

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

May 13, 2022

TAREQ ZIAD FOUAD ZAKARNEH,)	
Complainant,)	
)	
v.)	8 U.S.C. § 1324b Proceeding
)	OCAHO Case No. 2022B00013
)	
INTEL CORPORATION,)	
Respondent.)	
_____)	

Appearances: Tareq Ziad Fouad Zakarneh, pro se, for Complainant
Patrick Shen, Esq., for Respondent

ORDER TO SHOW CAUSE

This case arises out of the antidiscrimination provisions of the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324b. On December 28, 2021, Complainant, Tareq Ziad Fouad Zakarneh, filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) against Respondent, Intel Corporation, alleging citizenship status discrimination, retaliation, and unfair documentary practice related to the employment eligibility verification process in violation of § 1324b. On February 28, 2022, Respondent filed its Answer to Complaint. *See Zakarneh v. Intel Corp.*, 16 OCAHO no. 1414, 1, 3 (2022).¹

On March 29, 2022, Respondent filed Respondent’s Motion to Dismiss. On April 13, 2022, Complainant’s Response to Motion to Dismiss. On May 4, 2022, the Immigrant and Employee

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>.

Rights Section (IER) of the Civil Rights Division of the U.S. Department of Justice submitted a filing entitled “Statement of Interest of the United States” (Statement of Interest). IER did not seek leave of the Court to file its Statement of Interest.

IER cites 28 U.S.C. § 517 as its rationale for the procedural propriety of its filing.² Statement of Interest 1. In its submission, IER states:

The United States, through the Immigrant and Employee Rights Section (IER) in the Department of Justice, is responsible for enforcing the anti-discrimination provision of the Immigration and Nationality Act, 8 U.S.C. § 1324b. 8 U.S.C. § 1324b(c); 28 C.F.R. § 0.53. The United States therefore has a strong interest in proper application of § 1324b and the Department of Justice regulations implementing this law, found at 28 C.F.R. Part 44. This Statement of Interest does not address any other argument raised in the Motion to Dismiss.

Id. at 2.

Although IER entitles its filing a “Statement of Interest,” it is indistinguishable from an amicus curiae filing.³

Generally, to file an amicus brief, the amicus curiae must file for leave of the administrative law judge (ALJ) upon motion or petition.⁴ 28 C.F.R. § 68.17. Regardless of the applicability of 28 U.S.C. § 517,⁵ IER must comply with OCAHO’s procedural regulations. Indeed, IER has previously sought leave of court to file amicus briefs. *See Lundy v. OOCL (USA) Inc.*, 1 OCAHO no. 215, 1438, 1441 (1990); *Brown v. Balt. City Pub. Schs.*, 3 OCAHO no. 480, 831, 834 (1992); *Cruz v. Able Serv. Contractors, Inc.*, 6 OCAHO no. 837, 144, 146 (1996);

² 28 U.S.C. § 517, entitled “Interests of United States in pending suits[,]” states “any officer of the Department of Justice, may be sent by the Attorney General to any State or district in the United States to attend to the interests of the United States in a suit pending in a court of the United States, or in a court of a State, or to attend to any other interest of the United States.”

³ An amicus curiae is defined as “[s]omeone who is not a party to a lawsuit but who petitions the court or is requested by the court to file a brief in the action because that person has a strong interest in the subject matter.” *Amicus Curiae, Black’s Law Dictionary* (11th ed. 2019).

⁴ An amicus curiae does not need to file a motion or petition for leave of the ALJ to file a brief when the ALJ invites the amicus curiae to file its brief. *See Caspi v. Trigild Corp.*, 6 OCAHO no. 907, 957, 966 (1997); *A.S. v. Amazon Web Servs., Inc.*, 14 OCAHO no. 1381d, 2–3 (2021).

⁵ The Court does not need to opine on the applicability of this statute to OCAHO proceedings, and declines to do so.

Diarrassouba v. Medallion Fin. Corp., 9 OCAHO no. 1076, 4 (2001); *Nickman v. Mesa Air Grp.*, 9 OCAHO no. 1113, 2 (2004).

IER is ORDERED to show cause why its Statement of Interest should be accepted and considered despite its apparent non-compliance with the amicus filing requirements of § 68.17. Alternatively, or in conjunction with its filing, IER is not precluded from making a motion in accordance with § 68.17. Additionally, IER is ORDERED to file a notice of appearance in compliance with 28 C.F.R. § 68.33(f). *See in re Investigation of Ga. Inst. of Tech.*, 15 OCAHO no. 1399, 3 (2021). IER's submissions are due on or before May 27, 2022.

SO ORDERED.

Dated and entered on May 13, 2022.

Honorable Andrea R. Carroll-Tipton
Administrative Law Judge