

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. 2024A00036
SUMAJ, LLC,)	
)	
Respondent.)	
_____)	

Appearances: Ariel Chino, Esq., for Complainant
Kevin Lashus, Esq., for Respondent

ORDER ON SERVICE OF COMPLAINT

I. PROCEDURAL HISTORY

On January 26, 2024, Complainant, the United States Department of Homeland Security, Immigration and Customs Enforcement, filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) alleging that Respondent, SUMAJ, LLC, violated the employer sanctions provisions of the Immigration and Nationality Act (INA), as amended by the Immigration Reform and Control Act of 1986, 8 U.S.C. § 1324a. Specifically, Complainant alleges that Respondent: (1) knowingly continued to employ 106 individuals who were not authorized to work in the United States, in violation of 8 U.S.C. § 1324a(a)(2); (2) failed to prepare and/or present the Employment Eligibility Verification Form (Form I-9) for fifty-seven individuals, in violation of 8 U.S.C. § 1324a(a)(1)(B); (3) failed to prepare the Form I-9 at time of hire or in a timely manner for ten individuals, in violation of 8 U.S.C. § 1324a(a)(1)(B); and (4) failed to ensure that the employee properly completed Section 1 and/or failed to properly complete Section 2 or 3 of the Form I-9 for twenty-seven individuals, in violation of 8 U.S.C. § 1324a(a)(1)(B). Compl. ¶ 6. Complainant attached to the complaint the Notice of Intent to Fine Pursuant to Section 274A of the INA (NIF) it served on Respondent on August 8, 2023, seeking a fine of \$789,681.20 for the alleged violations, and Respondent's request, through counsel, for a hearing before OCAHO dated August

28, 2023 (request for hearing).¹ *Id.*, Exs. A-B. Pursuant to 28 C.F.R. § 68.7, Complainant also attached a request that OCAHO serve the complaint on Respondent’s counsel, Kevin Lashus, at an address in Austin, Texas. *Id.*, Attach. 28 C.F.R. § 68.7.²

On January 31, 2024, using United States Postal Service (USPS) certified mail, OCAHO’s Chief Administrative Hearing Officer (CAHO) sent Respondent’s counsel a Notice of Case Assignment for Complaint Alleging Unlawful Employment (NOCA), the complaint, the NIF, and Respondent’s request for hearing (together, the “Complaint package”). The USPS website reflected that the Complaint package was delivered to Respondent’s counsel on February 12, 2024.

On February 26, 2024, OCAHO staff emailed Mr. Kevin Lashus to confirm his receipt of the Complaint package on behalf of his client, SUMAJ, LLC. In response to OCAHO’s inquiry, on February 26, 2024, Mr. Lashus responded via email, in relevant part, “Yes. We received it. Don’t think it was the 16th—would have to see the green receipt card, but it was a part of our mail delivery on the 20th.” Mr. Lashus also stated, “We . . . submitted our answer via fed ex . . . and electronically (attached).”

On February 27, 2024, Respondent’s counsel filed a document entitled Special Appearance and Answer. In this filing, counsel represented that, “[a]lthough referenced in the court’s Notice of Case Assignment for Complaint, issued by the Honorable Court on JANUARY 31, 2024, undersigned has not formally been served the complaint or the notice of case assignment by certified mail as referenced in the service.” Answer ¶ 2.

On February 28, 2024, OCAHO received a USPS Domestic Return Receipt Form (PS Form 3811) for the Complaint package sent to Respondent’s counsel, confirming service of the Complaint package on Mr. Lashus at his address in Austin, Texas. The return receipt included the handwritten name “K. Lashus” and a handwritten delivery date of February 16, 2024.

¹ The Court considers this signed request for a hearing to be a notice of appearance by counsel, Kevin Lashus, on behalf of Respondent. *See* 28 C.F.R. § 68.33(f).

² OCAHO’s Rules of Practice and Procedure for Administrative Hearings, being the provisions contained in 28 C.F.R. part 68 (2024), are available on the United States Department of Justice’s website. *See* <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-regulations>.

II. LEGAL STANDARDS AND DISCUSSION

Respondent’s counsel asserts in Respondent’s Special Appearance and Answer that he “has not formally been served [with] the complaint or notice of case assignment[.]” Answer ¶ 2. OCAHO’s Rules of Practice and Procedure for Administrative Hearings provide that service of a complaint may be effectuated by “mailing [the complaint] to the last known address of such individual, partner, officer, or attorney or representative of record.” 28 C.F.R. § 68.3(a)(3). The Court finds that OCAHO effectuated service of the Complaint package in accordance with 28 C.F.R. § 68.3(a)(3). Specifically, the CAHO effectuated service by using USPS certified mail to serve Respondent with the Complaint package—containing the complaint, the NOCA, the NIF, and Respondent’s request for hearing—via its counsel at his address in Austin, Texas.

OCAHO’s Rules of Practice and Procedure for Administrative Hearings also provide that “[s]ervice of [the] complaint . . . is complete upon receipt by addressee.” 28 C.F.R. § 68.3(b). In this case, OCAHO staff verified receipt of the Complaint package through: (a) the USPS certified mail online tracking tool and (b) the USPS Domestic Return Receipt Form for the Complaint package. Both reflected that service was successful. The return receipt—referred to by the USPS as the “green card” for its green color—that OCAHO received for the Complaint package identified Kevin Lashus as the addressee, the delivery address in Austin, Texas, for Mr. Lashus, the printed name “K. Lashus” under the “Received by” block, and the handwritten date of February 16, 2024, under the “Date of Delivery” block. The return receipt therefore confirmed service of the Complaint package on Respondent’s counsel at his address in Austin, Texas, on February 16, 2024. Further, by email dated February 26, 2024, Respondent’s counsel confirmed to OCAHO staff that he had been served with the complaint and the NOCA and was filing Respondent’s answer.³ Counsel for Respondent having received the Complaint package, the Court finds that service of the complaint has been perfected in accordance with 28 C.F.R. § 68.3(b).

The Court reminds the parties that, should their best mailing address change, it is the party’s responsibility to timely notify OCAHO and opposing counsel of that change by filing a notice with the Court and serving it on Complainant. *See Ferrero v. Databricks*, 18 OCAHO no. 1505, 2 (2023) (“All representatives and parties are also required to maintain a current address with OCAHO and to timely file a notice of a change of address with the presiding ALJ . . . and must also serve such notice on the opposing party.”) (citing *United States v. Cordin Co.*, 10 OCAHO no. 1162, 4 (2012)); *see also United States v. Panamerican Supply Co.*, 5 OCAHO no. 804, 654, 655 (1995) (“[I]t is the Respondent’s duty to keep both the Court and the opposing party informed

³ A copy of the email exchange on February 26, 2024, between OCAHO staff and Respondent’s counsel (without attached filings) is attached to this Order.

as to its current mailing address and telephone number.”); *United States v. Ortiz*, 6 OCAHO no. 904, 919, 925 (1996) (“It is the party’s responsibility to inform the Court and opposing party of any change of address.”).

Service on the Complaint package having been perfected on Respondent and Respondent’s answer having been filed, the Court advises the parties to prepare to file their prehearing statements in advance of an initial prehearing conference in this matter.

SO ORDERED.

Dated and entered on March 10, 2025.

Honorable Carol A. Bell
Administrative Law Judge