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

March 31, 2025

VINAY SAINI, Complainant,	)	
v.	)	8 U.S.C. § 1324b Proceeding OCAHO Case No. 2025B00001
SHERIDAN COMMUNITY HOSPITAL, ET AL., Respondent.	)	

Appearances: Vinay Saini, pro se Complainant
Michaelle L. Baumert, Esq., David A. Calles Smith, Esq., and Kimberly McNulty, Esq., for Respondent[1]

ORDER ON COMPLAINANT'S MOTION TO COMPEL

I. PROCEDURAL HISTORY

This case arises under the antidiscrimination provisions of the Immigration and Nationality Act, as amended, 8 U.S.C. § 1324b. On October 1, 2024, Complainant, Vinay Saini, filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) against Respondent, Sheridan Community Hospital, et al., alleging discrimination on the basis of national origin and citizenship status, retaliation, and overdocumentation with respect to the employment eligibility verification process, in violation of 8 U.S.C. §§ 1324b(a)(1), (a)(5), and (a)(6). Respondents filed their Answer and Affirmative Defenses on December 3, 2024.

On January 27, 2025, Respondents filed a Motion to Dismiss the complaint via facsimile. An original copy was filed via ordinary mail on January 29, 2025.

[1] On March 20, 2025, Respondent filed a Motion to Withdraw Sarah J. Millsap as counsel, and on March 21, 2025, it filed a Notice of Appearance as Counsel and e-filing form for Michaelle Baumert. The Motion to Withdraw is GRANTED and the certificate of service and appearances line have been updated accordingly.

On January 28, 2025, the Court held a prehearing conference with the parties during which it stayed discovery pending resolution of the motion to dismiss, "except for discovery related to Respondent's number of employees." *Saini v. Sheridan Cmty. Hosp.*, 21 OCAHO no. 1644, 3 (2025).[2] This was so Complainant could "respond to [Respondent's] argument that the Court lacks subject matter jurisdiction over his discrimination claims." *Id.* Additionally, the Court acknowledged the fact that, in the Complaint, Complainant "identified other additional agents/entities of Respondent-business against whom he seeks to bring these claims," and amended the case caption accordingly. *Id.*

On February 12, 2025, Respondents filed a Motion for Leave to Amend Respondent's Motion to Dismiss, along with the Amended Motion to Dismiss. Complainant filed his Opposition to the Motion for Leave to Amend on the same day. Respondents' amended motion to dismiss argues that the additional named respondents in this action should be considered agents of Respondent-business and not in their individual capacities.

On February 25, 2025, the Court issued an Order Granting Respondent's Motion for Leave to Amend Motion to Dismiss, and gave Complainant "until March 18, 2025, to amend his response to address the Amended Motion to Dismiss." *Saini v. Sheridan Cmty. Hosp.*, 21 OCAHO no. 1644a, 4 (2025).

On February 28, 2025, Complainant filed a Motion to Compel Discovery Responses, to which Respondents filed an Opposition on March 10, 2025. Lastly, on March 13, 2024, this Court granted Complainant's motion to extend his opposition deadline to the Motion to Dismiss until the Court rules on the Motion to Compel. This Order resolves the pending Motion to Compel.

II. LEGAL STANDARDS

Under OCAHO's Rules, where "a party upon whom a discovery request is made . . . fails to respond adequately or objects to the request or to any part thereof, . . . the discovering party may move the Administrative Law Judge for an order compelling a response . . . in accordance with the request." 28 C.F.R. § 68.23(a).[3] In the case where a party has served interrogatories, it "may move to determine the sufficiency of the answers or objections thereto." *Id.* Should the Administrative Law Judge (ALJ) find that an objection is unjustified or an answer insufficient, "he or she may order either that the matter is admitted or that an amended answer be served." *Id.*

[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's Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2024).

To properly move the Court to compel discovery, a party must submit a filing outlining the following:

> (1) the nature of the questions or request;
> (2) the response or objections of the party upon whom the request was served;
> (3) arguments in support of the motion; and
> (4) a certification that the movant has in good faith conferred or attempted to confer with the person or party failing to make the discovery in an effort to secure information or material without action by the ALJ.

28 C.F.R. § 68.23(b).

"[T]he parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter." 28 C.F.R. § 68.18(b). In the context of discovery, relevance is broadly construed "to encompass any matter that bears on, or that could reasonably lead to other matter that could bear on, an issue that is or may be in the case." *Heath v. Consultadd*, 15 OCAHO no. 1395a, 2 (2022) (quoting *Autobuses Ejecutivos, LLC*, 11 OCAHO no. 1220, 3 (2013). *See also* Fed. R. Civ. Proc. 26(b)(1)("Parties may obtain discovery regarding any nonprivileged matter that is relevant to the party's claim or defense and proportional to the needs of the case.") The party objecting to a discovery request has the burden of persuading the Court that the objection is justified. § 68.23(a).

Absent a showing that an objection is justified, "[t]he ALJ may order the withholding party to serve an answer." *Sharma v. Lattice Semiconductor*, 14 OCAHO no. 1362g, 3 (2024) (citing 28 C.F.R. § 68.23(a)).

III. DISCUSSION

As an initial matter, Complainant's Motion to Compel satisfies all of 28 C.F.R. § 68.23(b)'s procedural requirements. The motion itself contains "arguments in support of the motion" and a certification that the parties conferred to resolve the dispute before the motion was filed, Mot. Compel 3–7, 8, while copies of Complainant's original discovery requests and Respondent's answers are attached to the motion as exhibits. *Id.* Exs. 1–2. Accordingly, the Court will consider the motion on the merits.

The discovery at issue are Complainant's interrogatories, dated January 29, 2025. There are seven interrogatories, four of which are broken down into a total of eighteen sub-parts.

For each interrogatory, Complainant argues that either Respondents' "answers are evasive, incomplete, and improper," or that their "objections are vague and conclusory" or "meritless." Mot. Compel 4–7. Additionally, Complainant maintains that although Respondents challenge the individual liability of other named respondents in their Motion to Dismiss, "that Motion has not yet been ruled upon," and until it has, "objection to interrogatories on this ground is without merit." Mot. Compel 2–3. He continues that even if the Court were to find that these other respondents

were merely agents of Sheridan, "it is a well-settled principle that a corporation must provide all information available to *anyone* in the corporation through reasonable efforts. [Sheridan] does not contend that these other respondents are not in its control or do not share identity of interests with it." Mot. Compel 4.

Respondents observe that "[d]iscovery in this case is entirely stayed, except that Complainant has permission to ask the number of individuals employed by Sheridan." Opp'n 2. According to Respondents, "Complainant's interrogatories exceeded the Court's authorized scope" and are therefore "irrelevant at this stage." Opp'n 4. While Respondents agree with Complainant that the Court has yet to rule on the issue of individual liability in this case, they note that the Court in a previous order referred to the other named respondents as "agents/entities of Respondent-business," and that such a designation "establishes that Sheridan's objection seeking information unrelated to Sheridan's employee count is proper." Opp'n 3. For while "[t]here may be multiple agents that represented Sheridan in its dealings with Complainant, . . . the sole responsible Respondent is Sheridan Community Hospital." Opp'n 3. Thus, Respondents affirm, "Sheridan objections and responses are in line with the Court's limited discovery order staying all discovery except as to the issue of Sheridan's employee count." Opp'n 3.

a. Interrog. 1

Interrogatory No. 1 asks that Respondents "identify each person who provided or compiled information for your answers to these interrogatories or who otherwise assisted in any way in preparing your answers." Mot. Compel Ex. 1, at 2. To this request, Respondents answered, "All answers have been compiled and prepared by undersigned counsel with the assistance from multiple Sheridan employees." *Id.* Ex. 2, at 4.

Complainant argues that the statement, "multiple Sheridan employees," is an "overly broad statement." Mot. Compel 4. The Court agrees. While discovery has been temporarily limited to the narrow scope of Respondents' number of employees, it is both relevant and probative to know who specifically possesses knowledge or provided evidence as to that narrow issue. Accordingly, the Court orders Respondents to amend and reserve their answer to Interrogatory No. 1 to provide the names of the employees who assisted counsel in preparing their answers.

b. Interrog. 2

Interrogatory No. 2 asks that Respondents "identify all relationship(s), legal or otherwise, and course of conduct between any Defendants identified in the Plaintiff's Complaint." Mot. Compel Ex. 1, at 2. Respondents objected, stating that the requested information exceeds the scope of discovery permitted by the Court's February 4, 2024 Order, and, as such, "is overbroad and seeks information that is not relevant to Complainant's claims and Sheridan's defenses and not proportional to the needs of this case." *Id.* Ex. 2, at 4.

Complainant argues that this objection is not "articulated in any specific terms other than a narrow interpretation of this court's February 5, 2025 Order." Mot. Compel 5. That narrow interpretation, according to Complainant, is that the Court's phrase "'discovery related to Respondent's number of employees' so severely limited the 'permissible scope of discovery' that anything beyond the

barebone numbers of employees is impermissible." Mot. Compel 5. "This is absurd," according to Complainant, as in his view, "[t]he court was very clear that discovery could be had on any subject 'related to' the question of Defendants' number of employees," and "[t]he interrogatories are narrowly tailored to elicit this specific information and are supported by statute and regulations." Mot. Compel 5–6.

Respondents counter that "Complainant's argument that discovery can extend to any 'matter that could bear on, an issue that is or ***may*** be in the case' is plainly outside the scope of the Court's order, and does not warrant an answer during this limited discovery period." Opp'n 2.

The Court allowed Complainant "to conduct limited discovery *related to* the number of individuals employed by Respondent to respond to its argument that the Court lacks subject matter jurisdiction over his discrimination claims." *Saini*, 21 OCAHO no. 1644, at 3 (emphasis added). Related to the issue of a particular respondent's number of employees is whether these respondents are related to each other in a legal sense (meaning they form part of the same or are separate legal entities) and/or in an operational sense (meaning they are managed by the same individuals).[4] Therefore, to the extent Interrogatory No. 2 asks Respondents to describe the legal and operational relationship between the named respondents, they are hereby ordered to do so.

Complainant's request that Respondents also identify "course of conduct between any Defendants" is vague in that the meaning of "course of conduct" is not readily apparent and thus is overbroad, and so Complainant's Motion to Compel is denied as to this request.

c. Interrog. 3

Interrogatory No. 3 asks that Respondents, "[f]or each interrogatory, please indicate the responding Defendant by name as identified in Plaintiff's Complaint." Mot. Compel Ex. 1, at 2. To which Respondents answered, "Please see the response to each Interrogatory." *Id.* Ex. 2, at 4.

Complainant argues that, except for Interrogatory No. 5, "[n]o interrogatory has been answered by any respondent other than SCH" when "[p]resumably, these respondents could also answer the other interrogatories but they unexplainably chose not to." Mot. Compel 4–5. Complainant argues separately that "the interrogatory answers by defendant Petricevic, an individual, are improper because interrogatories directed to an individual must be signed by that individual, not her counsel." Mot. Compel 5 (citing Fed. R. Civ. P. 33(b)(5)).

Respondents counter by arguing that because "the Court recognized in its order that all other named parties are agents of Sheridan, not separately liable respondents . . . Complainant's request for signatures from individuals like Lili Petricevic is irrelevant to the limited discovery order." Opp'n 4.

[4] *See, e.g. Armbruster v. Quinn*, 711 F.2d 1332, 1338 (6th Cir. 1983) ("When sufficient control is found [by one entity over another], the two corporate entities may be given single employer status such that their combined number of employees will be determinative of whether they are subject to Title VII requirements.").

The Complainant has not indicated which interrogatories would require separate answers. However, for the sake of completeness, to the extent that Respondents are compelled by this order to answer the interrogatories, they should indicate whether any of the named Respondents have any separate, or further responses, to the interrogatory. Complainant's Motion to Compel is accordingly granted as to this request.

Regarding Ms. Petricevic's failure to sign her response to the interrogatories, under 28 C.F.R. § 68.19, each interrogatory "shall be answered separately and fully in writing under oath or affirmation," and "shall be signed by the person making them," unless the interrogatory is objected to. As Respondents objected to each interrogatory, this was not required. However, in serving interrogatories in response to this Motion to Compel, Respondents should comply with this requirement. To the extent that any of the entities has no further or separate information to add to the interrogatories addressed by SCH, however, such a signature is not required.

d. Interrog. 4

Interrogatory No. 4 asks that Respondents

> provide an organizational chart of Sheridan Community Hospital setting forth titles and names of officers, entities, and facilities indicating lines of authority and including on such chart:
>
> a. the Board of Directors,
> b. the officers of the corporation,
> c. the title and address of each facility within the corporation,
> d. the title of each department, division or subgroup within each facility.

Mot. Compel 2–3.

Respondents objected on several grounds. First, Respondents raise the same objection made to Interrogatory No. 2, namely, that the request does not constitute "discovery related to Respondent's number of employees," and is therefore overbroad and irrelevant. *Id.* Ex. 2, at 5. Next, Respondents object to the interrogatory "on the grounds that it is overbroad and irrelevant as it requests 'the title and address of each facility' and 'the title of each department, division, or subgroup of each facility' and does not identify a relevant time period for the request." *Id.* Finally, Respondents "also object[] to this Interrogatory on the grounds that it is unduly burdensome as it requests Sheridan gather, compile, and produce detailed information in a specific format, *i.e.* a chart." *Id.*

Complainant in his motion argues that "[a]sking for an identification of relationships between respondent parties, their officers, and departments/facilities controlled by them is relevant to the Complaint." Mot. Compel 6. Respondent counters that these "interrogatories exceeded the Court's authorized scope and Sheridan's limited responses and objections regarding employee identity, titles, job duties, or worksites are appropriate," as the interrogatories "have no relation to the number of Sheridan employees." Opp'n 4.

The Court finds that this interrogatory is overbroad considering the narrow scope of permissible discovery at this juncture. As noted above, apart from discovery inquiring as to "the barebone numbers of employees," inquiry as to the nature of any relationship, legal or otherwise, between the named respondents is relevant to the issue of Respondents' number of employees—and the Court has allowed for such discovery. Nevertheless, information regarding the location and organizational hierarchy of the facilities is irrelevant to understanding the nature of their relationship, if any. To the extent this interrogatory inquires as to the nature of the relationship between the respondents, Interrogatory No. 2 already requests such information. As a result, the Court finds that any potential relevance of this part of the interrogatory is duplicative, and Complainant's Motion to Compel is denied as to this request.

e. Interrog. 5

Interrogatory No. 5 asks that Respondents

> state with reference to each facility maintained by the defendant corporation named in the preceding interrogatory (during the relevant time period);
>
> a. the total number of full-time employees (working 40hrs/week or more),
> b. the total number of part-time employees (working less than 40hrs/week),
> c. the name and title of the person in charge of the facility.

Mot. Compel Ex. 1, at 3.

Respondents objected on several grounds. First, that the request is outside the scope of permissible discovery, and "is neither relevant to the subject matter of this action . . . nor proportional to the needs of the case in that it requests, as 'to each facility,' 'the total number of' categories of employees and 'the name and title of the person in charge of the facility.'" *Id.* Ex. 2, at 6. Next, Respondents argue that "[n]either 8 U.S.C. § 1324b nor 45 U.S.C. § 2000e [Title VII] make any distinction between full-time and part-time employees, and Sheridan objects to such a request as outside of the scope of discovery presently permitted by the Chief Administrative Hearing Officer." *Id.* Notwithstanding these objections, however, Respondents answered that "Sheridan employed and continues to employ over 150 employees," and that the remaining named respondents "do not have any employees." *Id.*

The Court finds the request that Respondents respond "with reference to each facility maintained by the defendant corporation" to be overbroad and unrelated to the only currently discoverable issue, namely, the total number of individuals employed by Respondents. The same applies to the request that Respondents provide the name and title of the person in charge of these facilities. Accordingly, Complainant's Motion to Compel is denied as to these requests.
Regarding the distinction between full- and part-time employees, OCAHO precedent is clear that, pursuant to the regulations implementing 8 U.S.C. § 1324b (28 C.F.R. pt. 44 (2024), "the 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." *Cormia v. Home Care Giver Servs., Inc.*, 10 OCAHO no. 1160, 4 (2012) (citing *Sanchez v. Ocanas Farms*, 9 OCAHO no. 1115, 3 (2005)). As a result, the distinction between part- and full-time employment status is irrelevant to determining Respondents' number of employees for purposes of § 1324b. Accordingly, Complainant's Motion to Compel is denied as to this request.

Respondents' answer that "Sheridan employed and continues to employ over 150 employees" is insufficient, however. Complainant's interrogatory requested a precise number of employees for each named respondent. And while the number zero given for the Board of Directors, Members of Credentialing Committee, Directors of Sheridan Care Clinic, and Lili Petricevic is precise, "over 150" is not. Moreover, the Court finds it would not be unduly burdensome for Sheridan Community Hospital to ascertain and provide the exact number of its employees. Consequently, Respondents are ordered to amend their answer to provide the precise number of employees for Sheridan Community Hospital.[5]

f. Interrog. 6

Interrogatory No. 6 asks that Respondents

> identify each person who has been a member of the Board of Directors (during the relevant time period) and state as to each:
>
> a. name,
> b. title of each office held on the board,
> c. duties and responsibilities of the office,
> d. dates served on the board,
> e. whether he or she is (or was) employed by the defendant corporation,
> f. whether he or she employs (or employed) other individuals.

Mot. Compel Ex. 1, at 3. Respondents object to this interrogatory on the grounds that it requests information outside the scope of discovery currently permitted by the Court, and is overbroad, irrelevant, and disproportional. *Id.* Ex. 2, at 7.

Complainant argues that "[s]ince Board of Directors and Credentialing Committee of SCH are named respondents to this dispute, an inquiry into who they are, what is their role in the employment process (either as agent or representative of SCH), and who their employer is relevant to the issue at hand." Mot. Compel 7. Respondents counter that "[i]nquiries into the duties of Sheridan's Board of Directors and Credentialing Committee, and their role in employment decisions are irrelevant," as "[t]he sole issue on which discovery is presently allowed is the number of Sheridan's employees, not who played a role in employment decisions." Opp'n 4.

[5] "The preferred method of counting employees is the so-called 'payroll method' set out in *Walters v. Metro. Educ. Enters., Inc.*, 519 U.S. 202, 206–07 (1997)." *Cormia*, 10 OCAHO no. 1160, at 4.

Respondents are correct that the identities, titles, duties, and dates served for the members of the Board of Directors are unrelated to the issue of how many individuals Respondents employ. As a result, Complainant's Motion to Compel is denied as to subparts (a) through (d) of this interrogatory.

Whether or not the members of the Board and Credentialing Committee are employed by Sheridan Community Hospital, however, is relevant. As a result, Respondents are ordered to amend their answer to subpart (e) of this interrogatory to indicate whether these named respondents are employed by Sheridan Community Hospital.

Regarding whether the members of the Board and Credentialing Committee employ other individuals, the Court finds that this request was already asked and answered through Interrogatory No. 5, where Respondents stated they "do not have any employees." Mot. Compel. Ex. 2, at 6. Consequently, Complainant's Motion to Compel is denied as to subpart (f) of this interrogatory.

g. Interrog. 7

Interrogatory No. 7 asks that Respondents

> Provide an organizational chart of any entity or entities involved in medical staff credentialing at defendant corporation (during the relevant time period) setting forth professional titles (if any) and names of its members and indicating lines of authority and state as to each:
> a. name,
> b. title of each members' position in such role,
> c. occupation,
> d. whether he or she is (or was) employed by the Sheridan Community Hospital,
> e. whether any such member or entity(ies) employs (or employed) other individuals.

Mot. Compel Ex. 1, at 3. Respondents object to this interrogatory on the grounds that it requests information outside the scope of discovery currently permitted by the Court, and is overbroad, irrelevant, and disproportional. *Id.* Ex. 2, at 7.

Complainant's arguments in support of and Respondents' opposition to this interrogatory are identical to those for Interrogatory No. 6. As with Interrogatory No. 6, then, the Court finds that requests regarding the identities, titles, and occupations of the members of the Credentialing Committee are unrelated to the issue of how many individuals Respondents employ. Accordingly, Complainant's Motion to Compel is denied as to subparts (a) through (c) of this interrogatory.

Also as with Interrogatory No. 6, whether the members of the Credentialing Committee are employed by Sheridan Community Hospital is directly related to the issue of Respondents' number of employees, while the question of whether they employ other individuals has already been asked

and answered in Interrogatory No. 5. As a result, Respondents are ordered to amend their answer to subpart (d) of this interrogatory to indicate whether the members of the Credentialing Committee are employees of Sheridan Community Hospital, and Complainant's Motion to Compel is denied as to subpart (e) of this interrogatory.

IV. ORDERS

Complainant's Motion to Compel is GRANTED IN PART, and Respondents are ORDERED to amend their answers as instructed to Interrogatories 1, 2 (in part), 3, 5 (in part), 6 (subpart (e)), and 7 (subpart (d)).

Complainant's Motion to Compel is DENIED IN PART as to Interrogatories 2 (in part), 4, 5 (in part), 6 (subparts (a–d), (f)), and 7 (subparts (a–c), (e)).

Respondent must provide the amended interrogatory answers twenty-one days from the date of this order.

Complainant must file his response to the Motion to Dismiss twenty-one days after receipt of the amended interrogatories.

SO ORDERED.

Dated and entered on March 31, 2025.

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Honorable Jean C. King
Chief Administrative Law Judge