

UNITED STATES DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES
Washington, DC

Issue Date: 19 January 2024

OALJ Case No.: 2024-CER-00001
OSHA Case No. 9-3290-22-051

In the Matter of:

ASHLEY M. GJOVIK,
Complainant,

v.

APPLE, INC.,
Respondent.

NOTICE OF DOCKETING

On or about August 29, 2021, Ashley M. Gjovik filed a complaint with the U.S. Department of Labor’s Occupational Safety and Health Administration (“OSHA”) alleging Apple, Inc. violated the employee protection provisions of the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”), 42 U.S.C. § 9610, and the procedural regulations found at 29 C.F.R. Part 24, when she was suspended and subsequently terminated in retaliation for engaging in protected activities and filing, or suspected of filing, complaints with various government agencies, including the Environmental Protection Agency.¹ OSHA dismissed the complaint by letter dated December 8, 2023.

Complainant, representing herself, is appealing the dismissal and the Office of Administrative Law Judges (“OALJ”) docketed the above-referenced case on January 8, 2024.² It is not yet assigned to a presiding administrative law judge

¹ Complainant also alleged that Respondent violated the employee protection provisions of the Sarbanes-Oxley Act (“SOX”). Under the enforcement provisions of SOX, if the Secretary of Labor has not issued a final decision within 180 days after the filing of the complaint, and the delay is not due to the bad faith of the employee, the employee may bring an original action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy. 18 U.S.C. § 1514A(b)(1)(B); 29 C.F.R. § 1980.114(a). It appears that Complainant exercised her right to pursue her SOX claim in federal district court by filing a complaint in the United States District Court for the Northern District of California on September 7, 2023 (Case No. 3:23-cv-04597).

² I note that Complainant also alleged in her OSHA complaint that Respondent violated her rights under Section 11(c) of the Occupational Safety and Health (“OSH”) Act, a claim which OSHA also dismissed in their December 8, 2023 letter. The OSH Act does not create any private right of action

(“ALJ”). A Notice of Hearing and Prehearing Order will be sent to the parties once the matter is assigned to an ALJ. You may track the progress of the case using the Case Status Lookup feature on the OALJ website at <https://www.dol.gov/agencies/oalj>. Until the case is assigned to a presiding ALJ, questions may be addressed to law clerk Tessa Zavislan at Zavislan.tessa.m@dol.gov.

Parties are encouraged to efile with OALJ using either OALJ’s e-mail e-filing system described at www.dol.gov/agencies/oalj/filing_by_email or DOL’s eFile/eServe System (“EFS”) at <https://www.dol.gov/agencies/oalj/EFS>. A Notice of Appearance is required to use EFS.

In the meantime, if the case is referred for possible mediation or you wish to request mediation or information on the Alternative Dispute Resolution program, the website contains the appropriate forms as well as contact information at https://www.dol.gov/agencies/oalj/topics/information/SETTLEMENT_JUDGE.

In addition to any of the rules set forth in the statute or implementing regulations governing this case type, the OALJ Rules of Practice and Procedure apply and can be found on the OALJ website at <https://www.dol.gov/agencies/oalj/topics/libraries/LIBRULES>. Unless an exemption applies, the parties are required to make initial disclosures within 21 days of the date of this notice without awaiting a discovery request or discovery order. *See* 29 C.F.R. § 18.50(c)(1). **The initial disclosures should not be filed with this office.**

SO ORDERED:

STEPHEN R. HENLEY
Chief Administrative Law Judge

and there is no provision in the OSH Act or its implementing regulations for a hearing on a Section 11(c) complaint before an administrative law judge. *See Taylor v. Brighton Corp.*, 616 F.2d 256, 260-64 (6th Cir. 1980). Accordingly, and consistent with the regulations, it appears Complainant has appealed the dismissal of her Section 11(c) claim to OSHA’s Directorate of Whistleblower Protection Programs.