

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. 2024A00030
RITALKA, INC.,)	
)	
Respondent.)	
_____)	

Appearances: Kenneth Knapp, Esq., for Complainant
Kayla Ruikkie, Esq., for Respondent

ORDER MEMORIALIZING INITIAL PREHEARING CONFERENCE

I. PROCEDURAL HISTORY

On January 3, 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) alleging that Respondent, RITALKA, Inc., violated the employer sanctions provisions of the Immigration and Nationality Act, as amended by the Immigration Reform and Control Act of 1986, 8 U.S.C. § 1324a. On February 15, 2024, Respondent filed Respondent's Answer to Complainant's Complaint.

On February 21, 2024, Complainant filed an Opposition to the Respondent's Request to Dismiss. On March 7, 2024, the Court enrolled this case in OCAHO's Electronic Filing Pilot Program through its Order on Electronic Filing. On July 24, 2024, the parties submitted a Joint Motion to Refer Matter to a Settlement Officer.

On November 6, 2024, Complainant filed Complainant's Motion to Withdraw as Counsel for DHS and Complainant's Motion to Substitute as Counsel. DHS Assistant Chief Counsel (ACC) Kenneth Knapp attached to the motion to substitute

a completed Attorney Registration Form and Certification for OCAHO's Electronic Filing Pilot Program. On November 12, 2024, he filed a Notice of Appearance.

On January 16, 2025, the Court issued an Order on Complainant's Motion to Withdraw, Motion for Substitution, Notice of Appearance, and Electronic Filing. *United States v. RITALKA, Inc.*, 21 OCAHO no. 1638 (2025).¹ The Court granted Complainant's Motion to Withdraw and ACC Knapp's Motion to Substitute as Counsel. *Id.* at 4. The Court also extended electronic filing privileges to ACC Knapp. *Id.*

On March 7, 2025, the Court issued an Order for Prehearing Statements and Scheduling Initial Prehearing Conference, directing the parties to make their initial disclosures and file their prehearing statements by March 28, 2025, and scheduling an initial prehearing conference pursuant to 28 C.F.R. § 68.13² for April 22, 2025. On the same day, the Court also issued an Order on Complainant's Opposition to the Respondent's Request to Dismiss, finding that because Respondent had not filed a motion to dismiss comporting with 28 C.F.R. § 68.10(a), the Court need not consider Complainant's Opposition. *United States v. RITALKA, Inc.*, 21 OCAHO no. 1638a, 4 (2025).

¹ 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 the United States Department of Justice's website at <http://www.justice.gov/eoir/OcahoMain/ocahosibpage.htm#PubDecOrders>.

² OCAHO's Rules of Practice and Procedure for Administrative Hearings, being the provisions contained in 28 C.F.R. part 68 (2024), generally govern these proceedings and 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>.

On March 11, 2025, Respondent filed an Uncontested Motion for Extension of Time for Filing Prehearing Statement of Position and Initial Disclosures. Also on March 11, 2025, Respondent filed an Uncontested Motion to Reschedule Initial Telephonic Prehearing Conference. On March 26, 2025, the Court granted both motions. *United States v. RITALKA, Inc.*, 21 OCAHO no. 1638b (2025).

On April 9, 2025, Complainant filed Complainant's Prehearing Statement. On April 10, 2025, Respondent filed Respondent's Prehearing Statement.

On April 23, 2025, pursuant to 28 C.F.R. § 68.13, the Court held the initial telephonic prehearing conference with counsel for both parties. The Court issues this Order to memorialize the conference, pursuant to 28 C.F.R. § 68.13(c).

II. INITIAL PREHEARING CONFERENCE

The Court opened the prehearing conference by reviewing the governing regulations and resources available to the parties. The Court advised the parties that they must familiarize themselves with OCAHO's Rules of Practice and Procedure for Administrative Hearings, including the standards of conduct under 28 C.F.R. § 68.35. The Court explained that OCAHO's Rules are available online, including on the United States Department of Justice's website. The Court highlighted a few of OCAHO's Rules. First, the Court explained that the filing party must attach a certificate of service to their electronic filings. Second, the Court noted that the default response time to a motion under OCAHO's Rules is ten days and that no replies are allowed without leave of Court. *See* 28 C.F.R. § 68.11(b). The Court also said that there is no oral argument on motions unless the Court directs otherwise. *See id.* § 68.11(c). The Court advised 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 id.* § 68.1.

Next, the Court encouraged the parties to review the OCAHO Practice Manual which is available on the United States Department of Justice's website.³ The Court then said that OCAHO's published cases and a topical index of OCAHO cases may be found on the United States Department of Justice's website or through databases on Westlaw and LexisNexis. The Court then gave both parties an opportunity to ask questions about OCAHO's Rules.

³ *See* <https://www.justice.gov/eoir/reference-materials/ocaho>.

The Court next addressed the parties' Joint Motion to Refer Matter to a Settlement Officer. First, given the change in Complainant's counsel since the filing of the motion, the Court inquired whether Complainant still joined Respondent in seeking a referral to the OCAHO Settlement Officer Program. Complainant's counsel confirmed that Complainant still wanted a referral to the program. For the benefit of both parties, the Court then explained the policies and procedures for the OCAHO Settlement Officer Program, including the time periods for referrals and extensions. The Court advised the parties to consult Chapter 4.7 of the OCAHO Practice Manual⁴ and the Executive Office for Immigration Review (EOIR) Policy Memorandum 20-16.⁵ The Court noted that it had previously provided links to the manual and the policy memorandum in its Order for Prehearing Statements and Scheduling Initial Prehearing Conference. The Court observed that the parties had indicated in their Joint Motion to Refer Matter to a Settlement Officer that they both consent to a referral to the Settlement Officer Program. *See* Joint Mot. Refer 2. The parties confirmed that they understood the policies and procedures pertaining to the OCAHO Settlement Officer Program and consented to their use. The Court then afforded both parties an opportunity to ask questions about the program.

The Court and the parties discussed Respondent's request through the Joint Motion to Refer Matter to a Settlement Officer that the assigned Settlement Officer be in South Dakota or Wisconsin. The Court explained that mediation conferences in the OCAHO Settlement Officer Program typically take place via telephonic or video conference, so the parties would not need to travel, although they are welcome to choose to be in the same location as each other for settlement conferences. OCAHO's Settlement Officers, who are either OCAHO Administrative Law Judges or, for cases arising under 8 U.S.C. § 1324b, may be the Chief Administrative Hearing Officer or Deputy Chief Administrative Hearing Officer, do not travel for mediation sessions.

Respondent's counsel inquired whether it would be appropriate for the settlement authority from the Respondent business to be present at mediation sessions, indicating that this would be Respondent's preference. The Court advised Respondent's counsel to discuss that with the assigned Settlement Officer and

⁴ Chapter 4.7 of the OCAHO Practice Manual is available on the United States Department of Justice's website at <https://www.justice.gov/eoir-policy-manual/iv/4/7>.

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>.

Complainant but noted that having either, or both, settlement authorities present for mediation sessions can facilitate communication and assist in reaching a resolution.

Having clarified those issues, the Court then inquired whether the parties agree to mediate in good faith should the Court refer the case to the OCAHO Settlement Officer Program. Both parties confirmed that they would mediate in good faith. Having the parties' commitments to mediate in good faith, the Court and the parties discussed the referral period, and counsel for both parties agreed to an initial referral to the Settlement Officer Program for sixty days. Complainant's counsel provided Respondent's counsel and the Court with several dates on which he has conflicts, and the Court indicated that it would communicate those conflicts to the Settlement Officer. The Court found that the case was appropriate for a referral to the OCAHO Settlement Officer Program and said that an order granting the parties' Joint Motion to Refer Matter to a Settlement Officer and referring the case to the program would be forthcoming.

The Court noted that both parties had indicated in their respective prehearing statements that they did not anticipate the need for discovery, which the parties confirmed during the conference. The Court explained that the option to conduct discovery would remain available to the parties during the referral to the OCAHO Settlement Officer Program and that, if any discovery requests become burdensome, either party may seek a stay of discovery during the referral.

Next, the Court discussed how the case would proceed at the conclusion of the referral to the OCAHO Settlement Officer Program. The Court explained that the assigned Settlement Officer would indicate to the Court whether the parties had reached a settlement agreement, if they needed an extension of the referral period, or if the case would be referred 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 directed the parties to consult 28 C.F.R. § 68.14 which outlines the two avenues for dismissal pursuant to settlement. Specifically, 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 Court explained that if the parties submit a joint motion to dismiss pursuant to 28 C.F.R. § 68.14(a)(2), they should indicate in the motion whether they seek dismissal with or without prejudice. If the parties do not reach a finalized settlement agreement at the end of the referral period, the Court said 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 gave both parties an opportunity to ask questions.

The Court addressed the parties' initial disclosures. Both parties said that they had made their initial disclosures, and both parties confirmed their receipt of the opposing party's disclosures, including preliminary exhibits. Respondent's counsel noted that, because Complainant had copies of the Forms I-9 at issue in this case, she had not produced copies of the original Forms I-9 with Respondent's Bates stamping. Complainant's counsel agreed that Complainant did not require copies of the Forms I-9 from Respondent. The Court reminded the parties that they must amend or supplement those disclosures as required. *See* 28 C.F.R. § 68.18(d).

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 filing of dispositive motions, the filing of responses, and a contested hearing. 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. The Court explained that, if the parties do not reach a settlement agreement, they should expect to discuss case deadlines at a prehearing conference upon the case's return to active proceedings.

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

SO ORDERED.

Dated and entered on April 24, 2025.

Honorable Carol A. Bell
Administrative Law Judge