

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

UNITED STATES OF AMERICA,	)	
Complainant,	)	
	)	
	)	8 U.S.C. § 1324a Proceeding
v.	)	OCAHO Case No. 2022A00022
	)	
KLJ LEASING, LLC,	)	
Respondent.	)	
	)	

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Appearances: Jose Solis, Esq., Faten Barakat-Nice, Esq., and James Harmony, Esq., for  
Complainant  
Julie Pace, Esq., Heidi Nunn-Gilman, Esq., for Respondent

ORDER DIRECTING COMPLAINANT TO  
REFILE MOTION FOR SUMMARY DECISION EXHIBITS

This case arises under the employer sanctions provisions of the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324a. On February 2, 2022, Complainant, the United States Department of Homeland Security, Immigration and Customs Enforcement (ICE), filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO), alleging that Respondent, KLJ Leasing, LLC, violated §§ 1324a(a)(1)(A)–(B), (a)(2). On March 1, 2022, Respondent filed an Answer.

On July 6, 2022, Complainant moved to amend the Complaint. The proposed First Amended Complaint served to remove allegations pertaining to certain employees due to statute of limitations issues. On July 28, 2022, the Court issued an order granting Complainant’s motion, *see United States v. KLJ Leasing, LLC*, 16 OCAHO no. 1446 (2022),<sup>1</sup> and on August 17, 2022, Respondent filed an Answer to the First Amended Complaint.

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<sup>1</sup> Citations to OCAHO precedents in bound volumes one through eight include the volume and case number of the particular decision followed by the specific page in the bound volume where the decision begins; the pinpoint citations which follow are to the pages, *seriatim*, of the specific entire volume. Pinpoint citations to OCAHO precedents after volume eight, 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 through the Westlaw database “FIM OCAHO,” the LexisNexis database “OCAHO,” and on the United States Department of Justice’s website: <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-decisions>.

On February 7, 2023, Complainant filed its Motion for Summary Decision. On February 14, 2023, Respondent filed its cross-Motion for Summary Decision. Both motions are fully briefed.

On April 19, 2023, Complainant filed its Motion for Leave to File Second Amended Complaint. The Second Amended Complaint again served to remove allegations pertaining to certain employees due to statute of limitations concerns. The Court granted this request on June 6, 2023. Respondent filed its Second Amended Answer on June 28, 2023.

Presently before the Court are the parties' cross-Motions for Summary Decision. Though the First and Second Amended Complaints removed allegations pertaining to many employees' Forms I-9, thereby altering the individuals enumerated on various counts, the Complainant's filings do not reflect the present state of the case. Given the significant number of employees at issue in this litigation, and the attendant number of Forms I-9 related to those persons entered into the record, the Court requires Complainant to refile its exhibits to include documents solely for those persons for whom the government has not conceded its case.

Under OCAHO's Rules of Practice and Procedure, "the Administrative Law Judge shall have all appropriate powers necessary to conduct fair and impartial hearings," 28 C.F.R. § 68.28(a),<sup>2</sup> including the power "[t]o take other appropriate measures as necessary . . . to discharge the duties of the office," 28 C.F.R. § 68.28(a)(8). This regulation "allows ALJs generally to regulate the handling of cases before them—*e.g.*, to require parties to participate in electronic filing in certain circumstances even if they have not submitted an e-filing registration form . . . ." United States v. A&D Maint. Leasing and Repairs, Inc., 19 OCAHO no. 1568a, 8 (2024).

Accordingly, the Court ORDERS Complainant to revise and refile the exhibits for its Motion for Summary Decision that specifically relate to the Forms I-9 (or lack thereof) at issue in Counts I through XII (Exhibits G-8 through G19). The Court notes that those exhibits currently appear to reflect the lists of individuals for each Count contained in the original Complaint, not those listed in the First or Second Amended Complaints.

The Court directs the Complainant to refile its exhibits by no later than 30 days from the issuance of this order. The Court further advises Complainant, in its refiled submission, to include the Forms I-9 (with auditor notes) or other records for *all* individuals listed in the relevant amended count in the corresponding Exhibit. The Court further directs Complainant to electronically bookmark, tab, or otherwise annotate its exhibits such that the Court may easily identify the individual Forms I-9 at issue. Finally, the Court orders that Complainant include an

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<sup>2</sup> OCAHO Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2023).

index for the updated Exhibits, akin to the one provided for all the Exhibits in the Motion for Summary Decision, indicating at what page each refiled Exhibit begins.

To the degree that Complainant's refiling of these Exhibits leads Respondent to wish to amend its response to Complainant's Motion for Summary Decision, Respondent may file its amended response by 14 days from its receipt of the amended filing.

If Respondent files an amended response to Complainant's Motion for Summary Decision, Complainant will have 14 days from the filing of the amended response to file an amended reply in support of its Motion for Summary Decision.

SO ORDERED.

Dated and entered on August 14, 2024.

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John A. Henderson  
Administrative Law Judge