

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

June 25, 2020

R.S.,)	
Complainant,)	
)	
v.)	8 U.S.C. § 1324b Proceeding
)	OCAHO Case No. 19B00048
)	
LATTICE SEMICONDUCTOR,)	
Respondent.)	
_____)	

ORDER ON RESPONDENT’S MOTION TO COMPEL DISCOVERY

I. INTRODUCTION

Complainant, R.S., filed a Complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) against Respondent, Lattice Semiconductor, on August 12, 2019, alleging that Respondent refused to hire him based on his citizenship status. Respondent filed a timely answer. The Administrative Law Judge (ALJ) held a prehearing conference on December 19, 2020, and set the deadlines in this matter. Discovery closed on April 27, 2020 and, on that day, Complainant filed a Motion to Quash Notice of Deposition. Respondent filed a timely response and the undersigned held a telephonic discovery conference on May 13, 2020. In the conference, the undersigned denied the motion to quash, set the date and time for the deposition, and reset the remaining deadlines in the case. The parties both indicated an intent to file discovery motions, so the undersigned also set motions and response deadlines.

On June 1, 2020, Complainant filed a motion to compel, seeking to compel responses to interrogatories and request for production of documents. Respondent filed a response on June 10, 2020. Respondent also filed a motion to compel on June 2, 2020, and Complainant filed a response on June 11, 2020. On June 19, 2020, the undersigned issued an order on Complainant’s motion to compel. This order addresses Respondent’s Motion to Compel.

II. LEGAL STANDARDS

An OCAHO ALJ has the authority to “compel the production of documents” and to compel responses to discovery requests, pursuant to 28 C.F.R. § 68.23 and § 68.28. *United States v. Rose Acre Farms, Inc.*, 12 OCAHO no. 1285, 2 (2016). The OCAHO rules permit parties to file

motions to compel responses to discovery if the responding party fails to adequately respond or objects to the request. 28 C.F.R. § 68.23(a). The OCAHO rules require motions to compel to set forth and include:

- (1) The nature of the questions or request;
 - (2) The response or objections of the party upon whom the request was served;
 - (3) Arguments in support of the motion; and
 - (4) A certification that the movant has in good faith conferred or attempted to confer with the person or party failing to make the discovery in an effort to secure information or material without action by the Administrative Law Judge.
- § 68.23(b).

It is well-settled that OCAHO Judges may refer to analogous provisions of the Federal Rules of Civil Procedure and federal case law interpreting them for guidance in deciding contested issues. *United States v. Allen Holdings, Inc.*, 9 OCAHO no. 1059, 14 (2000). Section 68.23 of the OCAHO procedural rules is similar to Federal Rules of Civil Procedure 37(a)(2)(B), which provides for motions to compel responses to discovery requests in cases before the federal district courts. *Id.* Consequently, Rule 37 and federal case law interpreting it are useful in deciding whether a motion to compel should be granted under the OCAHO rules. *Id.* Because this action arose in the State of California, relevant case law from the United States Court of Appeals for the Ninth Circuit (Ninth Circuit) constitutes binding authority; case law from other circuit courts constitutes persuasive, but not binding, authority.

The party objecting to a discovery request has the burden of persuading the Court that the objection is justified. § 68.23(a); *United States v. Westheimer Wash Corp.*, 7 OCAHO no. 989, 1042, 1045 (1998);¹ *Allen Holdings, Inc.*, 9 OCAHO no. 1059 at 4. Even if discovery requests are irrelevant, the party from whom discovery is requested must have a valid objection to each one in order to escape the production requirement. *Id.* at 1042. The party resisting a discovery request must make a specific showing with respect to each objection. *Sefic v. Marconi Wireless*, 9 OCAHO no. 1123, 10 (2007). A party resisting discovery is expected not only to explain its objection with particularity, but also to cite to relevant legal authority in support of this argument. *Id.* at 9.

Applicable regulations provide that “[u]nless otherwise limited by the ALJ, the parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the proceeding[.]”. See 28 C.F.R. § 68.18(b).

¹ 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 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 “FIM-OCAHO,” or in the LexisNexis database “OCAHO,” or on the website at <http://www.justice.gov/eoir/OcahoMain/ocahosibpage.htm#PubDecOrders>.

III. DISCUSSION

A. Certification of Good Faith Conferment

Complainant argues that the Court should deny Respondent's Motion because Respondent failed to confer in good faith prior to filing the motion. Complainant contends that the parties only ever discussed Respondent's responses to his discovery requests, and never conferred about his responses to Respondent's requests. Complainant attached emails between the parties which show that Respondent attempted to meet and confer with Complainant in May 2020, prior to filing the motion to compel. Complainant's Resp. at Exs. MC-3, MC-4; Resp't Mot. Compel at 3.

B. Requests for Production

Respondent argues in his motion that Complainant's responses to each and every one of the Respondent's document requests are inadequate. Respondent argues that Complainant has asserted inappropriate objections and has produced very few documents. Resp't Mot. Compel at 2-3. Complainant stated in his response to Respondent's Motion that he does not possess any other documents responsive to the document requests. Complainant's Resp. at 2.

In his responses to the Requests for Production (RFPs), Complainant repeats several objections to the RFPs throughout. The Court will address these repeated objections first. Complainant objects that the RFPs are vague and ambiguous, but does not further explain the objection. A responding party cannot make generalized or conclusory recitations that discovery requests are overbroad. *United States v. Employer Solutions Staffing Group II, LLC*, 11 OCAHO no. 1234, 2 (2014). Objections of this nature are improper unless based on particularized facts. *See Burlington N. & Santa Fe Ry. v. United States Dist. Court*, 408 F.3d 1142, 1149 (9th Cir. 2005). Thus, where this objection appears without explanation, Complainant's objections on this basis are overruled.

Complainant also objects that the RFPs seek documents equally available to Respondent. Courts have stated that objecting to a discovery request because the information sought is equally available to the propounding parties from their own records or from records equally available to them is insufficient. *Nat'l Acad. of Recording Arts & Scis., Inc. v. On Point Events, LP*, 256 F.R.D. 678, 682 (C.D. Cal. 2009) (citing *St. Paul Reinsurance Co. v. Commercial Fin. Corp.*, 198 F.R.D. 508, 514 (N.D. Iowa 2000)). Thus, the Court finds that this objection is inadequate wherever it appears.

Moreover, if Complainant does not have the responsive documents, he must further supplement his responses and state that he is not withholding any responsive materials. FED. R. CIV. P. 34(b)(2)(C); *see Alexander v. F.B.I.*, 194 F.R.D. 299, 302 (D.D.C. 2000).

1. Requests for Production 1-15, 18-22

Turning to the specific requests, Respondent asks the Court to require Complainant to further supplement his responses to RFP 1-9, 15-17, and 19 with all documents and communications supporting Complainant's qualifications, application, and interview for the Open Position. Resp't Mot. Compel at 4, 6, 8, 10-13, 15, 17, 19, 29, 31, 33, 37. In another series of RFPs, 10-14, 18, and 20-22, Respondent asks the Court to compel Complainant to provide all documents and communications relating to how Complainant is better qualified for the position than Mr. Krishnamurthy and that Mr. Krishnamurthy was chosen instead of Complainant because of his citizenship status. *See* Resp't Mot. Compel at 20-43. With respect to RFPs 1-21, Complainant asserts the general objections noted above.

The Court finds that Complainant's responses to RFPs 1 to 21 were all inadequate and orders Complainant to supplement his responses by producing any responsive documents in his possession. Complainant failed to produce any documents in response to RFPs 1 to 21. Complainant responded to RFPs 1 to 21 by stating that "[t]hese documents are available to Respondent." The Court finds that even though Complainant subsequently stated, with respect to every discovery request, that he does not have any responsive documents in his possession, *see* Complainant's Resp. at 2, his failure to respond to each of these individual requests renders his responses inadequate. Complainant must produce any responsive documents in his possession or explicitly state, with respect to each request, that he has no responsive documents in his possession.

Complainant supplemented his response to RFP 22 by pointing to several documents that he listed in his response to Interrogatory 68. Resp't Mot. Compel at 43. Interrogatory 68 addresses the following documents: "Exhibit C-1, Exhibit C-5, RESPONDENT_000004, RESPONDENT_000002, RESPONDENT_000003, RESPONDENT_000041, and RESPONDENT_000165." Complainant's Resp. Interrog. at 23. Complainant stated in his response to Respondent's Motion that he does not possess any other documents responsive to the document requests and interrogatories. Complainant's Resp. at 2. Since Complainant identified several documents that he stated were the only responsive documents in his possession, the Court declines to grant Respondent's Motion to Compel as to RFP 22.

Accordingly, the Court grants Respondent's Motion to Compel with respect to RFPs 1 to 21 and denies the Motion with respect to RFP 22.

2. Requests for Production 23-25

Respondent asks the Court to compel Complainant to supplement his responses to RFPs 23-25 with further information about his previous employment and applications for employment. In numerical order, the RFPs ask for all documents and communications relating to Complainant's: (23) contention that he has been searching for a job, but has not found a match; (24) full-time jobs held in the preceding ten (10) years, including the name of his employer, formal job title, description of duties, period of employment, nature of termination, reasons for termination, and whether the position was similar or substantially similar to the Open Position; and (25) applications for employment in the preceding three (3) years, including all documents reflecting the employer to which he applied, the position applied for, the approximate date on which he applied, whether or not he was interviewed, offered a position, the position was similar or

substantially similar to the Open Position, including but not limited to employment positions identified in his response to Interrogatory 76. Resp't Mot. Compel at 45, 48, 51.

The Court denies the motion to compel as to Complainant's responses to RFPs 24 and 25. Complainant referred to some documents in RFP 24, and provided a document in response to RFP 25. Complainant also stated in his response to Respondent's Motion that he produced all responsive documents he is aware of in his possession. Complainant's Resp. at 2. However, the Court also finds that Complainant's response to RFP 23 is inadequate because Complainant has not produced or identified any documents in response to the request. Resp't Mot. Compel at 45-46. Thus, Complainant must supplement his production to RFP 23.

Accordingly, the Court grants Respondent's Motion with respect to RFP 23 and denies the Motion with respect to RFPs 24 and 25.

3. Requests for Production 26-32

Respondent asks the Court to compel Complainant to further supplement his responses to RFPs 26 through 31 with documents showing he is better qualified than Mr. Kumar. *See* Resp't Mot. Compel at 54-65. Respondent also asks the Court to require Complainant to further supplement his response to RFP 32, which sought all documents and communications relating to the damages Complainant has allegedly suffered as a result of Respondent's conduct, including documents identified in his response to Interrogatory 110. *Id.* at 65-67.

The Court declines to compel responses to RFPs 26 to 31. In response to each of these Interrogatories, Complainant directs Respondent to see his responses to Interrogatories 82, 87, 92, 97, 102, 107, indicating that they answer RFPs 26-31. Resp't Mot. Compel at 54-65. Complainant states that he possesses no other responsive documents. Complainant's Resp at 2. Given that Complainant has stated that he does not possess any responsive documents, beyond that which he already submitted, the Court finds that Complainant responded adequately to RFPs 26 to 31.

As to RFP 32, Complainant referred to Interrogatory 110. His response to Interrogatory 110 makes reference to the average salary in Santa Clara County for positions like the Open Position, claims of emotional distress and back pay, claims of Respondent acting with malice, and other costs and compensation desired by Complainant. Complainant's Resp. Interrog. at 32-33. Complainant did not provide or refer to documents in the Interrogatory, and has also not done so in the RFP. As such, Complainant is compelled to respond to RFP 32.

Accordingly, the Court denies Respondent's Motion with respect to RFPs 26 to 31, and grants the motion as to RFP 32.

4. Requests for Production 33 and 34

Respondent asks the Court to compel Complainant to further supplement his response to RFP 33 with all documents and communications relating to all civil lawsuits to which Complainant has been a party, including the style of the case, the case number, and the court in which the suit was

filed, including but not limited to the civil lawsuits mentioned in his response to Interrogatory 111. Resp't Mot. Compel at 65. With respect to RFP 34, Respondent asks the Court to require Complainant to further supplement his answers with all documents and communications related to all legal disputes to which he has been a party, including the names of all parties involved, all claims asserted by each party, and all damages recovered by each party, including but not limited to the legal disputes identified in his response to Interrogatory 112. *Id.* at 67.

Complainant objects to both RFPs asserting they are irrelevant and that they invade his privacy. "Unless otherwise limited by the ALJ, the parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the proceeding[.]" 28 C.F.R. § 68.18(b). The Federal Rules of Civil Procedure ("Rule") provide that any party may obtain discovery regarding any non-privileged matter relevant to any party's claim or defense, which includes history of previous litigation. FED. R. CIV. P. 26(b)(1); *see Moser v. Health Ins. Innovations, Inc.*, No. 3:17-cv-1127-WQH-KSC, 2019 U.S. Dist. LEXIS 63651, at *4 (S.D. Cal. Apr. 11, 2019) (citing *Gastineau v. Fleet Mortg. Corp.*, 137 F.3d 490, 495 (7th Cir. 1998)). Under the Federal Rules of Evidence, evidence of a party's involvement in prior litigation is inadmissible at trial to show litigiousness, but such evidence is admissible to determine a party's motive, state of mind, and credibility. *Id.* Accordingly, the Court finds RFPs 33 and 34 are properly the subject of discovery.

Since Complainant failed to respond to either of these RFPs, the Court grants Respondent's Motion with respect to RFPs 33 and 34.

C. Interrogatories

Respondent argued that Complainant's responses to Respondent's Interrogatories are also inadequate. Respondent argued that Complainant did not adequately identify documents in response to each interrogatory requesting that he do so, and did not provide appropriate responsive information in response to a number of other Interrogatories. Where Complainant has identified information, Respondent argues that he does not confirm or suggest that it is the only responsive information within Complainant's possession. Complainant asserted that he has responded to all the interrogatories in good faith. Complainant's Resp. at 7.

Complainant asserts the same cursory objections to these interrogatories that he asserted in response to the RFPs. The most common objection is that the documents or interrogatories were "equally available" or "should be with" Respondent. As stated previously, courts have recognized that an objection to a discovery request on this basis alone is insufficient to resist a discovery request. *See Nat'l Acad. of Recording Arts & Scis., Inc.*, 256 F.R.D. at 682. For several interrogatories, Respondent asserts that they are overbroad, oppressive or burdensome; vague, oppressive, unduly invasive of Complainant's right of privacy, and will require indefinite time. As noted above, generalized or conclusory recitations of the familiar litany that discovery requests are vague and ambiguous are not sufficient to constitute proper objections. *See Employer Solutions Staffing Group II*, 11 OCAHO no. 1234 at 2. Complainant has cited no authority for his assertion to a right of privacy, nor has he attempted to provide detail as to the assertion of "indefinite time." To the extent the Complainant has asserted these objections, they are overruled.

5. Interrogatories 2, 6, 12, 16, 20, 24, 28, 32, 36, 44, 48, 52, 56, 60, 64, 68

In this set of interrogatories, Respondent asked Complainant to “identify each document that supports or refutes” several assertions that Complainant asserted in his complaint, prehearing statements, motion to compel response to discovery request, and response to Respondent’s prehearing statements. Resp’t Mot. Compel at 70-96. These assertions related to Complainant’s statements about the Open Position that he applied for at Lattice, Complainant’s qualifications for the position, and Complainant’s interview for the position. The assertions also related to Complainant’s views on how he compared to Mr. Krishnamurthy as a candidate for the position and why he felt that Lattice discriminated against him based on his citizenship status by choosing Mr. Krishnamurthy for the position instead of Complainant.

Complainant objects to Interrogatory 16 by asserting that the term “you” is vague and ambiguous because it has not been defined. Resp’t Mot. Compel at 75. Respondent defined the term “YOU” in the Definitions section of the Interrogatories as “refer[ing] to Complainant R.S., and any of his agents, attorneys, employees, representatives, accountants, and any other PERSONS acting on his behalf.” See Decl. of Katsnelson in Supp. Mot. Ex. A, at 2. The Interrogatory states that “[w]ith respect to YOUR contention (in YOUR Prehearing Statements) that no interviewer asked *you* any questions[.]” Resp’t Mot. Compel at 75. Respondent appears to be suggesting that the term “you” —spelled without capitalization —is vague and ambiguous because it is not defined in the Definitions section without full capitalization.

The Court finds that the term “you” in this interrogatory is not vague or ambiguous. Upon any reasonable reading of “you,” it is clear that the term unambiguously refers to Complainant. Although the term “YOU” is not defined in the definitions section without full capitalization, it is clear by the context of the interrogatory that it is consistent with the definition, as referring to Complainant. Furthermore, Complainant objected to Interrogatories 20, 48, and 56 by asserting that Respondent failed to provide Complainant’s discovery request. Complainant has not cited to any legal authority that supports this objection, and the Court is unaware of any legal authority that supports this objection. In sum, Complainant failed to meet his burden in demonstrating that his objections on these grounds are valid, and they are overruled.

Despite Complainant’s objections, he provided either no response or a short-response to these interrogatories. With respect to Interrogatories 2, 12 and 16, Complainant did not identify any documents that were responsive to the interrogatory. Instead, as to 12 and 16, Complainant referred to his previous filing in asserting that Respondent had failed to provide his discovery request. Therefore, the Court finds that Complainant’s responses to Interrogatories 2, 12 and 16 were inadequate and orders Complainant to supplement his responses to Interrogatories 2, 12 and 16.

Interrogatory 48 asked Complainant to identify each document supporting his contention that Respondent’s questions in his interview were “not junior level questions.” Complainant’s response pointed to his response to Interrogatory 9, which lists all of the questions he was asked in his interview with Respondent. Complainant did not adequately respond to Interrogatory 48

and he must supplement his response by either listing the responsive documents or stating that he does not possess any other responsive documents.

With respect to the rest of Complainant's responses to this set of interrogatories, he identified several documents but did not initially state that those documents were all of the responsive information in his possession. Respondent argues that Complainant should be compelled to supplement his responses to these interrogatories to state that these are all of the responsive documents in Complainant's possession. Complainant stated in his response to Respondent's Motion that he does not possess any other documents responsive to the interrogatories. Complainant's Resp. at 2. Since Complainant identified several documents and later stated that those were the only responsive documents of which he was aware, the Court finds that he has responded to Interrogatories 6, 20, 24, 28, 32, 36, 44, 52, 56, 60, 64, and 68.

Accordingly, the Court grants Respondent's Motion with respect to Interrogatories 2, 12, 16, and 48; and denies the Motion with respect to Interrogatories 6, 20, 24, 28, 32, 36, 44, 52, 56, 60, 64, and 68.

6. Interrogatories 71-74

This set of interrogatories relates to Complainant's assertion in his response to Respondent's prehearing statements that, prior to interviewing for the Open Position at Lattice, he has "been job searching but [hasn't] found [a] matching job." Resp't Mot. Compel at 97-99. Interrogatory 71 asks Complainant to state all facts upon which Complainant based that assertion. *Id.* at 97. Interrogatory 72 asks Complainant to identify each document that supports or refutes that assertion. *Id.* at 99. Interrogatory 73 asks Complainant to identify each person who he believes has knowledge of the facts upon which Complainant based that assertion. *Id.* at 100. Interrogatory 74 asks Complainant to state in detail the facts that each person identified in Interrogatory 73 knows that supports or refutes that assertion. *Id.* at 102.

Complainant asserts several cursory objections to these interrogatories, objections that, as noted above, are overruled. Complainant also objects to Interrogatory 71 on the basis that it is unduly invasive of his right of privacy and will require indefinite time. Complainant explains that he "would rather spend [his] time applying to new positions than waste [his] time compiling all [his] past job searches and presenting to [Respondent]." As noted above, this is not a proper justification to support an objection to a discovery request. Complainant has not specifically explained how this information would either invade his right of privacy or require indefinite time. *See Westheimer Wash Corp.*, 7 OCAHO no. 989, 1042 ("The party resisting discovery must demonstrate specifically its objection to the discovery request."). Without a specific showing that the objection is justified, Complainant has not met his burden. Thus, pursuant to 28 C.F.R. § 68.18(d)(3), the Court orders Complainant to supplement his response to Interrogatories 71 and 72.

In addition, in response to each of these interrogatories, Complainant stated that he is "diligently pursuing other employment." Resp't Mot. Compel at 97-102. In response to Interrogatory 74, Complainant added that he "was employed for a short term contract for about 2 months in 2019 for RTL Design Engineer in [his] field." *Id.* at 102. Despite Complainant's subsequent

statement that he provided all responsive information with respect to all of his interrogatories, the Court finds that Complainant's responses to these interrogatories were all either evasive or incomplete. *See* § 68.23(d). Complainant must specify, with respect to each of these individual interrogatories, that he provided all responsive information. Consequently, the Court orders Complainant to supplement his responses to either state that he is not aware of any information that is responsive to these interrogatories; or identify all responsive information, including any such information that Respondent previously provided to Complainant that he believes is responsive to the particular interrogatory.

Accordingly, the Court grants Respondent's Motion with respect to Interrogatories 71 to 74 and orders Complainant to supplement his responses to these interrogatories.

7. Interrogatory 75

Interrogatory 75 asks Complainant to "describe any and all full-time employment positions that [he] ha[s] held in the preceding ten . . . years, including, for each position, the name of [his] employer, [his] formal job title, description of duties, period of employment, nature of termination, reasons for termination, and whether the position was similar or substantially similar to the Open Position." Resp't Mot. Compel at 103.

The Court finds that this request is overbroad in scope and unduly burdensome on Complainant. Complainant applied for the position at Lattice on November 28, 2018. Compl. at 6. The interrogatory asks Complainant to describe any and all full time positions that Complainant has held in the preceding ten years. Resp't Mot. Compel at 103. The temporal length of this request, ten years, excessively predates the underlying facts of the complaint and is likely to be unduly burdensome on Complainant. OCAHO case law permits limitations on the temporal scope of discovery where the requests are overly broad and unduly burdensome. *See, e.g., Durable, Inc.*, 11 OCAHO no. 1221 at 10 (narrowing temporal scope of discovery request to a five-year period); *Allen Holdings, Inc.*, 9 OCAHO no. 1059 at 14 (disallowing production of meeting minutes from fourteen years before, and narrowing temporal scope to previous four years); *Sefic*, 9 OCAHO no. 1123 at 18 (limiting temporal scope of discovery to a three-year period). The temporal scope of a discovery request must be broad enough to produce relevant evidence, but cannot be overly burdensome and Courts typically strike a balance in the range of three to eight years. *Paananen v. Cellco Partnership*, 2009 WL 3327227, at *9 (W.D. Wash. Oct. 8, 2009). Restricting the temporal scope of discovery is based in the principle of proportionality, "which directs that the burden of the discovery should not outweigh its likely benefit in light of, inter alia, the needs of the case and the issues at stake in the action." *Durable, Inc.*, 11 OCAHO no. 1221 at 10.

For the aforementioned reasons, the Court will narrow the temporal scope for this interrogatory to a six-year period. Complainant is directed to supplement his response to this interrogatory, however, he is only required to describe any and all employment positions he has held in the preceding six years, rather than ten years. Thus, the Court grants Respondent's Motion with respect to Interrogatory 75, which has been modified to a six-year period.

8. Interrogatories 76-79

Interrogatory 76 asks Complainant to “identify each employment position for which [he] applied in the preceding three . . . years, including the employer to which [he] applied, the position for which [he] applied, and the approximate date on which [he] applied.” Resp’t Mot. Compel at 104. The following three interrogatories asks Complainant whether he was interviewed for those positions, whether he was offered those positions, and whether those positions were similar or substantially similar to the Open Position at Lattice. *Id.* at 106-110.

Complainant’s objections to these interrogatories have previously been overruled. After reviewing Complainant’s responses to this set of interrogatories, and considering his objections, the Court finds that Complainant’s responses to these interrogatories were all either evasive or incomplete. *See* § 68.23(d). Accordingly, the Court grants Respondent’s Motion and orders Complainant to supplement his responses to these interrogatories to identify all responsive information, including any such information that Respondent previously provided to Complainant that he believes is responsive to the particular interrogatory.

9. Interrogatories 82, 87, 92, 97, 102, 107

This set of interrogatories relate to Mr. Ajay Kumar’s qualifications for the Open Position at Lattice and how they compare to Complainant’s qualifications for the position. Resp’t Mot. Compel at 111-119. Complainant’s standard objections to these interrogatories are overruled as noted above.

Complainant also objects to Interrogatory 102 on the basis that it is vague and ambiguous. He explained that “you” which appears in “[i]f you contend” has not been defined in Respondent’s first set of interrogatories. This objection was previously rejected above.

However, the Court finds that Complainant has provided a response to each of these interrogatories. Complainant pointed to several documents but did not initially state that those documents were all of the responsive information of which he was aware. In Complainant’s response to the Motion, he stated that he “do[es] not possess any other documents responsive to the document request[s] and [i]nterrogatories.” *See* Complainant’s Resp. at 2. Therefore, the Court denies Respondent’s Motion with respect to Interrogatories 82, 87, 92, 97, 102, 107.

10. Interrogatories 111-112

Interrogatory 111 asks Complainant to “[l]ist all civil lawsuits to which he has ever been a party, either as a plaintiff or a defendant, including in [Complainant’s] answer (a) the style of the case; (b) the case number; and (c) the court in which the suit was filed.” Resp’t Mot. Compel at 121. Interrogatory 112 asks Complainant to “[w]ith the exception of those listed in response to Interrogatory 111, list all legal disputes to which [Complainant] ha[s] ever been a party, including in [Complainant’s] answer the names of all parties involved, all claims asserted by each involved party, and all damages recovered by each involved party.” *Id.* at 121-122.

The Court has addressed this issue in relation to RFPs 33 and 34 above. Accordingly,

Complainant must supplement his responses to either state that he is not aware of any information that is responsive to the particular interrogatory or identify all responsive information to the particular interrogatory.

D. Monetary Sanctions

Respondent requests that the Court order Complainant to pay Respondent's reasonable expenses and attorneys' fees in bringing this motion. The Court denies this request. OCAHO ALJs may impose sanctions for failure to comply with discovery orders pursuant to 28 C.F.R. § 68.23(c). The list of sanctions in § 68.23(c) does not include monetary sanctions. *Id.* The weight of OCAHO authority states that the OCAHO rules "do not permit the imposition of monetary sanctions for failure to comply with discovery orders." *Palma v. Alufase USA, LLC*, 10 OCAHO no. 1213 (citing *United States v. Nu Look Cleaners*, 1 OCAHO no. 274, 1771, 1780 (1990) (action by CAHO vacating ALJ's decision and order); *De Leon v. Longoria Farms*, 13 OCAHO no. 1320a, 5 (2019)). Thus, Respondent's request for monetary sanctions is DENIED.

IV. CONCLUSION

First, the Court finds that Respondent conferred in good faith prior to filing its Motion to Compel. Second, the Court overruled Complainant's repeated objections to the discovery requests where Complainant failed to provide an explanation. Third, the Court GRANTS Respondent's Motion with respect to RFPs 1-21, 23, 32, 33, 34, and orders Complainant to supplement these RFP responses by **July 8, 2020**. The Court DENIES Respondent's Motion with respect to RFPs 22 and 24-31. Fourth, the Court GRANTS Respondent's Motion with respect to Interrogatories 2, 12, 16, 48, 71-74, 75 as modified, 76-79, 111-112, orders Complainant to supplement these interrogatory responses by **July 8, 2020**. The Court DENIES Respondent's Motion with respect to Interrogatories 6, 20, 24, 28, 32, 36, 44, 52, 56, 60, 64, 68, 82, 87, 92, 97, 102, and 107.

Finally, the Court DENIES Respondent's request for Complainant to pay Respondent's reasonable expenses and attorneys' fees in bringing this motion.

In light of the above, the Court will reset the deadlines as follows:

Motions for summary decision are due July 29, 2020.

Responses are due August 18, 2020.

SO ORDERED.

Dated and entered on June 25, 2020.

Jean C. King
Chief Administrative Law Judge