

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. 99A00035
)
DE LUCA'S MARKET, INC.,)
Respondent.)
_____)

**DENIAL OF RESPONDENT'S REQUEST FOR
ADMINISTRATIVE REVIEW**

On April 22, 1999, the Complainant filed a three-count Complaint against Respondent containing seven alleged violations of 8 U.S.C. § 1324a(a)(1)(B) [failure to properly complete Employment Eligibility Verification Forms (Forms I-9)]. On November 23, 1999, the presiding Administrative Law Judge (ALJ), issued an Order Granting Complainant's Motion for Summary Decision. On December 23, 1999, the Office of the Chief Administrative Hearing Officer (OCAHO) received from Respondent a one page facsimile captioned "Respondent's Late Request to File for Administrative Review."

According to the applicable Rules of Practice and Procedure, a party has ten days from the date of entry of the ALJ's final order to file a request for administrative review, "stating the reasons for or basis upon which it seeks review." 28 C.F.R. § 68.54(a)(1).¹ Consequently, Respondent had until December 3, 1999, to file a request for administrative review. Because the request for administrative review was received after December 3, 1999, it is untimely.

Although Respondent's filing was twenty days late, the filing requests that administrative review be granted "because it [Respondent] was unfamiliar with the 10 day requirement." Respond-

¹ Once administrative review has been timely requested or ordered parties may file briefs within twenty-one days of the date of entry of the ALJ's final order. See 28 C.F.R. § 68.54(b)(1)

ent has not offered, and the undersigned is unaware of, any authority for waiving the ten day filing requirement. Even assuming there was some sort of discretionary waiver authority, the fact that Respondent has not bothered to familiarize itself with this forum's Rules of Practice and Procedure could hardly be considered persuasive.

It is also worth noting that Respondent's facsimile filing was received on the thirtieth day of the statutorily mandated thirty day period for administrative review;² thus providing an excellent example of why it was necessary to include the filing deadlines set out in 28 C.F.R. §68.54 to allow sufficient time to consider requests for review.

I hereby deny the Respondent's request for administrative review.

It is so ORDERED, this 29th day of December, 1999.

Jack E. Perkins
Chief Administrative Hearing Officer

² See 8 U.S.C. § 1324a(e)(7)