

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

UNITED STATES OF AMERICA,	)
Complainant,	)
	)
v.	) 8 U.S.C. § 1324a Proceeding
	) CASE NO. 91100124
IDEAL TORTILLA FACTORY,	)
INC.,	)
Respondent.	)
_____	)

ORDER DIRECTING PREHEARING PROCEDURES

As revised on November 24, 1989, Title 28 of the Code of Federal Regulations at §§ 68.1 through 68.52 sets forth the rules of practice and procedure for administrative hearings before Administrative Law Judges in cases involving allegations of Unlawful Employment of Aliens and Unfair Immigration Related Employment Practices. Counsel and/or parties should study the regulations before filing cases with the Administrative Law Judge.

Consistent with the regulations and in order to expedite this case in a fair and reasonable manner, it is hereby ORDERED that:

1. FILING OF DOCUMENTS: An original and two copies of all pleadings shall be filed with this office and all other parties of record. 28 C.F.R. § 68.5(a).
2. DISCOVERY: Discovery shall commence immediately and shall be completed at a reasonable time prior to the date of the scheduled hearing. 28 C.F.R. §§ 68.16 through 68.23.

3. DISCOVERY DOCUMENTS: Notwithstanding 28 C.F.R. § 68.5 (b), parties shall not submit to this office copies of any documents produced during discovery or transcripts of depositions, unless the documents or transcripts are related to a pending motion or the requirements of paragraph 6 below.

a. DISCOVERY MOTIONS: Unless otherwise ordered, the Administrative Law Judge will not review any discovery motion, unless counsel or the moving party has stated in writing that it has conferred, or made reasonable effort to confer, with the opposing counsel or party regarding the requested matter prior to the filing of the motion.

b. INTERROGATORIES: No party shall serve on any other party more than twenty (20) interrogatories in the aggregate without authorization of the Administrative Law Judge or consent of opposing counsel/party. Sub-paragraphs of any interrogatory shall relate directly to the subject matter of the interrogatory and shall not exceed two in number. 28 C.F.R. § 68.17.

c. FORM OF RESPONSES: The party answering interrogatories, or responding to requests to admit, produce, or inspect, shall set forth each question or request immediately before the answer or response.

4. SUBPOENAS: If any party requires the issuance of subpoenas, pursuant to 28 C.F.R. § 68.23, application in writing shall be made to the appropriate Administrative Law Judge. Thereafter, as approved, a preprinted form EOIR-30 Subpoena will be mailed to the applicant.

5. CONFERENCES: The Administrative Law Judge may request the parties, or their counsel, to participate in prehearing telephonic conferences as necessary and at reasonable times prior to the hearing. 28 C.F.R. § 68.11. All prehearing telephonic conferences may be tape recorded at the discretion of this office.

6. PREHEARING MOTIONS: All prehearing motions, including motions for summary decision, motions for dismissal of the complaint, and motions for suppression of evidence shall be filed at least twenty (20) days before the date fixed for any hearing, unless otherwise allowed by the Administrative Law Judge. All motions shall contain factual and legal suggestions in support thereof.

7. PREHEARING STATEMENT: Ten (10) days prior to the hearing in this case, or as otherwise ordered by the Administrative Law Judge, parties shall file with this office and serve on the parties of record a "Prehearing Statement," pursuant to 28 C.F.R. § 68.10, to include a clear identification of:

- a. legal issues involved in the proceedings;
- b. stipulated facts, together with a statement that the party or parties have communicated or conferred in a good faith effort to reach stipulation to the fullest extent possible;
- c. specific facts in dispute;
- d. witnesses, except to the extent that disclosure would be privileged, and exhibits by which disputed facts will be litigated;
- e. a brief statement of applicable law;
- f. proposed findings of fact and conclusions of law;
- g. The estimated time required for presentation of the party's or parties' case; and
- h. Any appropriate comments, suggestions, or information which might assist the parties or the Administrative Law Judge in preparing for the hearing or otherwise aid in the disposition of the proceeding, including any issues as to the admissibility of evidence.

8. EXHIBITS: Prior to the commencement of the hearing, both parties shall file with the Administrative Law Judge an exhibit list on a form "exhibit list," which is enclosed herein. Legible copies of each exhibit to be offered into evidence at the hearing should be premarked and numbered for identification with the enclosed labels. The Complainant's exhibits shall be labeled and marked with the prefix "C," followed by the appropriate number for the exhibit, i.e. C-1, C-2. The Respondent's exhibits shall be identified and marked with the prefix "R," followed by the appropriate number for the exhibit, i.e. R-1, R-2. See 28 C.F.R. § 68.41.

9. COPIES OF EXHIBITS: Prior to the date of the hearing, both parties shall provide the other party with legible copies of all the exhibits which they intend offering into evidence at the hearing. 28 C.F.R. § 68.41(b).

10. COPIES OF OCAHO DECISIONS: A copy of all significant Office of the Chief Administrative Hearing Officer decisions will now be sent to the Government Printing Office, who will then offer the decisions on a subscription basis to all parties outside the government.

**IT IS SO ORDERED** this 19th day of August, 1991, at San Diego, California.

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ROBERT B. SCHNEIDER  
Administrative Law Judge