

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

June 25, 2024

ZAJI OBATALA ZAJRADHARA,	)	
Complainant,	)	
	)	
v.	)	8 U.S.C. § 1324b Proceeding
	)	OCAHO Case No. 2024B00012
	)	
MANBIN CORPORATION,	)	
Respondent.	)	
_____	)	

Appearances: Zaji Obatala Zajradhara, pro se Complainant  
Stephen Nutting, Esq., for Respondent

ORDER DISCHARGING ORDER TO SHOW CAUSE (IN PART) & ACCEPTING ANSWER

I. BACKGROUND

This case arises under the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324b. On October 17, 2023, Complainant, Zaji Obatala Zajradhara, filed a complaint against Respondent, Manbin Corporation, alleging Respondent discriminated against him on the basis of national origin and citizenship status and retaliated against him in violation of 8 U.S.C. §§ 1324b(a)(1) and (a)(5).

On October 30, 2023, this office sent Respondent a Notice of Case Assignment for Complaint Alleging Unfair Immigration-Related Employment Practices (NOCA) and a copy of the Complaint, via certified U.S. mail. The U.S. Postal Service (USPS) website tracking service indicates that the Complaint and NOCA were delivered on November 16, 2023, making an answer due no later than December 16, 2023. *See* 28 C.F.R. §§ 68.3(a), 68.9(a).<sup>1</sup> Respondent did not file an answer by this date.

<sup>1</sup> OCAHO Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2023).

On January 10, 2024, Complainant filed a “Request for Summary Judgment.” Complainant appears to request that the Court “grant him damages” due to the Respondent’s failure to file an answer to the Complaint. *See generally* Req. Summ. Judgment.

The Court sent an additional copy of the NOCA and Complaint to an alternate Respondent address on February 20, 2024. That NOCA and Complaint were delivered on March 9, 2024, making an answer due no later than April 8, 2024. *See* 28 C.F.R. §§ 68.3(a), 68.9(a).

On April 25, 2024, the Court issued an Order to Show Cause – Jurisdiction & Deficient Complaint. *Zajradhara v. Manbin Corp.*, 19 OCAHO no. 1553 (2024).<sup>2</sup> The Court directed Complainant to file a response within 30 days of receipt of the order addressing the Court’s subject matter jurisdiction over his national origin discrimination claim, and addressing why his retaliation claim should not be dismissed for failure to state a claim. *Id.* at 3.

On June 4, 2024, Respondent, through counsel, filed an Entry of Appearance, an Answer, and a Motion to Allow Late Filing of Pleading. Respondent asks the Court to accept the late-filed Answer as counsel was recently retained, and he was “off-island” during the month of April.

On June 12, 2024, Complainant filed a response to the Court’s Order to Show Cause. Complainant writes that although his Complaint alleged that Respondent employed fewer than four employees, “after further review and investigation, the Complainant realizes this was an error,” and Respondent employs between 4 and 14 employees. Resp. 1. Complainant asks for the opportunity to amend his Complaint to cure this deficiency. *Id.* Separately, on June 17, 2024, Complainant filed a Laymans’ Motion for Addendum Workforce Listing, attaching Commonwealth of the Northern Mariana Islands Department of Labor (CNMI DOL) Workforce Listings for the Respondent from First Quarter 2022 through Fourth Quarter 2023.<sup>3</sup>

---

<sup>2</sup> Citations to OCAHO precedents in bound volumes one through eight include the volume and case number of the particular decision followed by the specific page in the bound volume where the decision begins; the pinpoint citations which follow are to the pages, seriatim, of the specific entire volume. Pinpoint citations to OCAHO precedents after volume eight, where the decision has not yet been 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 through the Westlaw database “FIM OCAHO,” the LexisNexis database “OCAHO,” and on the United States Department of Justice’s website: <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-decisions>.

<sup>3</sup> This filing was submitted via email to OCAHO’s SCTC email inbox. This case is not approved for OCAHO’s Electronic Filing Pilot Program. The Court has exercised discretion to accept this filing, but Complainant is cautioned that further improper filings may be rejected. The Court has attached electronic filing registration forms to this order—the parties may complete and return these forms to the Court to enroll in the electronic filing program.

In response to Respondent’s request to allow its late-filed answer, Complainant filed an opposition on June 13, 2024. In his opposition, Complainant writes that Respondent’s untimely filed answer reflects “blatant disregard of established legal procedures.” Complainant’s Opp’n 1.

## II. ORDER TO SHOW CAUSE – DISCHARGED AS TO NATIONAL ORIGIN CLAIM

In its Order to Show Cause – Jurisdiction and Deficient Complaint, the Court noted Complainant alleged Respondent had 15 or more employees. *Zajradhara*, 19 OCAHO no. 1553, at 3. This number of employees called into question whether OCAHO had subject matter jurisdiction over Complainant’s national origin claim. *Id.* Additionally, Complainant had not alleged a retaliatory action taken against him to interfere with his rights under § 1324b, or to discourage him from filing an IER charge or from participating in OCAHO proceedings. *Id.* The Court directed Complainant to submit a filing explaining: (1) his position on subject matter jurisdiction over his national origin claim; and (2) why his retaliation claim should not be dismissed for failure to state a claim. *Id.*

In his response, Complainant asserts the Court has jurisdiction over his national origin claim because Respondent employs between 4 and 14 employees. Complainant’s Resp. 1.

The Court is satisfied it has subject matter jurisdiction over Complainant’s national origin allegation. The Complainant provided supplemental CNMI DOL Workforce Listings, which show during the Q2 2023, Respondent had at least four employees (and Complainant alleges he applied for a vacancy on May 21, 2023). *See Sanchez v. Ocanas*, 9 OCAHO no. 1115, 3 (2005) (“[T]he count of employees is to be made as of the date the alleged discrimination occurred and that all who are employed on that date, whether full-time or part-time, and whether permanent or seasonal, are to be counted.”).<sup>4</sup>

Based on his submission, Complainant may be able to cure deficiencies relating to his national origin claim, and he will be provided an opportunity do so. The Court may allow amendments to pleadings “[i]f a determination of a controversy on the merits will be facilitated thereby.” 28 C.F.R. § 68.9(e). Further, the Court considered his pro se status, and the likelihood pleading deficiencies may be remedied through amendment. *Lucas v. Dep’t of Corr.*, 66 F.3d 245, 248 (9th

---

<sup>4</sup> Complainant does not allege when he received a rejection. However, he calculates back pay from June 2023. *See Lukovsky v. City & Cnty. of San Francisco*, 535 F.3d 1044, 1051 (9th Cir. 2008) (explaining that, for failure to hire, the date of discrimination is when the complainant received notice he would not be hired, or when he should have realized that he had not been hired for the position).

Cir. 1995) (per curiam) (a pro se litigant must be given leave to amend his complaint unless it is “absolutely clear” that its deficiencies cannot be cured by amendment).

Complainant may file an amended complaint by August 16, 2024. If Complainant fails to amend his Complaint, he must understand the allegation may be dismissed because the pleading is deficient. *See* 8 U.S.C. § 1324(a)(2)(B) and 28 C.F.R. § 68.10(b).

### III. DISMISSAL WITHOUT PREJUDICE – RETALIATION ALLEGATION

While Complainant addresses the employee numerosity issue outlined in the Order to Show Cause, he does not provide any argument or evidence pertaining to his retaliation allegation. The Court is satisfied the Complainant had sufficient time to provide such information, and it now DISMISSES WITHOUT PREJUDICE the retaliation allegation because the allegation fails to state a claim upon which relief can be granted. *See* 28 C.F.R. § 68.10(b) (providing that an ALJ may dismiss a complaint for failure to state a claim upon which relief can be granted, without a motion from the respondent, if the ALJ affords the complainant an opportunity to show cause why the complaint should not be dismissed).

“Statements made in the complaint only need to be ‘facially sufficient to permit the case to proceed further,’ . . . as ‘[t]he bar for pleadings in this forum is low.’” *Sharma v. NVIDIA Corp.*, 17 OCAHO no. 1450, 3 (2022) (citing *United States v. Mar-Jac Poultry, Inc.*, 10 OCAHO no. 1148, 10 (2012), and then citing *United States v. Facebook, Inc.*, 14 OCAHO no. 1386b, 5 (2021)). “[P]leadings are sufficient if ‘the allegations give adequate notice to the respondents of the charges made against them.’” *Id.* (quoting *Santiglia v. Sun Microsystems, Inc.*, 9 OCAHO no. 1097, 10 (2003)); *see also Mar-Jac Poultry, Inc.*, 10 OCAHO no. 1148, at 9.

As the Court previously explained, “[t]o state a claim for retaliation under § 1324b, a complainant ‘must show that the respondent took an adverse action to discourage a complainant from activity related to the filing of an IER charge or an OCAHO proceeding, or to interfere with her rights or privileges secured specifically under § 1324b.’” *Zajradhara*, 19 OCAHO no. 1553, at 3 (citing *Patel v. USCIS Boston*, 14 OCAHO no. 1353, 4 (2020)).

Germane to the deficiency here, “[i]n order to qualify as protected conduct in this forum, the conduct must implicate some right or privilege specifically secured under § 1324b, or a proceeding under that section.” *Id.* at 18 (citing, inter alia, *Yohan v. Cent. State Hosp.*, 4 OCAHO no. 593, 13, 21–22 (1994) (finding no OCAHO jurisdiction over threats to report employer to “EEOC, the Immigration Department [sic], the American Counsel General, the ALCU [sic], the NAACP, Georgia Legal Services,” or agencies other than IER or OCAHO)).

Complainant alleges Respondent is “part of Jun Joo Corporation,” which is “retaliating against all of [his] applications, because [he has] been repeatedly attempting to expose this company for massive visa fraud & discrimination against [him]self,” and because he has been “trying for years to expose this company for C-1 visa fraud.” Compl. 9, 15. Attempts to expose visa fraud is not a right or privilege under § 1324b. “[V]ague and generalized statements of intent to pursue some legal action of an undefined character in the future ordinarily do not” constitute protected activity. *Sodhi v. Maricopa Cnty. Special Health Care Dist.*, 10 OCAHO no. 1127, 22 (2008).

Finally, the Court notes this dismissal is without prejudice. Complainant may “reinstitute the matter at any time by filing a new complaint.” *Zajradhara v. CL Corp.*, 16 OCAHO no. 1429, 3 (2022) (citation omitted).

#### IV. ANSWER

The Court finds that Respondent has demonstrated the requisite good cause for its late-filed answer. *See M.S. v. Dave S.V. Hoon-John Wayne Cancer Inst.*, 12 OCAHO no. 1305, 4–5 (2017). First, the failure to file a timely answer does not appear to have been willful. The Court recognizes the uncertainty regarding the timing of service of the Complaint and NOCA on Respondent, as well as the inherent delays associated with filing and serving documents between Saipan, CNMI (where the parties are located) and Falls Church, Virginia (where the Court received mail filings). Respondent recently retained counsel who explained his unavailability during Spring 2024. Second, while the late-filed answer has led to a delay in this matter of several months, this case is still in its early stages, and the Court does not find that Complainant has shown that he suffered prejudice aside from delay (indeed, Answer filed or not, the Court would have issued its April 25, 2024, Order to Show Cause, which required a response from Complainant). Finally, Respondent’s Answer appears to present meritorious defenses. *See, e.g., Sinha v. Infosys*, 14 OCAHO no. 1373a, 4–6 (2021).

Therefore, the Court GRANTS Respondent’s Motion and Declaration to Allow Late Filing of Pleading, and accepts Respondent’s answer. Given this decision, Complainant’s Request for Summary Judgment—which requests default judgment based on Respondent’s failure to timely file an answer to the Complaint—is DENIED AS MOOT. Complainant may file a Motion for Summary Decision at a later stage in these proceedings if he chooses to do so.

#### V. INITIAL CASE SCHEDULE

The Court sets the following case schedule:

Deadline for filing a first amended complaint: August 16, 2024

Deadline for filing an answer to a first amended complaint (if any): September 20, 2024

Additional deadlines and guidance will be provided depending on what, if any motions outlined above, are filed. Parties are not to commence discovery until instructed to do so by the Court.

SO ORDERED.

Dated and entered on June 25, 2024.

---

Honorable Andrea R. Carroll-Tipton  
Administrative Law Judge