

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
)	OCAHO Case No. 2024A00115
)	
BREAD ALONE, INC.,)	
Respondent.)	
)	

Appearances: Kaitlyn Hernandez, Esq., for Complainant
Anatasia Tonello, Esq., for Respondent

AMENDED ORDER ON STIPULATION OF SETTLEMENT AND DISMISSAL

The Court issued a final order of dismissal, titled Order on Stipulation of Settlement and Dismissal, in the above-captioned case on August 21, 2024. This Order amends that order only to include appeal information for the parties.

I. BACKGROUND

This case arises under the employer sanctions provisions of the Immigration and Nationality Act, as amended, 8 U.S.C. § 1324a. On June 24, 2024, Complainant, the United States Department of Homeland Security (DHS), Immigration and Customs Enforcement filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO). The complaint alleges that Respondent, Bread Alone, Inc., failed to prepare and/or present the Employment Eligibility Verification Form (Form I-9) for 57 individuals in violation of 8 U.S.C. § 1324a(a)(1)(B). Compl., Ex. A.

On July 1, 2024, the Court issued to Respondent and Respondent’s counsel a Notice of Case Assignment for Complaint Alleging Unlawful Employment (NOCA) and a copy of the Complaint and its attachments via certified U.S. mail. The Complaint was delivered to Respondent company on July 6, 2024 and to Respondent’s counsel on July 8, 2024. The Answer was received on August 8, 2024.¹

¹ The Court received the Answer three days after the deadline for a response. 28 C.F.R. § 68.8(b) (“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.”). Notwithstanding the tardy filing, the Court exercises discretion and will accept the submission. Zajradhara v. Guam Advance Enters., Inc., 18 OCAHO no. 1522a, 2 (2024). Given that the delay was minimal, and the parties had already executed a settlement agreement

On August 6, 2024, the parties filed a Stipulation of Settlement and Dismissal, which consists of a proposed order of dismissal for this Court, with an accompanying signed Settlement Agreement.² The settlement agreement asserts that “the Parties desire to settle fully and final the Action” and that they agree to the terms listed. Settlement Agreement 1. The proposed order references dismissal “pursuant to 28 C.F.R. § 68.14(c) and the terms of [the Settlement] Agreement.” Stipulation Settlement 2.

II. SETTLEMENT AND DISMISSAL

28 C.F.R. § 68.14(a), the operative regulation for dismissals based on the consent of the parties, offers two paths: 1) dismissal based on the entry of consent findings and a proposed decision and order, or 2) dismissal based on a settlement agreement between the parties. In the event that the parties seek dismissal based on consent findings, section (b) of the same regulation provides a list of items which must be included in the submission, including a waiver of “any further procedural steps before the Administrative Law Judge” and a “waiver of any right to challenge or contest the validity of the decision and order entered into in accordance with the agreement.” 28 C.F.R. § 68.14(b)(3-4). Section (c) of the same regulation provides that the Administrative Law Judge may, at their discretion, conduct a hearing to inquire into the fairness of the agreement. These procedures and forms flow from the Court’s entry of an order on the liability of a party and the damages which may result from that decision. By contrast, the dismissal based on settlement are largely void of any regulatory requirements aside from what the court believes necessary to protect the integrity and fairness of the litigation. The court may direct the parties to file a copy of the settlement agreement, but the regulations do not require it.

The parties in this matter seek dismissal pursuant to consent findings and an order of the Court. The Court finds that the parties’ filings substantially conform to the requirements of 28 C.F.R. § § 68.14(a)(1) and 68.14(b). The parties limit the record upon which they seek an order to the Complaint and its attachments. Upon a review of the record, the Court adopts the findings of fact based on the consent findings indicated in the motion and enters an order of liability against Respondent for violations of 8 U.S.C. § 1324a(a)(1)(B). The Court further finds that the stipulated fine of \$54,000.00 is appropriate; accordingly, the undersigned orders that the same be paid to the Complainant in accordance with the terms outlined in the settlement agreement.

Finally, the Court notes that the Stipulation of Settlement and Dismissal states that “this Order will be a final and unappealable Order pursuant to” 8 U.S.C. § 1324a(e)(3)(B). Stipulation

prior to the Answer deadline, the Court concludes that there is no prejudice to the parties or the proceedings and will accept the filing.

² The Court notes that the Stipulation identifies a Judge Paul Anderson as the presiding Administrative Law Judge in this matter. The Court presumes this is a scrivener’s error. NOCA 1.

Settlement 1. This appears to be a misunderstanding of 8 U.S.C. § 1324a(e)(3)(B), which states that “[i]f no hearing is . . . requested” in a § 1324a case, “[the Department of Homeland Security’s] imposition of the order shall constitute a final and unappealable order.” That is not the present situation, as a hearing was requested—indeed, that is the reason the case is before this Court. Compl., Ex. B. Because a hearing was requested, administrative review by the Chief Administrative Hearing Officer and the Attorney General are available. 8 U.S.C. § 1324a(e)(7), 28 C.F.R. § 68.55(c); *see also* United States v. Patch Sub, LLC, 18 OCAHO no. 1512a, 3 (2024) (declining to enter an order waiving complainant’s appeal rights but otherwise granting the parties’ joint stipulation of settlement and dismissal). With this caveat, the Court enters the order as described above.

SO ORDERED.

Dated and entered September 10, 2024.

John A. Henderson
Administrative Law Judge

Appeal Information

This order shall become the final agency order unless modified, vacated, or remanded by the Chief Administrative Hearing Officer (CAHO) or the Attorney General.

Provisions governing administrative reviews by the CAHO are set forth at 8 U.S.C. § 1324a(e)(7) and 28 C.F.R. pt. 68. Note in particular that a request for administrative review must be filed with the CAHO within ten (10) days of the date of this order, pursuant to 28 C.F.R. § 68.54(a)(1).

Provisions governing the Attorney General's review of this order, or any CAHO order modifying or vacating this order, are set forth at 8 U.S.C. § 1324a(e)(7) and 28 C.F.R. pt. 68. Within thirty (30) days of the entry of a final order by the CAHO, or within sixty (60) days of the entry of an Administrative Law Judge's final order if the CAHO does not modify or vacate such order, the Attorney General may direct the CAHO to refer any final order to the Attorney General for review, pursuant to 28 C.F.R. § 68.55.

A petition to review the final agency order may be filed in the United States Court of Appeals for the appropriate circuit within forty-five (45) days after the date of the final agency order pursuant to 8 U.S.C. § 1324a(e)(8) and 28 C.F.R. § 68.56.