

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

March 30, 2022

ZAJI OBATALA ZAJRADHARA,	)	
Complainant,	)	
	)	
v.	)	8 U.S.C. § 1324b Proceeding
	)	OCAHO Case No. 2022B00009
	)	
HDH CO., LTD,	)	
Respondent.	)	
	)	

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ORDER TO SHOW CAUSE ON JURISDICTION

This case arises out of the antidiscrimination provisions of the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324b. On December 1, 2021, Complainant, Zaji Obatala Zajradhara, filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO). Zajradhara alleges that Respondent, HDH Co., Ltd., discriminated against him on account of his citizenship status and national origin. On February 17, 2022, the Court issued an Order to Show Cause to Respondent for failing to file an answer. To date, Respondent has not filed an answer.<sup>1</sup>

Upon review of the complaint, it is unclear to the Court whether it has subject matter jurisdiction over Complainant's claims. "[T]he issue of subject-matter jurisdiction may be raised 'even by the court, *sua sponte*.'" *Windsor v. Landeen*, 12 OCAHO no. 1294, 4 (2016) (citing *Horne v. Town of Hampstead*, 6 OCAHO no. 906, 941, 945 (1997)) (internal citation omitted).<sup>2</sup>

<sup>1</sup> The Court received a faxed letter from Respondent on March 17, 2022. The Court rejected that letter, as it did not contain a certificate of service required by the OCAHO rules. See 28 C.F.R. § 68.6(a) ("[A]ll pleadings shall be delivered or mailed for filing to the Administrative Law Judge assigned to the case, and shall be accompanied by a certification indicating service to all parties of record."); see also § 68.6(c).

<sup>2</sup> 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

The question about subject-matter jurisdiction arises from the number of employees Zajradhara alleges in the complaint. OCAHO has subject matter jurisdiction for claims based upon citizenship status if the employer employs more than three employees. *See United States v. Facebook, Inc.*, 14 OCAHO no. 1386b, 6–7 (2021) (citing 8 U.S.C. §§ 1324b(a)(1)(B), 1324b(a)(2)(A)). For claims based upon national origin, OCAHO has subject matter jurisdiction if the employer employs between four and fourteen workers. *See Sinha v. Infosys*, 14 OCAHO no. 1373, 2–3 (2020); *see also* 8 U.S.C. §§ 1324b(a)(1)(A), 1324b(a)(2)(B). The party invoking jurisdiction has the burden to establish that OCAHO has subject matter jurisdiction. *Id.* at 2 (citing *Windsor*, 12 OCAHO no. 1294 at 2).

Here, Complainant has not alleged the number of employees HDH Co., Ltd., employs. He states in the complaint “I do not know how many employees the Business/Employer has.” Likewise, Zajradhara answered “Don’t know/Unable to estimate” to the IER charge form question regarding Respondent’s number of employees. Without knowing how many employees Respondent has, the Court cannot determine whether it has subject matter jurisdiction to adjudicate either the citizenship status or national origin discrimination claims.

Therefore, Complainant is ORDERED to show cause, within sixty (60) days of this Order, demonstrating that the Court has subject matter jurisdiction over the allegations in the Complaint. Complainant may show cause through a filing that establishes how many employees Respondent, HDH Co., Ltd., employs. The Court permits Respondent to file a reply within thirty (30) days of Complainant’s response to this Order.<sup>3</sup>

If Complainant does not respond to this Order with an employee count within sixty (60) days, the Court may dismiss the complaint.

SO ORDERED.

Dated and entered on March 30, 2022.

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Honorable Jean C. King  
Chief Administrative Law Judge

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

<sup>3</sup> The Court reminds parties that submissions must comport with the OCAHO rules on service and filing of documents. *See* 28 C.F.R. § 68.6.