

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

February 1, 2024

UNITED STATES OF AMERICA,	)	
Complainant,	)	
	)	
v.	)	8 U.S.C. § 1324a Proceeding
	)	OCAHO Case No. 2023A00054
	)	
PASQUEL HERMANOS, INC.	)	
Respondent.	)	
_____	)	

Appearances: Omiga Cape, Esq., for Complainant  
Guillermo G. Alarcon, Esq., for Respondent

ORDER REJECTING FILING AND REVOKING ELECTRONIC FILING

I. PROCEDURAL HISTORY

This case arises under the employer sanctions provisions of the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324a. Complainant, the U.S. Department of Homeland Security, Immigration and Customs Enforcement (ICE), filed a complaint alleging that Respondent, Pasquel Hermanos, Inc., violated § 1324a(a)(1)(B). On May 11, 2023, Respondent filed an answer.

On May 17, 2023, the parties were sent an invitation to participate in OCAHO's voluntary electronic filing (e-filing) pilot program, instructions for e-filing, and an e-filing registration and certification form. The instructions dictate that "[a]ll case-related documents will be submitted to the ALJ by sending an email [a specific email address.]" The instructions further explain "[o]nly those documents attached to an email directed to the above email addressed and emailed simultaneously to the opposing party will be considered filed."

On November 6, 2023, after receiving both parties' registration forms, the Court issued an Order on Electronic Filing, granting the parties permission to e-file.

On January 17, 2024, Complainant filed Complainant's Motion to Amend Complaint and Complainant's Motion for Summary Decision. These filings were accepted by the Court and are not impacted by this Order.

## II. RESPONDENT HAS ENGAGED IN A PATTERN OF DEFICIENT FILINGS

On October 20, 2023, Respondent's counsel sent his e-filing form to the incorrect email address, to wit: the Court's email address designated to receive only new complaints.<sup>1</sup>

On November 6, 2023, the Court sent correspondence to Respondent that, although his October 20, 2023 e-filing form had been improperly filed because it was sent to the wrong e-mail address, it had been accepted as a courtesy. The correspondence advised Respondent's counsel to use the correct email address for e-filing.

On November 28, 2023, Respondent re-submitted its (already accepted) Answer and Respondent's counsel's Notice of Appearance via email; however opposing counsel was not simultaneously served, as she was not cc'ed.

On December 4, 2023, the Court sent Respondent correspondence explaining it need not resubmit previously accepted filings. It also reminded Respondent it must serve opposing party simultaneously and include a certificate of service with all submissions. The correspondence referred Respondent to the Instructions for Filing by Email (previously provided) and OCAHO's Practice Manual Chapter 3.7 (including a link to the Practice Manual).

On January 26, 2024, Respondent attempted to file "Respondent's Response in Opposition to Complainant's Motion to Amend Complaint." It sent this submission to the incorrect email, provided no certificate of service, and opposing counsel was not emailed simultaneously.

On January 29, 2024, Court staff sent a Rejected Filing Notice to Respondent explaining the deficiencies and instructing Respondent how to remedy them. That same day, Respondent sent only a certificate of service referencing "Complaint's [sic] Motion for Summary Decision and Exhibits 1-2" to the e-filing email address. Court staff responded to the deficient filing by explaining that the original filing had been rejected in full, and the Respondent would need to provide one complete and correct filing if he wished to be heard in response to Complainant's submission. Court staff encouraged Respondent to call chambers with questions.

On January 30, 2024, Respondent attempted to file Respondent's Response in Opposition to Complainant's Motion to Amend Complaint; however (once more) this filing was sent to the incorrect email for e-filing. Additionally, the filing's certificate of service referenced the wrong date, and opposing counsel was not cc'ed on this submission.

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<sup>1</sup> See Filing by Email – Officer of the Chief Administrative Hearing Officer, <https://www.justice.gov/eoir/filing-email-office-chief-administrative-hearing-officer> (last visited Jan. 31, 2024).

This most recent filing is also REJECTED because it does not comport with the requirements of the e-filing program.

### III. REVOKING E-FILING PRIVILEGES

OCAHO's voluntary e-filing pilot program was created "to make submission of case documents more convenient for parties and to reduce the time and expense incurred with paper filings." 79 Fed. Reg. 31143 (May 30, 2014). "E-filing is a privilege and not an entitlement." *Ravines de Schur v. Easter Seals-Goodwill N. Rocky Mountain, Inc.*, 15 OCAHO no. 1388a, 2 (2021) (citing OCAHO Practice Manual Ch. 3.7).<sup>2</sup> "The Court expects every party . . . to comply with rules and orders." *Id.* at 3 (citing 28 C.F.R. § 68.1).

Respondent's counsel has been instructed and corrected multiple times for his improper use of the e-filing system to no avail. Respondent appears unable to comply with the requirements of the e-filing program. Consequently, the Court now REVOKES e-filing status for this case and ORDERS all parties to resume filing procedures consistent with 28 C.F.R. § 68.6(a).<sup>3</sup>

Complainant's Motion for Summary Decision, filed on January 17, 2024, is not impacted by this Order. Respondent must be mindful of all deadlines set forth in the Court's scheduling order. "Pleadings are not deemed filed until received by the Office of the Chief Administrative Hearing Officer, the Chief Administrative Law Judge, or the Administrative Law Judge assigned to the case." 28 C.F.R. § 68.8(b).

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<sup>2</sup> Citations to OCAHO precedents reprinted in bound Volumes 1 through 8 reflect the volume number and the case number of the particular decision, followed by the specific page in that volume where the decision begins; the pinpoint citations which follow are thus to the pages, seriatim, of the specific entire volume. Pinpoint citations to OCAHO precedents subsequent to Volume 8, 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 in the Westlaw database "FIMOCAHO," or in the LexisNexis database "OCAHO," or on the website at <http://www.justice.gov/eoir/OcahoMain/ocahosibpage.htm#PubDecOrders>.

<sup>3</sup> To file a document, a party must deliver or mail an original and two copies of the document to the Court. 28 C.F.R. § 68.6(a). All filings "shall be accompanied by a certification indicating service to all parties of record" and "[t]he person serving the document shall certify to the manner and date of service." *Id.*

SO ORDERED.

Dated and entered on February 1, 2024.

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Honorable Andrea R. Carroll-Tipton  
Administrative Law Judge