

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

R.S.,	)	
	)	
Complainant,	)	
	)	8 U.S.C. § 1324b Proceeding
v.	)	
	)	OCAHO Case No. 19B00048
LATTICE SEMICONDUCTOR,	)	
	)	
Respondent.	)	

ORDER DENYING COMPLAINANT’S MOTION FOR LEAVE OF COURT TO  
FILE A SUPPLEMENTAL RESPONSE TO RESPONDENT’S MOTION FOR  
SUMMARY DECISION

I. PROCEDURAL HISTORY

On August 12, 2019, Complainant, R.S., filed a complaint, pro se, with the Office of the Chief Administrative Hearing Officer (OCAHO) against Respondent, Lattice Semiconductor. Complainant alleged in his complaint that Respondent refused to hire him based on his citizenship status, in violation of the antidiscrimination provisions of the Immigration and Nationality Act, as amended by the Immigration Reform and Control Act of 1986, 8 U.S.C. § 1324b. Respondent filed a timely answer.

On June 25, 2020, the Court issued an Order on Respondent’s Motion to Compel Discovery. In that Order, the Court ordered the parties to file dispositive motions by July 29, 2020, and responses to any dispositive motions by August 18, 2020. On July 27, 2020, Respondent filed a motion for summary decision. Complainant filed a timely response to Respondent’s motion on August 14, 2020.

On March 5, 2021, Complainant filed a request to submit additional points in response to Respondent’s motion for summary decision. Respondent filed its opposition to Complainant’s request on March 8, 2021, arguing that the request was untimely, lacking in good cause, and made without justification or citation to legal authority. Respondent noted that Complainant had not raised concerns about the Court’s briefing schedule and, at that time, had filed a lengthy, timely response. Respondent asked the Court to deny Complainant’s request.

## II. DISCUSSION AND ANALYSIS

Before the Court is Complainant's request to submit additional points in response to Respondent's motion for summary decision. The Court construes his request as a motion for leave of Court to file a supplemental response to Respondent's motion for summary decision. Complainant's motion is denied.

Complainant's motion is untimely, having been filed more than six and a half months after the Court's deadline for filing responses. The length of his delay counsels against granting his request. His filing also does not satisfy the pleading requirements under OCAHO's Rules of Practice and Procedure for Administrative Hearings located at 28 C.F.R. § 68. Specifically, Section 68.11(a) requires a party to "state with particularity the grounds" for his motion. Here, Complainant fails to explain why, at this late date, he is moving the Court for leave to file a supplemental response. His motion, consisting of three sentences, is silent as to his reasoning, offers no legal support, and fails to attach his proposed supplemental response.

The standard routinely applied in evaluating motions for supplemental pleadings is good cause. Complainant's filing lacks the requisite specificity to demonstrate good cause. He has not provided any detailed rationale for the Court to consider, and the Court cannot find one in the record before it.

Nothing suggests that the Court's briefing schedule hindered Complainant's ability to advance his arguments and evidence in this matter. He never sought an extension of time from the Court to file his response to Respondent's motion for summary decision. Indeed, Complainant filed his response early—four days before the Court's deadline. His response was robust: nineteen pages in length with an additional 315 pages of exhibits and seventeen pages of typewritten rebuttals to Respondent's six supporting declarations. OCAHO courts have denied similar untimely requests to file supplemental responses to motions for summary decision where the complainant had "ample opportunity to submit a brief on all issues of law and fact." *Trivedi v. Northrop Corporation and Department of Defense*, 4 OCAHO no. 603, 135, 136 (1994).

Allowing Complainant to file a supplemental response now would result in an unfair application of OCAHO's regulations and the possibility of prejudice to the other party. See *United States v. Shine Auto Service*, 1 OCAHO no. 70, 444, 446 (Vacation by the Chief Administrative Hearing Officer of the Administrative Law Judge's Order Denying Default Judgment) (7/14/89) ("It is of the utmost importance

that the regulations are uniformly applied.”). Respondent did not request, and was not given, leave to file a reply to Complainant’s response to its motion. As such, Complainant has had an opportunity to respond to all of the arguments Respondent made, and the evidence submitted, to the Court. He has had the last word and principles of fairness dictate that he should not receive another opportunity to supplement his filing now.

### III. CONCLUSION

IT IS SO ORDERED that Complainant’s Motion for Leave of Court to File a Supplemental Response to Respondent’s Motion for Summary Decision is DENIED.

ENTERED:

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Honorable Carol A. Bell  
Acting Chief Administrative Law Judge

DATE: March 25, 2021