

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

JOANNA C. USIFO,)
Complainant,)
)
) 8 U.S.C. § 1324b Proceeding
v.) OCAHO Case No. 2025B00014
)
TRUVETA INC.,)
Respondent.)
)

Appearances: Joanna C. Usifo, pro se Complainant
Simonne Lawrence, for Respondent

ORDER OF DISMISSAL

I. PROCEDURAL HISTORY

On October 28, 2024, Complainant Joanne Usifo filed a complaint against Respondent Truveta, Inc., alleging that Respondent discriminated against her on the bases of her citizenship status and national origin by refusing to hire her. Compl. §7. She further alleges that Respondent retaliated against her for complaining about discriminatory treatment, stating that Respondent advised her that she would not be considered for any other positions after she complained about discrimination. Compl. §9. Complainant alleges these activities violated 8 U.S.C. § 1324b(a)(1) and (5).

On November 26, 2024, Respondent filed an answer denying the allegations, along with a Motion to Dismiss for Lack of Jurisdiction and for Failure to State a Claim. Complainant did not respond to the motion.

On December 18, 2024, this Court issued a General Litigation Order, directing the parties to file prehearing statements and setting a prehearing conference in this matter for February 11, 2025. The Court held the prehearing conference on that date, pursuant to 28 C.F.R. § 68.5(a). Counsel for the Respondent appeared, however Complainant did not. Complainant offered no explanation for her absence at the prehearing conference or for her failure to produce a prehearing statement. During the conference, Respondent moved for a stay of proceedings pending adjudication of the motion to dismiss. The Court granted the motion.

On August 8, 2025, this Court issued an order granting in part and denying in part the Respondent's motion to dismiss. The Court granted the motion with regard to the citizenship discrimination claim, finding that Complainant did not plead an essential element of her claim. Usifo v. Truveta, 21 OCAHO No. 1642a, 6 (2025). Concerning the national origin claim, the Court delayed a ruling on the motion, providing that the parties may engage in limited discovery concerning the number of persons Respondent employs. More specifically, the Court noted that Respondent's argument that it employed more than 14 employees during the relevant time period, which would place it outside the jurisdictional limits of 8 U.S.C. § 1324b(a)(1)¹, was put forward in the motion to dismiss without the opportunity for Complainant to engage in discovery and demonstrate that this claim was false. The Court therefore permitted the parties limited discovery on the question of numerosity; it directed that either party may supplement their filings by ten days after the close of limited discovery, or by September 30, 2025. To date, neither party has filed any response to the motion.

The Court's order of August 8th also noted that the complaint was unclear as to whether Complainant intended to raise claims of unfair documentary practices. Usifo v. Truveta, 21 OCAHO No. 1642a, 6 (2025). It directed Complainant to, by 14 days from the date of the order, file a more definite statement identifying what, if any, unfair documentary practices she alleged violated 8 U.S.C. §1324b(a)(6). To date, Complainant has not filed a response to the Court's order.

The August 8th, 2025 Order denied the motion to dismiss with regard to the retaliation claims.

II. LAW AND ANALYSIS

A. Respondent's Motion To Dismiss on Numerosity; Court's *Sua Sponte* Directive to Complainant to File a More Definite Statement

The Court's prior order identified the standards concerning a motion to dismiss and a motion for a more definite statement. Insofar as the Court's prior order held in abeyance a ruling on much of Respondent's motion, and this order intends to rule on the matters left outstanding, the Court will not repeat at length the standards provided in the prior order. Briefly, however, this court may dismiss a complaint for failure to state a claim upon which relief may be granted. 28 C.F.R. § 68.10. The rules governing dismissal for failure to state a claim are modeled after Rule 12(b)(6) of the Federal Rules of Civil Procedure. Shater v. Shell Oil Co., 18 OCAHO no. 1504b, 3 (2024); *see also* 28 C.F.R. § 68.1.

Addressing the need for a more definite statement, Rule 12(e) of the Federal Rules of Civil Procedure provides, in relevant part, that:

¹ See 8 U.S.C. § 1324b(a)(2)(B), which prohibits the adjudication of national origin discrimination claims where the respondent is “covered under section 703 of the Civil Rights Act of 1964.” Section 703 of Title VII prohibits discrimination against employers who employ “fifteen or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year[.]” 42 U.S.C. § 2000e(b) (definitions); *see also* 42 U.S.C. § 2000e-2(a).

A party may move for a more definite statement of a pleading to which a responsive pleading is allowed but which is so vague or ambiguous that the party cannot reasonably prepare a response. If the court orders a more definite statement and the order is not obeyed within 14 days after notice of the order or within the time the court sets, the court may strike the pleading or issue any other appropriate order.

Fed. R. Civ. P. 12(e). Concerning the requisite vagueness or ambiguity necessary to trigger a more definite statement, the touchstone is whether the allegation gives the other party sufficient notice of the charges levelled against them to effectively prepare their case. Sharma v. NVIDIA Corp., 17 OCAHO no. 1450, 2 (2022).

Addressing these claims in reverse order, the Court noted in its previous order that it was unclear as to whether the Complaint raised an unfair documentary practices claim at all. Usifo v. Truveta, 21 OCAHO No. 1642a, 6-7 (2025). Complainant asserts that she sent documents to an unnamed second employer who allegedly refused to accept them. Compl. §§ 8, 10. The Court stated that it could not determine from the pleading what relation, if any, this had to Complainant's charge against Respondent. The Court offered Complainant an opportunity to explain or to clarify; Complainant did not do so. Without any further explanation from Complainant, the Court finds that this allegation is too vague to place Respondent on notice of the potential unfair documentary practices charges against it, and as a consequence the undersigned strikes this aspect of the Complaint and DISMISSES the unfair documentary practices charge.

Moving to the numerosity issue, Respondent asserts that it employed 15 or more employees during the relevant time period, placing Complainant's national origin claim outside the ambit of 8 U.S.C. §1324b.² Mot. Dismiss 2. Respondent's exhibit to its motion states that Respondent employed 257 employees, well above the number for dismissal. Mot. Dismiss Ex. 1. Noting that this information was outside of the scope of the pleadings, the Court deferred a ruling on the matter and permitted the parties an opportunity to engage in discovery on this question. Complainant has offered no evidence that she engaged in discovery, and at no point submitted an opposition to the Respondent's motion to dismiss despite having two opportunities to do so. The Court concludes that the Respondent's motion is unopposed on this point, and therefore GRANTS the motion to dismiss concerning the nation origin claim. See 8 U.S.C. § 1324b(a)(2)(A)–(B).

B. Dismissal of Remaining Claims Due to Failure to Prosecute/Abandonment of Claim

As of the date of this order, Complainant has been largely absent from this case. Apart from filing the complaint, it appears to the undersigned that Complainant has not litigated her case at all, violating several of this Court's orders requiring her to put forth evidence or to make arguments in support of her cause. Complainant did not file a prehearing submission, despite the order directing her to do so. She also did not appear at the scheduled prehearing conference. When Respondent filed a motion to dismiss, she did not file an opposition, or offer any explanation as to why she believes her case should proceed to a hearing. This Court gave Complainant an opportunity to preserve her unfair documentary practices claim by filing a statement explaining the nature of the claim; Complainant declined to do so. Similarly, when the Court provided

² Complainant states in the complaint that she does not know how many employees Respondent employs. Compl. §4.

Complainant an opportunity to argue that Respondent employed the requisite number of people to preserve the national origin claim, she offered no filing supportive of this argument.

OCAHO's regulations provide that a party may be deemed to have abandoned their complaint if "a party or his or her representative fails to respond to orders issued by the Administrative Law Judge[.]" 28 C.F.R. § 68.37(b)(1); *see also* Fed R. Civ. P. 41(b) (dismissal for failure to prosecute). Further, a party that fails to actively participate in the litigation of their case may be deemed to have abandoned their complaint. United States v. MSNF Foods 4 LLC, d/b/a Domino's Pizza, 17 OCAHO no. 1459d, (2023) (*citing United States v. Steidle Lawn & Landscape, LLC*, 17 OCAHO no. 1457c (2023)). Evidence of abandonment of a complaint may include failure to respond to orders or invitations to file by OCAHO. *Id.*, *see also* United States v. Koy Chinese & Sushi Rest., 16 OCAHO no. 1416e, 6-8 (2023) (CAHO Order) (discussing abandonment of claims by inaction and admonishing counsel for repeated failure to participate in the litigation); Wong-Opasi v. Sundquist, 8 OCAHO 1054, 7 (2000) (collecting cases discussing abandonment of claims due to inaction).

The caselaw directs that the court should provide fair notice to a party that their case may be dismissed for abandonment should they fail to take additional action. *See Guzman v. Guardian Electric Mfg.*, 3 OCAHO 546, 2 (1993) ("Complainant was warned that a nonresponse to the Order would be taken as her intention to abandon her case and that I would consider dismissing the case."); United States v. MSNF Foods 4 LLC, 17 OCAHO 1459d, (2023) ("This case now raises the specter of abandonment. ... Respondent is given final notice that the Court may deem its request for hearing as abandoned pursuant to 28 C.F.R. § 68.37(b)(1)"). In the matter presently before this Court, the undersigned's order of August 8th, 2025 advised Complainant in no uncertain terms that she must file a submission on the unfair documentary practices claim within 14 days from the issuance of that order, and that "failure to respond to Court orders may lead to the Court finding that she has abandoned her Complaint."

This Court is mindful of Complainant's *pro se* status, and were this the first or second instance of noncompliance with court orders, the undersigned would be inclined to provide one final opportunity for Complainant to restart her case and move the litigation forward. However, the record as a whole demonstrates that this would be futile—Complainant has not participated in this litigation from the beginning, despite several clear warnings that the consequences of inaction may be dismissal. The last order specifically identified abandonment of claims as a potential sanction, and gave a clear timeline for compliance with court orders. Complainant's refusal to act in spite of these advisals necessitates dismissal of the remainder of her complaint.

III. ORDERS

It is SO ORDERED that Respondent's Motion to Dismiss is GRANTED as to Complainant's national origin discrimination claim, which is now DISMISSED.

It is FURTHER ORDERED that Complainant's unfair documentary practices claim is DISMISSED due to its vagueness and ambiguity.

It is FURTHER ORDERED that with regard to Complainant's retaliation claim, the only claim left outstanding following Respondent's Motion to Dismiss, the claim is DISMISSED due to Complainant's abandonment of the complaint.

SO ORDERED.

Dated and entered on January 13, 2026.

Honorable John A. Henderson
Administrative Law Judge

Appeal Information

This order shall become the final agency order unless modified, vacated, or remanded by the Attorney General. Provisions governing the Attorney General's review of this order are set forth at 28 C.F.R. pt. 68. Within sixty days of the entry of an Administrative Law Judge's final order, the Attorney General may direct the CAHO to refer any final order to the Attorney General for review, pursuant to 28 C.F.R. § 68.55.

Any person aggrieved by the final order has sixty days from the date of entry of the final order to petition for review in the United States Court of Appeals for the circuit in which the violation is alleged to have occurred or in which the employer resides or transacts business. See 8 U.S.C. § 1324b(i)(1); 28 C.F.R. § 68.57. A petition for review must conform to the requirements of Rule 15 of the Federal Rules of Appellate Procedure.