

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

May 5, 2022

ZAJI OBATALA ZAJRADHARA,)	
Complainant,)	
)	
v.)	8 U.S.C. § 1324b Proceeding
)	OCAHO Case No. 2022B00021
)	
CL CORPORATION,)	
Respondent.)	
_____)	

ORDER DENYING COMPLAINANT’S MOTION FOR DISCOVERY
AND SANCTIONS

I. PROCEDURAL HISTORY

On January 25, 2022, Complainant, Zaji Obatala Zajradhara, filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) alleging Respondent, CL Corporation discriminated against him based on his citizenship status and national origin in violation of 8 U.S.C. § 1324b. On March 21, 2022, Respondent’s corporate secretary filed a letter entitled “Response to Complaint,” which the Court construes to be its answer.

On April 4, 2022, Complainant filed “Plaintiff’s Motion for Discovery and Request for Sanctions Upon the Respondent for Knowingly and With Aforethought Providing Falsified Documents to This Court In Violation of 18 USC 1001” (Motion for Discovery and Sanctions). Respondent’s response to the motion was due April 19, 2022. *See* 28 C.F.R. §§ 68.11(b), 68.8(c)(2). To date, the Court has not received a response. Complainant’s motion is ripe for adjudication.

II. COMPLAINANT’S MOTION FOR DISCOVERY AND SANCTIONS

In his motion, Complainant provides what appears to be his discovery plans, including subpoenas, he may seek in order to prove that Respondent edited its job vacancy announcements “to illegally suit its position to this court.” Mot. Dismiss 2. Complainant requests the Court sanction Respondent “for knowingly providing the court with false documentation in violation of 18 USC 1001 [sic].” *Id.* at 1. Additionally, Complainant requests the Court strike Respondent’s

answer based on alleged misrepresentations. *Id.* at 2. Finally, Complainant provides a list of discovery he seeks. *Id.* at 3–6.

III. DISCUSSION

A. Discovery

28 C.F.R. § 68.6(b) provides that by default, “[t]he parties shall not file requests for discovery, answers, or responses thereto with the Administrative Law Judge.” Moreover, as the Chief Administrative Hearing Officer noted in the Notice of Case Assignment (NOCA) issued on January 25, 2022, the parties “may initiate discovery at any time after the answer has been filed.” NOCA 3 (citing 28 C.F.R. §§ 68.6(b), 68.18–68.23). Therefore, Complainant does not need to seek the undersigned’s approval or consent to serve discovery upon Respondent directly.

If “a party upon whom a discovery request is made . . . fails to respond adequately or objects to the request . . . , the discovering party may move the Administrative Law Judge for an order compelling a response or inspection in accordance with the request.” 28 C.F.R. § 68.23(a).

Because Complainant referenced subpoenas he may seek, the Court directs Complainant, who is pro se, to OCAHO’s subpoena form, which contains instructions.¹ See *Zajradhara v. GIG Partners*, 14 OCAHO no. 1363, 4 (2020) (footnote omitted) (“If Complainant seeks to subpoena documents and other tangible items, OCAHO provides a subpoena form on the OCAHO website. Complainant may follow the instructions on the subpoena form and complete the required items on the form. Complainant may then submit the subpoena forms to the ALJ” who “may issue the subpoenas.”).²

¹ OCAHO’s subpoena form may be found at <https://www.justice.gov/eoir/page/file/919601/download>.

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 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>.

B. Sanctions

“OCAHO rules of practice provide for sanctions in a number of circumstances at 28 C.F.R. §§ 68.23 (discovery), 68.28 (disobeying or resisting a lawful order), and 68.35 (standards of conduct).” *Ogunrinu v. Law Resources*, 13 OCAHO no. 1332c, 2 (2020).

A motion to compel must contain the requirements outlined in § 68.23(b). Failure to comply with § 68.23(b) warrants denial of the motion. *See A.S. v. Amazon Web Servs. Inc.*, 14 OCAHO no. 1381, 2–4 (2020). If after the Court issues an order compelling discovery and a party fails to comply with the order, § 68.23(c) provides a list of sanctions the Court may impose “for the purposes of permitting resolution of the relevant issues and disposition of the proceeding and to avoid unnecessary delay[.]” Here, the Court has not issued a discovery order; therefore, discovery sanctions are not warranted pursuant to this first provision, § 68.23(c). Further, there is presently no Court order that Respondent has disobeyed or resisted; therefore, sanctions per § 68.28 are inappropriate. Third, Complainant’s assertions of fraud are unsubstantiated, which renders § 68.35 sanctions inapposite.³

Lastly, the Court denies Complainant’s motion for sanctions pursuant to 18 U.S.C. § 1001 because the Court’s jurisdiction in this case is limited to 8 U.S.C. § 1324b. *See generally Reed v. Dupont Pioneer Hi-Bred Int’l, Inc.*, 13 OCAHO no. 1321, 3 (2019).

Based on the foregoing, Complainant’s Motion for Discovery and Sanctions is DENIED.

SO ORDERED.

Dated and entered on May 5, 2022.

Honorable Andrea R. Carroll-Tipton
Administrative Law Judge

³ To the extent that Complainant seeks to strike Respondent’s answer because of alleged fraud, the Court denies such a request because there has been no evidence or indication of fraud.