

UNITED STATES DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES
BOSTON, MASSACHUSETTS

Issue Date: 23 May 2024

OALJ NO.: 2024-CER-00001

In the Matter of:

ASHLEY GJOVIK,
Complainant,

v.

APPLE INC.,
Respondent.

ORDER ON OPERATIVE COMPLAINT

This case arises from a complaint filed under the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA” or “the Act”), 42 U.S.C § 9610, and the implementing regulations found at 29 C.F.R. Part 24. The matter was assigned to this Tribunal on March 11, 2024, and a preliminary conference call was held on March 25, 2024, during which Complainant expressed a desire to amend her complaint.

Complainant filed a Motion to Amend the Complaint (“Mot.”) on April 2, 2024, along with a Memorandum in Support of the motion (“Compl. Memo.”), a Declaration (“Compl. Decl.”), and Exhibits A through S (“Compl. Exh.”). On April 16, 2024, Respondent filed its opposition to the motion (“Opp.”), a Declaration from one of its attorneys (“Perry Decl.”), and Exhibits A through D (“Resp. Exh.”). On May 1, 2024, as part of a larger opposition to a pending Motion to Dismiss from Respondent, Complainant objected to Respondents’ Exhibits A through D. On May 10, 2024, Respondent filed a response to Complainant’s objections.

Under the procedural rules governing matters before the Office of Administrative Law Judges (“OALJ”), a complainant may seek to amend an operative complaint with permission from the Court. 29 C.F.R. § 18.36. Based on the regulations found at 29 C.F.R. Part 24, the operative complaint in this matter is the August 29, 2021, online complaint filed before OSHA. *See* Compl. Exh. D at 9; Resp. Exh. A. However, this complaint was filed prior to the additional alleged adverse action of termination, which is noted in the case activity worksheet from OSHA dated December 10, 2021. *See* Compl. Exh. C; Compl. Exh. D at 10.

In order to properly rule on Complainant’s motion, the Court will allow Complainant to submit proposed amendments to the August 29, 2021, online complaint. The proposed amended complaint must adhere to the following parameters:

1. Any proposed amendments must relate to the address noted in the initial August 29, 2021, online complaint at 825 Stewart Drive, Sunnyvale, CA, 94086;
2. Any proposed amendments with respect to alleged adverse actions must relate only to the adverse actions first alleged on August 29, 2021, of harassment/intimidation; suspension; constructive termination; and threat to take any of the above actions, but may also include the subsequent alleged termination of employment as noted in the December 10, 2021, case summary;
3. Any proposed amendments with respect to alleged protected activity must relate only to the protected activity first alleged on August 29, 2021, as detailed in the December 10, 2021, case summary;
4. Any proposed amendments alleging the violation of additional environmental statutes beyond CERCLA must demonstrate the violation of these statutes through facts alleged as governed by the above limitations and as supported by the August 29, 2021, online complaint and December 10, 2021, case summary; and
5. The proposed amended complaint **may not include exhibits** and may not exceed **50 pages, in 12-point Times New Roman font, 1-inch margins, double-spaced.**

Complainant will have **14 days** from the issuance of this order in which to submit a proposed amended complaint. The Court will not rule on whether to accept the proposed amended complaint until Respondent has had a chance to reply. Respondent will have **14 days** from the date that Complainant's proposed amended complaint is filed with the Court to file any objection or response, if so desired.

Furthermore, all other pending motions before the Court in this matter, including Respondent's Motion to Dismiss and Motion for Judicial Notice, will be **held in abeyance** until Complainant's Motion to Amend has been fully ruled on. Any changes to the litigation schedule can be addressed after any amended Complaint is submitted and responded to.

SO ORDERED.

JERRY R. DeMAIO
Administrative Law Judge

Boston, Massachusetts