

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

August 10, 2022

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 TO SHOW CAUSE TO COMPLAINANT  
REGARDING AMENDED 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., alleging that Respondent discriminated against him because of his national origin and citizenship status. Compl. 6.<sup>1</sup>

On September 24, 2021, the Court issued an Order to Show Cause Regarding Jurisdiction (OTSC 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. The Court has “subject matter jurisdiction over unfair immigration-related employment practices only if the employer employs more than three employees.” *Id.* (first citing *United States v. Facebook, Inc.*, 14 OCAHO no. 1386b, 6–7 (2021); and then citing 8 U.S.C. § 1324b(a)(1)(A), 1324b(a)(2)(A)). Further, “the Court lacks subject matter jurisdiction over a national origin discrimination claim if the employer employs less than four or more than fourteen employees.” *Id.* (citing *Facebook, Inc.*, 14 OCAHO no. 1386b, 6–7). Complainant, who has the burden to

<sup>1</sup> 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.

establish jurisdiction, did not provide any information in his original complaint regarding the number of employees Respondent employs. *Id.* The Court has an independent obligation to determine if it has subject matter jurisdiction. *Id.* at 1 (citing *Sinha v. Infosys*, 14 OCAHO no. 1373, 2 (2020)).

On April 25, 2022, the Court discharged the Order to Show Cause because Complainant provided a submission stating that Respondent had the jurisdictional number of employees, between four and fourteen employees. *Zajradhara v. LBC Mabuhay (Saipan) Inc.*, 16 OCAHO no. 1423, 3 (2022).<sup>2</sup> The Court also granted Complainant leave to amend his complaint to include jurisdictional facts because the operative complaint was deficient since it did not specify the number of employees Respondent had. *Id.* at 4. Complainant's amended complaint was due June 13, 2022. *Id.* The Court warned that “[i]f Complainant fails to amend his complete within the allotted time [of May 23, 2022], his complaint may be dismissed for failure to plead jurisdiction as required by [28 C.F.R.] § 68.7(b)(1).” *Id.* In setting the generous deadline, the Court was mindful that “this is not an e-filing case and the parties are located in the Northern Mariana Islands.” *Id.* at 4 n.3.

On July 21, 2022, Respondent faxed via facsimile Respondent's Notice of Non-Filing of Complainant's Amended Answer (Respondent's Notice)<sup>3</sup> in which it noted that the case should be dismissed for lack of jurisdiction because Complainant had not filed its amended complaint.

To date, the Court has not received Complainant's amended complaint. Accordingly, Complainant is ORDERED to show cause explaining why he failed to timely amend his complaint. Complainant must also file his amended complaint. Both submissions must be filed by August 25, 2022.

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<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 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>.

<sup>3</sup> The Court is appreciative of Respondent's attentiveness to case deadlines. Consistent with concerns raised in Respondent's filing, the Court now issues the instant Order to develop a thorough record as to Complainant's rationale for the absence of a timely filed amended Complaint. To the extent Respondent moves this Court to dismiss this case, the motion is denied as it is premature. Respondent is not precluded from filing this motion anew should Complainant fail to timely comply with this Order.

Respondent's answer to the amended complaint is due September 26, 2022.

If Complainant fails to provide both filings by the date specified, the Court may dismiss the case for failure to plead jurisdiction as required by 28 C.F.R. §68.7(b)(1) and/or for failure to respond to the Court's orders pursuant to 28 C.F.R. § 68.37(b)(1). *See Mbitaze v. City of Greenbelt*, 13 OCAHO no. 1345a, 5 (2020) (stating that complaint should be dismissed if there is no subject matter jurisdiction); *Ravines de Schur v. Easter Seals-Goodwill N. Rocky Mountain, Inc.* 15 OCAHO no. 1388g, (2022) (deeming complaint abandoned for the complainant's failure to comply with court orders).

SO ORDERED.

Dated and entered on August 10, 2022.

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Honorable Andrea R. Carroll-Tipton  
Administrative Law Judge