

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

July 18, 2024

VARUN MANGEWALA,	)	
Complainant,	)	
	)	
	)	8 U.S.C. § 1324a Proceeding
v.	)	OCAHO Case No. 2024B00051
	)	
	)	
SAIL INTERNET INC.,	)	
Respondent.	)	
_____	)	

Appearances: Varun Mangewala, Pro se Complainant  
Collin D. Cook, Esq., Ralph Hua, Esq., and David M. Shannon, Esq., for  
Respondent  
Angela Hollowell-Fuentes, Esq., for the United States

ORDER DENYING RESPONDENT’S MOTION TO DISMISS

I. PROCEDURAL HISTORY

This case arises under the employment discrimination provisions of the Immigration and Nationality Act (INA), as amended, § 1324b.

On December 9, 2023, Varun Mangewala, Complainant, filed a Complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) against Respondent, Sail Internet, Inc. Complainant alleges Respondent discriminated against him (citizenship status), in violation of § 1324b(a)(1), and retaliated against him, in violation of § 1324b(a)(5). The Complaint included a charge form from the Immigrant and Employee Rights Section of the Department of Justice’s Civil Rights Division (IER), dated April 27, 2023, and an IER letter of determination (also referred to as a “90-day letter”), dated September 6, 2023.

On April 1, 2024, Respondent filed its Answer and a Motion to Dismiss.<sup>1</sup> Respondent alleged the IER notice of receipt letter (hereinafter “NOR letter”), 28 C.F.R. § 44.301(a), and the IER 90-day letter, 28 C.F.R. § 44.303(b)-(c) were both issued outside the required regulatory time periods.<sup>2</sup> Mot. Dismiss at 3-4. Respondent’s conclusion (that these letters were untimely issued) is predicated upon an assertion that an IER charge is “complete” upon submission (versus “complete” at a later date), and it is this date that starts the clock for IER’s subsequent notice deadlines. *Id.* at 2-3. According to Respondent, the consequence of the untimely-issued letters is the Complainant’s preclusion from this forum, as “the Complainant does not have any IER letter that would permit him to proceed with this private action under 28 CFR 44.303(c).” *Id.* at 4.

On April 17, 2024, Complainant filed a Response, focusing on a different procedural point in his case – his receipt of IER’s 90-day letter on September 11, 2023, and subsequent Complaint filing on December 9, 2023. Resp. Mot. Dismiss 1. Complainant asserts he complied with § 1324b(d)(2). *Id.* Thus, “[a]ny complaints against the IER should not affect [his] case[.]” *Id.* at 2.

On April 23, 2024, IER filed a Motion for Leave to File,<sup>3</sup> with a Statement of Interest (SOI) attached.<sup>4</sup> In its filing, IER takes a divergent (from Respondent) view of the start date for calculating timely-issued letters. Foundational to IER’s explanation is the reality that some submissions arrive at IER complete, and others do not. SOI 10. When IER receives an incomplete submission, it does not believe the regulation requires it to start the clock (to issue the required letters). SOI 8. Instead, the date IER determines an inadequate submission is “complete” is the start date to calculate its subsequent letter deadlines. *Id.* In IER’s assessment, “receipt of a charge” implies receipt of a submission compliant (or deemed compliant) with 28 C.F.R. § 44.101(a) (elements of a charge). *Id.* at 11. IER also noted that 28 C.F.R. § 44.301(d)(3) directs it to

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<sup>1</sup> Respondent’s Motion to Dismiss is not paginated. Thus, the Court assigned page numbers to the filing.

<sup>2</sup> Specifically, Respondent claimed the letters should have been mailed by May 7, 2023, and August 25, 2023, to be timely. Mot. Dismiss 3. The letters were in fact mailed on May 17, 2023, and September 6, 2023, respectively. Mot. Dismiss 3-4; *id.* Ex. B; SOI Exs. D-E, G-H.

<sup>3</sup> On April 24, 2024, the Court issued an Order Granting IER Motion to File Amicus Brief & Notice of Appearance, agreeing that IER’s submission “would assist the Court in fully developing the record on this issue.” Order Granting IER Mot. File Amicus Br. 3. The Order also permitted Respondent to file a reply. *Id.* To date, the Court has not received a reply from Respondent, and the deadline to provide such a filing has passed.

<sup>4</sup> IER attached a variety of exhibits to this filing, including, *inter alia*, declarations from IER attorneys and dates the parties received IER’s correspondence. SOI Exs. B-C; *Id.* at Ex. C, Attach. A.; *Id.* at Exs. F, I-J.

promulgate NOR letters “**once** [IER] determines adequate information has been submitted to constitute a complete charge,” *id.*, a regulatory citation IER believes further supports its position.

## II. PRE-COMPLAINT BACKGROUND

On or about April 27, 2023, Complainant submitted IER’s “electronic charge form.”<sup>5</sup> SOI 4; Decl. of Special Litigation Counsel (IER) ¶ 12. IER Special Litigation Counsel assessed the submission and concluded Complainant’s submission “contained inadequate facts and circumstances to meet the criteria of 28 C.F.R. § 44.101(a)(5)[.]” Decl. of Special Litigation Counsel (IER) ¶ 14.

On May 3, 2023, IER assigned Complainant’s charge form to an IER Senior Trial Attorney, who contacted Complainant (same day) to gather any “additional information that might suffice to complete the charge[.]” *Id.* at ¶ 16; Decl. of Senior Trial Attorney (IER) ¶ 5, 8. The two had several conversations, and by May 8, 2023, Complainant had provided additional information to IER. Decl. of Senior Trial Attorney ¶ 9.

On May 9, 2023, the Special Litigation Counsel (IER) deemed the charge complete. *Id.* at ¶ 11; Decl. of Special Litigation Counsel (IER) ¶ 17.

On May 17, 2023, IER sent an NOR letter to Complainant, which advised that “his charge had been accepted as complete on May 9, 2023, and that IER had 120 days, until September 6” to investigate and “determine if it would file a complaint with an administrative law judge.” Decl. Senior Trial Attorney (IER) ¶ 12. IER sent a similar notice to Respondent the same day. *Id.* These letters were sent eight days after the date IER deemed the charge complete, but 20 days after IER initially received the electronic charge form. *Id.* at ¶¶ 6, 11, 12. (The regulation requires IER to send NOR letters to both parties “[w]ithin 10 days of receipt of a charge[.]” 28 C.F.R. § 44.301(a). For incomplete charges, IER must send NOR letters “[o]nce [IER] determines adequate information has been submitted to constitute a complete charge[.]” 28 C.F.R. § 44.301(d)(3).)

On September 6, 2023, IER sent letters of determination (i.e. 90 day letter) to both parties.<sup>6</sup> SOI Exs. G-H. The letter to Complainant notified him of his right to file a complaint with OCAHO within 90 days of receipt of the notice. Decl. of Senior Trial Attorney (IER) ¶ 16; SOI Ex. G.

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<sup>5</sup> In the electronic charge form, Complainant, a U.S. citizen, stated he was “laid off on 3/7/2023.” IER Charge Form Sec. 6. He claimed to have knowledge of the individual who replaced him and asserted that individual is not a U.S. citizen. *Id.* He claimed Respondent is “in the process of applying for an H1 visa for [this individual].” *Id.* Complainant alleges a violation of the law where this Respondent terminated him “to hire temporary visa workers it prefers instead.” *Id.*

<sup>6</sup> The regulation requires IER to send letters of determination to both parties “by the end of the 120-day period[.]” 28 C.F.R. § 44.303(b). This period refers the 120-day period of IER investigation triggered upon “the receipt of a charge[.]” 28 C.F.R. § 44.303(a).

On September 11, 2023, both parties received letters of determination. Decl. Senior Trial Attorney (IER) ¶ 17 (citing Attach. A); SOI Exs. I-J. The Complaint was filed with OCAHO on December 9, 2023. *See* Complaint. Respondent does not contest the timeliness of the Complaint’s filing of the Complaint with OCAHO.

### III. LAW & ANALYSIS

#### A. Framing Respondent’s Argument

Respondent raises the spectre of a jurisdictional issue;<sup>7</sup> however, jurisdiction is a term with a precise meaning and particular implications.<sup>8</sup> Respondent’s arguments are more appropriately categorized as a claims-processing issue.<sup>9</sup>

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<sup>7</sup> Mot. Dismiss 4 (arguing that Complainant’s alleged failure to present a valid 90-day letter requires this Court to dismiss Complainant’s claim for lack of jurisdiction).

<sup>8</sup> The Supreme Court has emphasized its disfavor of “drive-by jurisdictional rulings.” *Arbaugh v. Y&H Corp.*, 546 U.S. 500, 511 (2006) (quoting *Steel Co. v. Citizens for a Better Env’t*, 523 U.S. 83, 91 (1998)). A jurisdictional classification is highly consequential because such issues “can never be forfeited or waived.” *Id.* at 514 (quoting *United States v. Cotton*, 535 U.S. 625, 630 (2002)). When nothing in the statutory text requires courts to consider fulfillment of the element *sua sponte*, and “when Congress does not rank a statutory limitation on coverage as jurisdictional,” it is not jurisdictional. *Id.* at 514, 516.

<sup>9</sup> Respondent cites 28 C.F.R. § 68.4(b) and (c), Mot. Dismiss 4, which describe IER’s obligations to communicate (1) its position to the charging party within a certain number of days, and (2) the charging party’s subsequent obligation to file an OCAHO charge within a certain number of days.

In *Fort Bend County, Texas v. Davis*, 139 S. Ct. 1843 (2019), the Court explained the difference between claim-processing rules and jurisdictional rules.

The term “jurisdictional” is “generally reserved to describe the classes of cases a court may entertain (subject-matter jurisdiction) or the persons over whom a court may exercise adjudicatory authority (personal jurisdiction).” *Id.* at 1846.

Claim-processing rules “seek to promote the orderly progress of litigation by requiring that the parties take certain procedural steps at certain specified times.” *Id.* at 1849 (quoting *Henderson v. Shinseki*, 562 U.S. 428, 435 (2011)); *see also Wilkins v. United States*, 598 U.S. 152, 157 (2023) (“[Claim-processing rules] generally include[] a range of ‘threshold requirements that claimants must complete, or exhaust, before filing a lawsuit.’” (quoting *Read Elsevier, Inc. v. Muchnick*, 559 U.S. 154, 166 (2010))). In *Davis*, the respondent argued, *inter alia*, the complainant’s failure to include a particular claim in her EEOC charge before filing a Title VII action stripped the district

With this construct in mind, the dispute here can essentially be reduced to one of differing regulatory interpretations involving IER’s “receipt of charge,” with Respondent articulating one position, and IER articulating another.<sup>10</sup>

Namely, does “receipt of a charge” mean the date IER determines an incomplete charge is complete (IER’s position), or does the term correspond to the date of initial submission to IER (Respondent’s position)? Stated a different way, does “receipt of charge” implicitly mean “receipt of a **complete** charge”? *See, e.g.*, 28 C.F.R. § 44.301(a); 28 C.F.R. § 44.303(a) (emphasis added) (employing “receipt of a charge” language).

If this question is resolved in IER’s favor, then no such claims-processing issue exists. If this question is resolved in Respondent’s favor, it would necessitate further analysis (i.e., the practical effect on the Complaint and its ability to be lodged in this forum).

#### B. Analysis of the Statute and Regulation

The Court begins with an examination of the text of the statute and the regulation. *See Oklahoma v. Castro-Huerta*, 597 U.S. 629, 642 (2022) (“[T]he text of a law controls . . . .”); *see also Perez v. Mortgage Bankers Ass’n*, 575 U.S. 92, 129 (2015) (Thomas, J., concurring) (“Because this Court has concluded that substantive agency regulations have the force and effect of law, such regulations should be interpreted like any other law.” (internal quotation marks omitted) (quoting, in part, *Chrysler Corp. v. Brown*, 441 U.S. 281, 295 (1979))); *see also Mountain Communities for Fire Safety v. Elliot*, 25 F.4th 667, 676 (9th Cir. 2022).<sup>11</sup> For the reasons outlined below, an

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court’s jurisdiction. *Id.* at 1848. The Court rejected this argument, reasoning Title VII’s charge-filing language “speak[s] to . . . a party’s procedural obligations.” *Id.* at 1851 (quoting *EPA v. EME Homer City Generation, L.P.*, 572 U.S. 489, 512 (2014)).

Here, the regulations cited by Respondent do not implicate the Court’s authority to hear the case; rather, the regulations “promote the orderly progress of litigation by requiring . . . procedural steps at certain specified times.” *Davis*, 139 S. Ct. at 1849 (quoting *Henderson*, 562 U.S. at 435); *see also Kontrick v. Ryan*, 540 U.S. 443, 455 (2004).

<sup>10</sup> Complainant addressed timeliness in his Response, but not the timeliness issue presently before the Court. Resp. Mot. Dismiss 1. His confusion is understandable - he is pro se, and Respondent’s motion generally refers to a complaint timeliness issue, citing 28 C.F.R. § 68.4. Mot. Dismiss 1.

<sup>11</sup> *See* 28 C.F.R. § 68.57 (authorizing individuals to “seek review of the final agency order in the United States Court of Appeals for the circuit in which the violation is alleged to have occurred or in which the employer resides or transacts business”).

analysis of the text of the statute and regulation reveals the IER interpretation to be the correct one - “receipt of charge” means receipt of a “complete” charge.

### 1. 8 U.S.C. § 1324b – Unfair Immigration-Related Employment Practices

The anti-discrimination provisions of the INA, § 1324b, permit any person to “file a charge respecting [an unfair immigration-related employment] practice” within 180 days of its alleged occurrence. § 1324b(b)(1), (d)(3).<sup>12</sup>

IER must “serve a notice of the charge . . . on the person or entity involved within 10 days.” § 1324b(b)(1). IER then “investigate[s] each charge received and, within 120 days of the date of the *receipt of the charge*,” determines whether to bring a complaint before an administrative law judge (ALJ). § 1324b(d)(1) (emphasis added).

If IER chooses not to file such a complaint within the 120-day period, it “shall notify the person making the charge.” § 1324b(d)(2). The charging party may then “file a complaint directly before [an ALJ] within 90 days . . . of receipt of the notice.” *Id.* The statute does not provide directives or guidance related to incomplete charges. For these specifics, one must look to the regulation.

### 2. 28 C.F.R. Part 44 - Unfair Immigration-Related Employment Practices

The analysis here will largely center around three Sections of Part 44: 28 C.F.R. § 44.101 (definitions applicable to § 1324b), 28 C.F.R. § 44.301 (NOR letter), and 28 C.F.R. § 44.303 (90-day letter).

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<sup>12</sup> Section 44.300(b) elaborates on the 180-day statute of limitations for § 1324b charges, establishing that “[a] charge is deemed to be filed on the date it is postmarked . . . deliver[ed,] or transmit[ted]” to IER. Even when a charge is originally found to be “incomplete,” i.e., not fulfilling all required elements of a charge under § 44.101(a), but later deemed complete within a requisite time period, the file date is still the “initial” date of postmark, delivery, or transmission. 28 C.F.R. § 44.301(d)(1)-(2).

As an aside, to the extent the regulation in its current version is inconsistent with OCAHO precedential decisions which predate the latest version of the regulation, the parties should view the plain language of the regulation as controlling. More pointedly, IER’s reliance on *Aguirre v. KDI American Prods. Inc.*, 6 OCAHO no. 882 (1996) may be misplaced to the extent that decision is now in conflict with the current version of 28 C.F.R. § 44.301(d)(2). *See* 28 C.F.R. § 44.301(d)(2) (“An incomplete charge that is later deemed to be complete under this paragraph is *deemed filed on the date the initial but inadequate submission is postmarked or otherwise delivered or transmitted to [IER.]*” (emphasis added)).

Germane to the question before the Court here, § 44.101(a) defines the term “charge” but does not define the term “receipt” or the phrase “receipt of charge.” The definition of “charge” lists eleven elements in the conjunctive (i.e., all should be present).

When an initial submission contains sufficient information addressing all eleven charge elements (i.e., is complete the instant it is filed), the “receipt of the charge” date is easy to ascertain. The issue (as occurred in this case) arises when a charge does not fulfill all eleven elements at § 44.101(a) upon submission. On this issue, 28 C.F.R. § 44.301 is instructive, setting out substantive and temporal requirements surrounding receipt of a charge.

a. Receipt of Charge and Issuance of NOR Letter - 28 C.F.R. § 44.301

Section 44.301(a) requires IER to “notify the charging party and respondent” within “10 days of receipt of a charge[.]” This is the NOR letter.

Section 44.301(b) covers the contents of the notice (or NOR letter) to the charging party, and paragraph (c) covers the contents of the notice (or NOR letter) to a respondent. The notice to the charging party centers on options the charging party may have and deadlines by which they must act. § 44.301(b). In contrast, the notice to the respondent includes “the date, place, and circumstances of the alleged unfair immigration-related employment practice.” § 44.301(c). Intuitively, these are the most salient elements of a charge outlined in § 44.101(a).

Section 44.301(d)-(g) clearly contemplates the prospect of incomplete charges, outlining, in part, a process by which IER may develop a submission into a complete charge or otherwise deem a charge complete. The regulation does not offer IER an option to proceed with a charge characterized as “incomplete.”

When a submission is incomplete, “[IER] shall notify the charging party that the charge is incomplete and specify what additional information is needed.” § 44.301(d)(1). Once IER receives this information and deems the charge “complete,” it is required to “issue the notices required by paragraphs (b) and (c) of this section within 10 days.” § 44.301(d)(3).

Again, the § 44.301(a) notification process (as further described in paragraphs (b) and (c)) and deadlines are only triggered upon the “receipt of a charge.” Thus, by the time IER’s obligation to issue the notices comes into play, IER must have a complete, or at least complete enough (i.e. deemed complete)<sup>13</sup> charge; otherwise, the regulatory scheme does not work. *See Regions Hosp.*

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<sup>13</sup> The regulation also accounts for a scenario where, despite IER’s efforts to get information from a charging party, it is unable to arrive at a complete charge. The regulation gives IER “discretion” to “deem a submission to be a complete charge even though it is inadequate to constitute a charge as defined in § 44.101(a).” § 44.301(e). It is this “complete” designator that “then” allows IER to

*v. Shalala*, 522 U.S. 448, 460 n.5 (1998) (quoting *United States Nat’l Bank of Ore. v. Indep. Ins. Agents of Am., Inc.*, 508 U.S. 439, 455 (1993)) (“In expounding a statute, we must not be guided by a single sentence or member of a sentence, but look to the provisions of the whole law . . .”); see also *Ysleta Del Sur Pueblo v. Texas*, 596 U.S. 685, 698-99 (2022) (“[W]e must normally seek to construe Congress’s work . . . ‘so that no part will be inoperative or superfluous, void, or insignificant.’” (quoting *Corley v. United States*, 556 U.S. 303, 314 (2009))).

Ultimately, the regulation does not provide IER with the discretion to proceed with an “incomplete” charge. (IER cannot proceed with the § 44.301(a) notification process until it has a complete charge.) Therefore, the language (and purpose) of this provision supports IER’s interpretation of the statute.

b. Receipt of Charge and Issuance of 90-Day<sup>14</sup> Letter - 28 C.F.R. § 44.303

This portion of the regulation outlines procedural steps and timelines related to IER’s investigation of a charge. Specifically, § 44.303(a) explains that “[w]ithin 120 days of the receipt of a charge, [IER] shall undertake an investigation of the charge and determine whether to file a complaint” itself. IER must provide an update to both the charging party (i.e. a complainant) and respondent by the end of the 120-day period about whether IER needs more time to investigate or has concluded that IER, itself, will not file a complaint with OCAHO. § 44.303(b). Stated a different way, if IER is not bringing a case before OCAHO within the 120-day period, it has that period to issue a letter to that effect – and the clock starts following IER’s “receipt of charge.”

Consistent with the analysis above, the investigation is centered on generating sufficient information for IER to be able to “determine whether to file a complaint [before OCAHO] with respect to the charge.” § 44.303(a). If the answer is “no,” or is indeterminate, IER owes that answer within 120 days. As noted above, the regulation has a wholly separate section and process for dealing with incomplete charges, and the regulation does not contemplate an incomplete charge proceeding to the next step of investigation.

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“obtain the additional information specified in §44.101(a) in the course of investigating the charge.” *Id.*

Much like the analysis above, waiting for the determination by IER to “deem” a charge complete in this circumstance would also allow for the most meaningful and regulatorily-compliant paragraph (c) notice to a respondent. In the alternative, it is unclear what IER would include in their paragraph (c)-compliant NOR letter to a respondent if the regulation required IER to fire off such a notice shortly after a charging party attempted to lodge a confusing or fact-devoid charge.

<sup>14</sup> As an aside, even though IER’s timeline runs for 120 days, the letter is referred to as a 90-day letter because the generated letter gives the charging party (and future OCAHO complainant) 90 days to file his complaint with OCAHO upon receipt. § 44.303(b)-(c).

These ideas separately augur in favor of the interpretation that the charge must be “complete” prior to its entrance into the investigative phase. Stated a different way, if IER could, or was, required to begin its investigation on incomplete charges, why bother drafting entire regulatory provisions setting out separate processes to make a charge complete (one of which explicitly contemplates investigation following this process)? *See* § 44.301(d)-(e).

Based on this analysis, the regulatory scheme appears to align with IER’s position – that the receipt of a charge means receipt of a complete (or deemed complete) charge.

### C. Additional Considerations

Interpretive maxims also indicate an implicit “complete” within “receipt of a charge.”

First, “[w]hen Congress includes particular language in one section of a statute but omits it from a neighbor, we normally understand that difference in language to convey a difference in meaning (*expressio unius est exclusio alterius*).” *Bittner v. United States*, 598 U.S. 85, 94 (2023). Within the construct of this maxim, one can conclude the inclusion of “incomplete” or “inadequate” in § 44.303(d)-(g) implies its exclusion in all other provisions. Following this thread, the exclusion of “incomplete” and “inadequate” within the regulatory language referencing “receipt of charge” permits the inference of “complete” and “adequate.” Thus, application of this maxim also leads to the same conclusion as the analysis above – “complete” may be read into the regulation.

Second, a statutory phrase “should ordinarily retain the same meaning wherever used in the same statute[.]” *Nat’l Aeronautics & Space Admin. v. FLRB*, 527 U.S. 229, 235 (1999). Phrases appearing in regulations are no exception. *See United States v. Garcia-Gonzalez*, No. 15-cr-00109, 2019 WL 343473, at \*3, 2019 U.S. Dist. LEXIS 13448, at \*10 (N.D. Cal. Jan. 28, 2019) (“[T]he Attorney General’s use of the same term in the regulations would imply that the definitions should be identical.”). Considering the above conclusions that the relevant language in § 44.301 (NOR letter) and § 44.303 (90-day letter) means “receipt of a *complete* charge,” the “same statute, same meaning” maxim, once more, reinforces this conclusion.<sup>15</sup>

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<sup>15</sup> Respondent argues the “same statute, same meaning” maxim, if applied under IER’s interpretation of “receipt of a charge,” would frustrate the timelines applicable to service, 28 C.F.R. § 68.3(b), and subpoenas, 28 C.F.R. § 68.25(b). Mot. Dismiss 3. This argument misses the mark.

When the “connection in which the words are used” is strained, the “same statute, same meaning” maxim “readily yields[.]” *See Atl. Cleaners & Dyers v. United States*, 286 U.S. 427, 433 (1932); *id.* (“Where the subject-matter to which the words refer is not the same in the several places where they are used . . . the meaning well may vary[.]”). Even more, Part 68 and Part 44 exist for distinct purposes, *compare* 28 C.F.R. § 68.1 (establishing rules for “adjudicatory proceedings before Administrative Law Judges”) *with* 28 C.F.R. § 44.100 (establishing rules to “implement section

#### IV. CONCLUSION

With the claims-processing issue resolved in a manner demonstrating timely compliance with the regulations for the NOR and 90-day letters,<sup>16</sup> Respondent's arguments become moot. Respondent's Motion to Dismiss is DENIED.

SO ORDERED.

Dated and entered on July 18, 2024.

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Honorable Andrea R. Carroll-Tipton  
Administrative Law Judge

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274B of the Immigration and Nationality Act (8 U.S.C. 1324b)[.]”), and are carried out by distinct agencies, *compare* Part 68 (Executive Office for Immigration Review) *with* Part 44 (Civil Rights Division).

<sup>16</sup> The NOR letters to both parties were issued on day 8 (May 17) from IER's receipt of the complete charge (May 9). Decl. Senior Trial Attorney (IER) ¶¶ 11-12; Mot. Dismiss Ex. B; SOI Exs. D-E. Thus, they were issued “[w]ithin 10 days of [IER's] receipt of a charge” pursuant to § 44.301(a). The letter of determination (Respondent) and 90-day letter (Complainant) were issued on day 120 (September 6) from IER's receipt of the complete charge (May 9). Decl. Senior Trial Attorney (IER) ¶ 16; SOI Exs. G-H. Thus, they were issued “[w]ithin 120 days of [IER's] receipt of a charge” pursuant to § 44.303(a)-(b).