

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

March 28, 2023

ANDREW EWOMA EHERE,)	
Complainant,)	
)	
v.)	8 U.S.C. § 1324b Proceeding
)	OCAHO Case No. 2022B00057
)	
HAWAIIUSA FEDERAL CREDIT UNION,)	
Respondent.)	
_____)	

Appearances: Andrew Ewoma Ehere, pro se Complainant
Kendra Kawai, Esq. and D. Elliot Gonzalez, Esq., for Respondent

ORDER REJECTING E-FILING

This case arises under the employment discrimination provisions of the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324b. Complainant, Andrew Ewoma Ehere, filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) on September 20, 2022.

On November 2, 2022, the Court issued an Order for Prehearing Statements. The Court directed the parties to file prehearing statements and “simultaneously with its prehearing statement, make its initial disclosure of documentary evidence to the other party without waiting for a formal discovery request to be made.” Order for Prehr’g Statements 3. The Court explained copies of any exhibits listed in the parties’ preliminary exhibit lists “are to be disclosed to the other party, *not to this Court.*” *Id.* (emphasis added).

On January 18, 2023, the Court issued an Order on Respondent’s Motion to Dismiss, for an Order to Show Cause, and for an Extension, accepting Complainant’s late-filed prehearing statement and resetting the deadline for Respondent’s prehearing statement. Respondent filed its prehearing statement and made initial disclosures on February 17, 2023.

On March 6, 2023, Complainant e-filed his initial disclosures with the Court.¹ He attached copies of the exhibits and a witness list to the email.

Complainant's March 6, 2023 e-filing is rejected, and will not be considered by the Court.

In its November 2, 2022 Order for Prehearing Statements, the Court directed the parties not to disclose copies of the exhibits listed in their preliminary exhibit lists to the Court, only to the other party. Because Complainant's filing is unsolicited, and because Complainant does not move the Court to take an action or refrain from doing so by way of this filing, rejection is the appropriate outcome.² See *Sharma v. NVIDIA Corp.*, 17 OCAHO no. 1450e, 2 (2023) (rejecting an "unsolicited evidentiary submission," noting that such a submission "runs afoul of the Court's obligation to ensure a clear record" (citing *United States v. Fasakin*, 15 OCAHO no. 1375c, 3 (2021) (explaining record development through the hearing process)).³

While this filing is rejected, in an effort to assist parties in compliance with general filing requirements, the Court is inclined to note the following. The rejected filing contained two attached audio files in ".m4a" format.

¹ This e-filing was received by the Court on March 7, 2023 at 12:15 a.m. Eastern Standard Time. Given that the parties are located in Hawaii, and therefore the document was sent on March 6, 2023 at 9:15 p.m. Pacific Standard Time (the date on Complainant's certificate of service), the Court will consider the document as filed on March 6, 2023. This approach is consistent with regulations pertaining to hearing location outlined in 28 C.F.R. § 68.5(b), which require that in setting a location for a § 1324b hearing, "due regard shall be given to the convenience of the parties and the witnesses in selecting a place for a hearing," rather than using OCAHO's location for hearings.

² Pursuant to 28 C.F.R. § 68.11(a), any application for an order or other request for the Court "shall be made by motion," which "shall state with particularity the grounds therefor, and shall set forth the relief or order sought."

³ 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 "FIMOCAHO," or in the LexisNexis database "OCAHO," or on the website at <http://www.justice.gov/eoir/OcahoMain/ocahosibpage.htm#PubDecOrders>.

The Court cannot accept filings in this format, and parties must instead provide all filings and case related documents in Portable Document Format (PDF), unless otherwise instructed by the presiding ALJ. *See* OCAHO Electronic Filing Pilot Program, 79 Fed. Reg. 31,144 (May 15, 2014) (“All files submitted by email must be in PDF.”).⁴

SO ORDERED.

Dated and entered on March 28, 2023.

Honorable Andrea R. Carroll-Tipton
Administrative Law Judge

⁴ *Available at* https://www.justice.gov/eoir/pages/attachments/2015/03/24/79fedreg31143_05-30-2014.pdf (last visited March 28, 2023).

When audio files contain relevant information, parties can consider transcribing them and converting that transcription to a PDF before submission.