

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

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| US TECH WORKERS ET AL., |) | |
| Complainant, |) | |
| |) | |
| |) | 8 U.S.C. § 1324b Proceeding |
| v. |) | OCAHO Case No. 2024B00042 |
| |) | |
| |) | |
| CATERPILLAR, |) | |
| Respondent. |) | |
| |) | |

ORDER OF INQUIRY

This case arises under the antidiscrimination provisions of the Immigration and Nationality Act (INA), as amended, 8 U.S.C. §1324b. Complainant, US Tech Workers et al., filed a Complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) on February 9, 2024, against Respondent, Caterpillar. Complainant alleges that Respondent engaged in discrimination on the basis of citizenship status in hiring, in violation of 8 U.S.C. § 1324b(a)(1).

On February 21, 2024, the Chief Administrative Hearing Officer (CAHO) sent a Notice of Case Assignment for Complaint Alleging Unfair Immigration-Related Employment Practices (NOCA) and a copy of the Complaint (the “Complaint package”) by United States Postal Service (USPS) certified mail to the address for Respondent listed on the Complaint. According to the USPS tracking service website, the Complaint package was delivered and left with an individual on February 26, 2024. Therefore, pursuant to 28 C.F.R. § 68.9(a), an answer was due no later than March 27, 2024. To date, Respondent has not filed an answer.

However, the address for Respondent listed on the Complaint appears to be its global headquarters in Irving, Texas.¹ Complainant did not identify an individual for the Court to direct service towards. This Court has previously noted that service “to the mailroom of a

¹ See Global Locations, Caterpillar, <https://www.caterpillar.com/en/company/global-footprint.html> (noting that the company is “[h]eadquartered in Irving, Texas, U.S.”); see also United States v. Koy Chinese & Sushi Rest., 16 OCAHO no. 1416d, 4 (2023) (“Respondent’s corporate identity, corporate inception date, and dates of operation are all matters of public record, reflect information maintained in government records, and have not been disputed or had their accuracy questioned by either party; accordingly, they are matters appropriately subject to official notice.”) (citations omitted).

multinational company, rather than directed to the attention of an officer, director, or registered agent of the company” is not “reasonably calculated to advise the Respondent of [the] matter pending before it.” Shater v. Shell Oil Co., 18 OCAHO no. 1504, 3–4 (2023).² Moreover, 28 C.F.R. § 68.3(a)(3)³ specifies that service of the complaint may be made by “mailing to the last know address of such individual, partner, officer, or attorney or representative of record.”

Therefore, the record creates a question as to whether the Court has properly effected service in this case. When OCAHO encounters difficulties in perfecting service, it can seek the assistance of a party. *See* 28 C.F.R. § 68.3(c) (stating “the Administrative Law Judge may direct that a party execute service of process” when OCAHO encounters difficulties in perfecting service).

“OCAHO case law demonstrates that in instances when a complaint cannot be effectively served, it is dismissed without prejudice[.]” Heath v. Vbeyond Corp., 14 OCAHO no. 1368a, 3–4 (2020) (citing United States v. Iniguez-Casillas, 6 OCAHO no. 870, 510, 512 (1996), and then citing United States v. Baches-Corado, 3 OCAHO no. 571 (1993)) (internal quotations omitted). Accordingly, this Complaint may be dismissed if it cannot be effectively served.

As the record creates a question as to whether service of the complaint has been effected through mailing to the address provided for Respondent in the Complaint, the undersigned directs Complainant to provide an alternative mailing address for Respondent which comports with 28 C.F.R. § 68.3(a)(3) and OCAHO precedent. The Complainant must respond within 21 days of the issuance of this Order.

² 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>.

³ OCAHO Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2022).

SO ORDERED.

Dated and entered May 2, 2024.

John A. Henderson
Administrative Law Judge