

8 U.S.C. § 1324b Proceeding
OCAHO Case No. 2025B00046

¹ 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>.

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).

Complainant only provided the address for the warehouse for Respondent, without identifying a registered agent, officer, or director for the company. “Because no individual was identified and the address provided was a general business address, the ‘manner of service was not reasonably calculated to advise Respondent of a matter pending before it.’” *Wang v. Dropbox, Inc.*, 20 OCAHO no. 1605, at 2 (2024) (citing *Shater v. Shell Oil Co.*, 18 OCAHO no. 1504, 3 (2023)). OCAHO is currently unable to serve the Complaint based on the information available to it, thus service was not perfected per OCAHO’s regulatory requirements.

When OCAHO encounters difficulties in perfecting service, it can seek the assistance of a party. See 28 C.F.R. § 68.3(c) (stating “the Administrative Law Judge may direct that a party execute service of process” when OCAHO encounters difficulties in perfecting service); see also *Heath v. Euclid Innovations*, 16 OCAHO no. 1418, 2 (2022).²

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.³ The Court will thereafter attempt to serve the Complaint on the person identified.

In addition, because the Court “may direct a party to execute service of process” when it “encounters difficulty with perfecting service,” the Complainant may choose alternative methods to providing OCAHO with a supplement. 28 C.F.R. 68.3(b). As the regulations offer no guidance

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 The rules also permit Complainant to address the complaint to a department or officer who might alert Respondent to the pendency of this litigation (i.e. to “the legal department” or “CEO”). It is possible that address may be the same as the address Complainant has already identified, but the Complainant should at a minimum identify a legal office or department to which to direct the Complaint if he cannot identify an officer, director, or registered agent.

on the manner by which a party may effect service, the OCAHO may look to the Federal Rules of Civil Procedure.” 28 C.F.R. § 68.1; *see also Wang*, 20 OCAHO no. 1605, at 2–3 (2024) (outlining options for complainant’s service of the complaint based on Federal Rule 4(h)).

Service can be made by any method identified in Federal Rule of Civil Procedure 4(e)(1), which allows any method allowed by the state in which the district court is located or in which service is made. Fed. R. Civ. P. 4(h)(1)(A), 4(e)(1). As Respondent is located in North Carolina, North Carolina’s Rules of Procedure Rule 4 provides for methods of service. N.C. Gen. Stat. Ann. § 1A-1, Rule 4 (2023).⁴ Alternatively, Complainant may request a waiver of service compliant with Federal Rule of Civil Procedure 4(d)(1), or he may request that the Court permit Complainant to personally serve Respondent.

Accordingly, Complainant must either provide the Court the name of an officer, director, or registered agent for Respondent, as well as a working mailing address for this person, or notify the Court of any alternative method of service noted above, or request that the Court permit him to personally serve Respondent. Complainant must submit a responsive filing within 60 days of the date of this Order.

The Court puts Complainant on notice that this case may not proceed without an essential party being served with a copy of the complaint. “OCAHO case law demonstrates that in instances when a complaint cannot be effectively served, it is dismissed without prejudice[.]” *Heath v. VBeyond Corp. & an Anon. Empl’r*, 14 OCAHO no. 1368a, 3–4 (2020) (first citing *United States v. Iniguez-Casillas*, 6 OCAHO no. 870, 510, 512 (1996); and then citing *United States v. Baches-Corado*, 3 OCAHO no. 571 (1993)). The Complaint may thus be dismissed if Complainant does not respond to this order or otherwise takes no action to effectuate proper service without explanation.

SO ORDERED.

Dated and entered on June 30, 2025.

Honorable Jean C. King
Chief Administrative Law Judge

⁴ Among the methods identified in the statute, the Complaint may be delivered “to an officer, director, or managing agent of the corporation or by leaving copies thereof in the office of such officer, director, or managing agent with the person who is apparently in charge of the office.” N.C. Gen. Stat. Ann. § 1A-1, Rule 4 (j)(6)(a). The Statute also allows for service by publication. *Id.* Rule 4(j)(1).