

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

January 3, 2023

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| ZAJI OBATALA ZAJRADHARA, |) | |
| Complainant, |) | |
| |) | |
| v. |) | 8 U.S.C. § 1324b Proceeding |
| |) | OCAHO Case No. 2021B00020 |
| |) | |
| LBC MABUHAY (SAIPAN) INC. |) | |
| Respondent. |) | |
| _____ |) | |

Appearances: Zaji Obatala Zajradhara, pro se, for Complainant
Colin Thompson, Esq., for Respondent

ORDER ISSUING STAY – JURISDICTIONALLY DEFICIENT COMPLAINT

This case arises out of the antidiscrimination provisions of the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324b. On February 19, 2021, Complainant Zaji Obatala Zajradhara filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) against Respondent, LBC Mabuhay (Saipan) Inc. Complainant alleges that Respondent discriminated against him because of his citizenship status and national origin. Compl. 6.¹

On September 24, 2021, the Court issued an Order to Show Cause Regarding Jurisdiction requiring Complainant to show cause “demonstrating the Court has jurisdiction over the actions allegedly taken by Respondent alleged in the Complaint.” OTSC Jurisdiction 2.²

¹ Pinpoint citations to the complaint are to the internal pagination of the PDF file rather than to the page numbers printed at the bottom of the pages.

² “[T]he Court lacks subject matter jurisdiction over a national origin discrimination claim if the employer employs less than four or more than fourteen employees.” OTSC Jurisdiction 2 (citing *United States v. Facebook, Inc.*, 14 OCAHO no. 1386b, 6–7 (2021). Similarly, the Court lacks jurisdiction over citizenship discrimination claims if the employer employs less than four employees. *Id.*; see also U.S.C. §§ 1324b(a)(1)(A), 1324b(a)(2)(A).

As discussed below, the Court has repeatedly identified to Complainant that the original complaint did not provide the number of employees Respondent employs, and that Complainant has the

On April 25, 2022, the Court discharged the Order to Show Cause Regarding Jurisdiction. *Zajradhara v. LBC Mabuhay (Saipan) Inc.*, 16 OCAHO no. 1423, 1 (2022).³ The Court noted Complainant provided a submission indicating Respondent had the jurisdictional number of employees. *Id.* at 3; *see* 8 U.S.C. § 1324b(a). The Court then stated that the operative complaint was deficient since it did not specify the number of employees Respondent had. *Id.* at 4; Compl. 4. Accordingly, the Court granted Complainant leave to amend his complaint to include jurisdictional facts. *Id.* Critically, the Court warned that “[i]f Complainant fails to amend his complaint within the allotted time [of June 13, 2022], his complaint may be dismissed for failure to plead jurisdiction as required by [28 C.F.R.] § 68.7(b)(1).” *Id.* Complainant did not file an amended complaint by the June 13, 2022 deadline.

Bearing in mind Complainant’s pro se status, the Court then issued an Order to Show Cause to Complainant Regarding Amended Complaint. *Zajradhara v. LBC Mabuhay (Saipan) Inc.*, 16 OCAHO no. 1423a, 1 (2022). The Court ordered Complainant to “show cause explaining why he failed to timely amend his complaint, and to file his amended complaint. *Id.* at 2. Both filings were due by August 25, 2022.

On September 27, 2022, the Court issued an Order Granting Complainant’s Request to Extend Deadline to Respond to Show Cause Regarding Amended Complaint. *Zajradhara v. LBC Mabuhay (Saipan) Inc.*, 16 OCAHO no. 1423b, 1 (2022). The Court found that Complainant demonstrated good cause for an extension of the deadlines set in the August 10, 2022 Order to Show Cause. *See id.* at 1–2 (citing OCAHO cases that considered personal hardship as sufficient good cause to extend a deadline). Accordingly, the Court extended the Order to Show Cause deadlines by sixty days, such that the filings were due by November 28, 2022.

On October 4, 2022, Complainant filed a “Motion in Response to Order to Show Cause Regarding Amended Complaint” (Show Cause Response). According to Complainant, he has “been repeatedly told that the respondent would provide the employee/workforce listing for 2019 thru 2020,” and that “[e]ither the attorney or the client in this matter refuses to provide” that

burden to establish jurisdiction. *Zajradhara v. LBC Mabuhay (Saipan) Inc.*, 16 OCAHO no. 1423a, 1 (2022); *Zajradhara v. LBC Mabuhay (Saipan) Inc.*, 16 OCAHO no. 1423b, 1 (2022).

³ 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>.

information. *See* Show Cause Response 2–4. Complainant similarly claims a lack of cooperation from the CNMI Department of Labor in obtaining the sought data. *Id.* at 2. The response also excerpts emails sent by Complainant to Respondent’s law firm. *See id.* at 4–9. Through the emails, Complainant alleges, inter alia, that they (presumably Respondent) had between four and fifteen employees around 2019-2020, and that LBC had five to seven employees. *Id.*

While Complainant responded to the show cause order, he did not file an amended complaint.

In the Order to Show Cause Regarding Jurisdiction, Complainant was cautioned that he did not plead facts sufficient to demonstrate the Court’s jurisdiction over his § 1324b claims. In the Order Discharging Order to Show Cause and Granting Complainant Leave to Amend Complaint, Complainant was put on clear notice that a failure to plead jurisdiction as required by 28 C.F.R. § 68.7(b)(1) could lead to dismissal of the complaint, and that a response to an order to show cause is not a *de facto* amendment to a complaint. The Court repeated this warning in its Order to Show Cause to Complainant Regarding Amended Complaint, and its Order Granting Complainant’s Request to Extend Deadline to Respond to Show Cause Regarding Amended Complaint.

After being provided multiple opportunities to amend his jurisdictionally deficient complaint, Complainant has declined to do so. The appropriate disposition of a jurisdictionally deficient complaint is dismissal of the case. *See Boyd v. Sherling*, 6 OCAHO no. 916, 1113, 1120 (1997).

Because the Court finds itself in a position wherein it is unable to execute a final case disposition, it now issues a stay of these proceedings.⁴ *A.S. v. Amazon Web Servs., Inc.*, 14 OCAHO no. 1381h, 2 n.4 (2021); *see, e.g., A.S. v. Amazon Web Servs., Inc.*, 14 OCAHO no. 1381o, 2–3 (2022); *Ravines de Schur*, 15 OCAHO no. 1388g, 2 (2022); *Rodriguez Garcia v. Farm Stores*, 17 OCAHO no. 1449, 2–3 (2022).

During the stay of proceedings for *Zajradhara v. LBC Mabuhay (Saipan) Inc.*, the Court will not consider or adjudicate submissions filed by the parties. The parties are not precluded from contacting the Court and requesting a status update; however, parties should bear in mind that the Court will timely inform the parties in writing when the stay is lifted.

When the stay is lifted, the case will be dismissed.

⁴ A stay of proceedings is generally defined as “a ruling by a court to stop or suspend a proceeding . . . temporarily or indefinitely. A Court may later lift the stay and continue the proceeding.” *Heath v. I-Services, Inc.*, 15 OCAHO no. 1413a, 2 n.4 (2022) (citations omitted).

SO ORDERED.

Dated and entered on January 3, 2023.

Honorable Andrea R. Carroll-Tipton
Administrative Law Judge