

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

October 20, 2022

UNITED STATES OF AMERICA,)	
Complainant,)	
)	
v.)	8 U.S.C. § 1324a Proceeding
)	OCAHO Case No. 2022A00044
)	
PATMO CONCRETE LLC,)	
Respondent.)	
)	

ORDER OF DISMISSAL

This case arises under the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324a. 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) on June 6, 2022. Complainant alleges that Respondent, Patmo Concrete LLC, failed to ensure proper completion of Forms I-9 for twenty individuals, in violation of § 1324a(a)(1)(B). Compl. 2–5; *see also id.* at 8–9 (Notice of Intent to Fine (NIF)). Complainant requests that the Court order Respondent to pay the \$37,658.60 in proposed penalties as set forth in the NIF, and to “prov[ide] for any and all other forms of relief that may be appropriate.” *Id.* at 5.

On June 6, 2022, OCAHO sent Respondent a Notice of Case Assignment for Complaint Alleging Unlawful Employment (NOCA), a copy of the complaint, the NIF, and Respondent’s request for a hearing. The NOCA directed that an answer was to be filed within thirty (30) days of receipt of the complaint, that failure to answer could lead to default, and that proceedings would be governed by Department of Justice regulations.¹ The U.S. Postal Service indicates service on Respondent on June 16, 2022, making an answer due no later than July 18, 2022. *See* §§ 68.3(a), 68.9(a).

On August 10, 2022, the Court issued an Order to Show Cause (OTSC). *United States v. Patmo Concrete LLC*, 17 OCAHO no. 1448, 1 (2022).² In the OTSC, the administrative law judge (ALJ)

¹ OCAHO Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2022).

² Citations to OCAHO precedents reprinted in bound Volumes 1 through 8 reflect the volume number and the case number of the particular decision, followed by the specific page in that volume where the decision begins; the pinpoint citations which follow are thus to the pages,

identified that “[f]ailure of the respondent to file an answer within the time provided may be deemed to constitute a waiver of his or her right to appear and contest the allegations of the complaint,” such that the ALJ “may enter a judgment by default.” *Id.* (citing 28 C.F.R. § 68.9(b), and then citing *Nickman v. Mesa Air Grp.*, 9 OCAHO no. 1106, 1 (2004)). The Court then ordered Respondent to file an answer and show good cause for its failure to timely file an answer within 21 days of the date of the Order; that is, by August 31, 2022. *Id.* at 2.

On September 30, 2022, the Court issued a Notice that Request for Hearing May Be Deemed Abandoned. *United States v. Patmo Concrete LLC*, 17 OCAHO no. 1448a, 1 (2022). In the Notice, the ALJ stated that Respondent had not filed an answer, showed cause for its failure to timely file an answer, or otherwise appeared in this matter. *Id.* at 2. The ALJ then advised that “a request for hearing may be deemed abandoned if a party or its representative fails to respond to ALJ orders.” *Id.* at 2 (citations omitted). Accordingly, the ALJ warned Respondent that its “failure to respond to the [September 30, 2022] Order,” within fourteen days, “may result in its request for hearing being deemed abandoned and subject to dismissal.” *Id.* The fourteen day period set in this Notice expired on October 14, 2022.

To date, Respondent has not filed an answer, a submission addressing good cause, or any filings in response to the Court’s August 10, 2022, Order or September 30, 2022, Notice.

“OCAHO Rules provide that a request for hearing may be dismissed upon its abandonment by the party who filed it, and that a party shall be deemed to have abandoned such a request where the party or its representative fails to respond to [ALJ orders].” *United States v. Louie’s Wine Dive, LLC*, 15 OCAHO no. 1404, 2 (2021) (citing § 68.37(b)(1), and then citing *United States v. Hosung Cleaning Corp.*, 4 OCAHO no. 681, 776, 777–78 (1994)). The Court therefore finds that Respondent has abandoned its request for a hearing pursuant to 28 C.F.R. § 68.37(b)(1).

The complaint is hereby DISMISSED, and the NIF becomes the final agency order in this matter.

seriatim, of the specific entire volume. Pinpoint citations to OCAHO precedents subsequent to Volume 8, where the decision has not yet 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 in the Westlaw database “FIM-OCAHO,” or in the LexisNexis database “OCAHO,” or on the website at <http://www.justice.gov/eoir/OcahoMain/ocahosibpage.htm#PubDecOrders>.

SO ORDERED.

Dated and entered on October 20, 2022.

Honorable Jean C. King
Chief 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.