

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 MEMORIALIZING INITIAL PREHEARING CONFERENCE

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. Complainant attached to the complaint the Notice of Intent to Fine Pursuant to Section 274A of the INA 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. Compl. Exs. A-B. On February 27, 2024, Respondent filed an answer to the complaint.

On June 20, 2024, the Court issued an Order on Electronic Filing, permitting the parties to participate in OCAHO's Electronic Filing Pilot Program.¹

On March 10, 2025, the Court issued an Order on Service of Complaint, finding that service of the complaint had been perfected on Respondent in accordance with OCAHO's Rules of Practice and Procedure for Administrative Hearings, being the provisions contained in 28 C.F.R. part 68 (2024).² *United States v. SUMAJ, LLC*, 21 OCAHO no. 1648, 3–4 (2025).³ On that same date, the Court also issued an Order for Prehearing Statements and Scheduling Initial Prehearing Conference, through which it ordered the parties to make their initial disclosures and file their prehearing statements by March 31, 2025, and set an initial prehearing conference on April 15, 2025.

On April 14, 2025, the parties filed a Joint Prehearing Statement and a Joint Motion for and Consent to Referral to Settlement Officer Program.

On April 15, 2025, pursuant to 28 C.F.R. § 68.13, the Court conducted the initial telephonic prehearing conference with counsel for both parties. The Court now issues this Order to memorialize the conference pursuant to 28 C.F.R. § 68.13(c).

¹ OCAHO's Electronic Filing Pilot Program is described in detail in the Federal Register. *See* 79 Fed. Reg. 31143 (May 30, 2014).

² OCAHO's Rules of Practice and Procedure for Administrative Hearings are available on the United States Department of Justice's website at <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-regulations>.

³ 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, *seriatim*, of the specific entire volume. Pinpoint citations to OCAHO precedents after Volume 8, 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 in the Westlaw database "FIM-OCAHO," the LexisNexis database "OCAHO," or on OCAHO's homepage on the United States Department of Justice's website at <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-decisions>.

II. INITIAL PREHEARING CONFERENCE

During the prehearing conference, the Court reminded the parties through counsel that proceedings in this case would generally be governed by OCAHO's Rules of Practice and Procedure for Administrative Hearings. The Court explained that the parties must familiarize themselves with OCAHO's Rules, including the standards of conduct under 28 C.F.R. § 68.35, and encouraged the parties to review the OCAHO Practice Manual.⁴ Counsel for both parties represented that they were familiar with OCAHO's Rules. The Court reminded the parties that, if they encounter a situation not covered by OCAHO's Rules, they may use the Federal Rules of Civil Procedure as a general guideline. *See* 28 C.F.R. § 68.1.

The Court and the parties briefly discussed the case's enrollment in OCAHO's Electronic Filing Pilot Program. The Court confirmed that certificates of service attached to filings should contain the names and email addresses of the parties served, but need not list physical addresses.

The Court turned next to the complaint filed in this case. The Court directed the parties' attention to the first page of ICE Form I-763, being the NIF served on Respondent on August 8, 2023, which Complainant attached as Exhibit A to the complaint. *See* Compl. Ex. A, at 1. The Court explained that the copy of the NIF Complainant filed with the complaint did not include the NIF's referenced attachment containing factual allegations and alleged violations of the law by Respondent. *Id.* Counsel for Complainant and Respondent both confirmed that DHS had served Respondent with the complete NIF, including the form and the referenced attachment detailing the factual allegations and alleged legal violations. The Court explained that OCAHO's Rules of Practice and Procedure for Administrative Hearings provide that "[c]omplaints filed pursuant to sections 274A and 274C of the INA shall be signed by an attorney and shall be accompanied by a copy of the Notice of Intent to Fine and Request for Hearing." 28 C.F.R. § 68.7(c). For completeness of the record, the Court ordered Complainant to file the complete NIF, including the attachment(s), within 30 days, and proof of service of the complete NIF on Respondent's counsel.

⁴ The OCAHO Practice Manual is available on the United States Department of Justice's website. *See* <https://www.justice.gov/eoir/reference-materials/ocaho>.

The Court next addressed the parties' Joint Motion for and Consent to Referral to Settlement Officer Program.⁵ First, the Court explained the policies and procedures for the OCAHO Settlement Officer Program, include the time periods for referrals and extensions. The Court directed the parties to Chapter 4.7 of the OCAHO Practice Manual and the Executive Office for Immigration Review's Policy Memorandum 20-16, links to which were provided to the parties through the Court's Order for Prehearing Statements and Scheduling Initial Prehearing Conference. The Court noted that the parties had filed a written motion for a referral to the program in which they had consented to participate in the Settlement Officer Program and had agreed to engage in settlement negotiations in good faith. *See* Joint Mot. Consent Referral 1. Counsel affirmed their commitment to mediate in good faith, their understanding of the policies and procedures of the Settlement Officer Program, and their consent to the use of the program's policies and procedures. The Court gave both parties an opportunity to ask questions about the program. Counsel for both parties agreed to an initial referral to the Settlement Officer Program of sixty days and indicated their immediate availability to participate in the program. The Court then found the case appropriate for a referral to the OCAHO Settlement Officer Program and stated that an order referring the case to the Settlement Officer Program would be forthcoming.

The Court explained that discovery was available to the parties, including during the referral to the OCAHO Settlement Officer Program. The Court asked the parties to remember their commitment to mediate in good faith and to use any discovery in such a way as to assist their settlement negotiations. The Court noted that, if discovery requests become burdensome, either party may seek a stay of discovery during the pendency of the referral.

The Court advised the parties that at the end of the initial sixty-day referral period, the assigned Settlement Officer would inform the Court if the parties had reached a settlement agreement, needed an extension of the referral period, or if the case would be referred back to the Court for continued proceedings. If the parties reach a settlement agreement, the Court advised the parties that it may set a deadline for the filing of settlement materials. The Court referred the parties to 28 C.F.R. § 68.14, which describes the two avenues for dismissal pursuant to settlement. If the parties enter into a settlement agreement, the Court noted that 28 C.F.R. § 68.14(a)(2) provides that the parties may jointly file a notice of full settlement and an agreed motion to dismiss signed by counsel for both parties. The

⁵ EOIR Policy Memorandum 20-16 sets forth the OCAHO Settlement Officer Program and is available at <https://www.justice.gov/eoir/page/file/1300746/dl>.

Court explained that, pursuant to that regulation, the Court may require the filing of the settlement agreement. The Court further noted that the parties should state in their filing whether they seek dismissal with or without prejudice. If the parties return from the Settlement Officer Program without a finalized settlement agreement, the Court explained that it may require the filing of a joint status report and/or set additional case deadlines and schedule another prehearing conference.

The Court then addressed initial disclosures. The parties stated that they had not made their initial disclosures by March 31, 2025, as ordered by the Court. Given the referral of this matter to the OCAHO Settlement Officer Program, the Court granted the parties additional time to make their initials disclosures. It explained that, should this case not settle during the referral period, it would set a new deadline for initial disclosures and the filing of more fulsome and complete prehearing statements.

Given the referral of this case to the OCAHO Settlement Officer Program, the Court explained that it could postpone setting additional case deadlines, including dates for the completion of discovery, the filing of dispositive motions, and a date for a hearing. The Court noted that the parties had indicated in their Joint Prehearing Statements that they “do not believe that a discovery plan is needed at this time.” Joint Prehr’g Statement 3. Counsel for both parties requested that the Court defer setting case deadlines to allow the parties to focus on resolving this matter through mediation. The Court granted the parties’ agreed request and deferred setting a case schedule.

After confirming that the parties had no further questions or issues that they wanted to discuss, the Court adjourned the conference.

III. ORDERS

IT IS SO ORDERED that Complainant, the United States Department of Homeland Security, Immigration and Customs Enforcement, has through May 15, 2025, to file with the Court a copy of the complete Notice of Intent to Fine Pursuant to Section 274A of the Immigration and Nationality Act that it served on Respondent on August 8, 2023, including attachment(s), and to provide proof of its service on Respondent, SUMAJ, LLC.

SO ORDERED.

Dated and entered on April 17, 2025.

Honorable Carol A. Bell
Administrative Law Judge