute and identify which items remain in dispute. The failure to timely file objections to discovery may result in the objections being deemed waived.

D. General Information

If parties wish to extend a deadline in this matter, they should first meet and confer, and then file a motion requesting the extension.

Replies are generally not permitted. *See* 28 C.F.R. § 68.11(b). If parties wish to file a reply, they should first seek leave of the Court to do so.

SO ORDERED.

Dated and entered on September 23, 2024.

Honorable Andrea R. Carroll-Tipton
Administrative Law Judge