

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

June 21, 2022

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

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

ORDER DISCHARGING ORDER TO SHOW CAUSE AND
GRANTING IER LEAVE TO FILE AMICUS CURIAE BRIEF

I. PROCEDURAL HISTORY

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

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>.

On March 29, 2022, Respondent filed Respondent’s Motion to Dismiss. On April 13, 2022, Complainant filed Complainant’s Response to Motion to Dismiss.

On May 4, 2022, the Immigrant and Employee 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) to address an argument made in Respondent’s Motion to Dismiss.

On May 13, 2022, the Court issued an Order to Show Cause because IER neither sought leave of Court prior to filing its Statement of Interest nor filed a Notice of Appearance.² *Zakarneh v. Intel Corp.*, 16 OCAHO no. 1414a, 2–3 (2022).

On May 27, 2022, IER filed United States’ Motion for Leave to File an Amicus Curiae Brief requesting leave to file its amicus curiae brief, which it entitled Statement of Interest and attached to the motion. In support of its position, IER noted its “strong interest in proper interpretation and application of § 1324b and the DOJ’s implementing regulations, found at 28 C.F.R. Part 44.” Mot. Leave 2. IER further explained that its amicus curiae filing would:

identify the correct legal standard governing the date a charge received as incomplete under 28 C.F.R. § 44.301(d)(1), but later made complete with information a charging party provided in a timely manner under 28 C.F.R. § 44.301(d)(2), is deemed filed, for purposes of the 180-day time limitation for filing a charge.

Id. at 1–2. On June 1, 2022, IER filed a Notice of Appearance.

Neither Complainant nor Respondent submitted matters for the Court’s consideration following receipt of the submissions by IER. *See* 28 C.F.R. § 68.11(b).

II. DISCUSSION

“Generally, to file an amicus brief, the amicus curiae must file for leave of the administrative law judge (ALJ) upon motion or petition.” *Zakarneh*, 16 OCAHO no. 1414a, at 2 (citing 28 C.F.R. § 68.17). As an administrative matter, the Court STRIKES IER’s Statement of Interest dated May 4, 2022, for noncompliance with § 68.17. That submission will not be considered.

Requesting leave to file an amicus curiae brief is not merely an exercise in formalities. Amici curiae must seek leave because it is the Court, acting as a gatekeeper, that bears responsibility in shepherding the compilation of the administrative record. Separately, requiring amici curiae to

² As is required by 28 C.F.R. § 68.17 and 28 C.F.R. § 68.33(f) respectively.

seek leave allows for conservation of judicial resources as it provides the Court notice that there may be additional considerations to take under advisement prior to issuing a decision.

With the rationale for the requirement to seek leave in mind, the undersigned finds that IER's Motion for Leave, albeit belated, explains sufficiently how its filing would assist the Court in rendering a decision. Additionally, the Notice of Appearance satisfies § 68.33(f). Therefore, the Court DISCHARGES the Order to Show Cause and GRANTS IER's Motion for Leave to File Amicus Curiae Briefing. The amicus curiae brief attached to the motion is deemed filed and will be considered.

SO ORDERED.

Dated and entered on June 21, 2022.

Honorable Andrea R. Carroll-Tipton
Administrative Law Judge