

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 GRANTING JOINT MOTION FOR AND CONSENT TO REFERRAL TO
THE SETTLEMENT OFFICER PROGRAM, REFERRING CASE TO THE OCAHO
SETTLEMENT OFFICER PROGRAM, AND DESIGNATING
SETTLEMENT OFFICER

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 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. Also, on April 14, 2025, the parties filed a Joint Motion for and Consent to Referral to Settlement Officer Program, through which they moved the Court to refer this matter to the OCAHO Settlement Officer Program and “expressly consent[ed] to participation in the Settlement Officer Program and agree[d] to engage in settlement negotiations in good faith.” Joint Mot. Referral Consent 1.

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>.

On April 15, 2025, pursuant to 28 C.F.R. § 68.13, the Court conducted the initial telephonic prehearing conference and, after considering the parties' Joint Motion for and Consent to Referral to Settlement Officer Program, found that this case was appropriate for a sixty-day referral to the OCAHO Settlement Officer Program. *United States v. SUMAJ, LLC*, 21 OCAHO no. 1648a, 4 (2025).

II. RULES GOVERNING THE OCAHO SETTLEMENT OFFICER PROGRAM

OCAHO announced its Settlement Officer Program in August 2020 through the Executive Office for Immigration Review (EOIR) Policy Memorandum (PM) 20-16.⁴ It is a voluntary program through which the parties use a Settlement Officer to mediate settlement negotiations as a means of alternative dispute resolution. The Settlement Officer convenes and oversees settlement conferences and negotiations, confers with the parties jointly and/or individually, and seeks voluntary resolution of issues. The proceedings before the Settlement Officer are subject to the confidentiality provisions of 5 U.S.C. § 574. The presiding Administrative Law Judge (ALJ) may refer a case for up to sixty days for settlement negotiations before the Settlement Officer. However, with the consent of the parties, the Settlement Officer may seek the approval of the presiding ALJ to extend the period for negotiations for a reasonable period of time, not to exceed an additional thirty days. If the parties reach a settlement, the provisions of 28 C.F.R. § 68.14 apply. If the parties' settlement negotiations are unsuccessful, the case is returned to the presiding ALJ to set appropriate procedural deadlines.

The presiding ALJ may refer a case to a Settlement Officer upon: (1) receipt of written confirmation of consent to referral from each party in the case and (2) subject to 5 U.S.C. § 572(b) and the eligibility provisions of the program, a determination by the presiding ALJ that the case is appropriate for referral. PM 20-16, Section II.A. The eligibility provisions include, as relevant, that an ALJ shall not refer a case if (a) either party objects to the referral, (b) one or more parties are proceeding pro se unless the pro se parties are fully informed regarding program's procedures and consent to their use, or (c) a case is not appropriate for referral. *Id.* Section I.C.

⁴ EOIR Policy Memorandum 20-16 is available at <https://www.justice.gov/eoir/page/file/1300746/dl>. Chapter 4.7 of the OCAHO Practice Manual also discusses the OCAHO Settlement Officer Program and is available at <https://www.justice.gov/eoir-policy-manual/iv/4/7>.

III. DISCUSSION AND ANALYSIS

Pending before the Court is the parties' Joint Motion and Consent to Referral to the Settlement Officer Program. The parties move the Court to refer this case to the OCAHO Settlement Officer Program and "expressly consent to participation in the Settlement Officer Program and agree to engage in settlement negotiations in good faith." Joint Mot. Referral Consent 1. Counsel for both parties signed the motion. *Id.* at 2. The Court finds that, through their Joint Motion and Consent to Referral to the Settlement Officer Program, the parties have satisfied the OCAHO Settlement Officer Program's requirement that no referral may be made without "receipt of written confirmation of consent to referral from each party in the case." PM 20-16, Section II.A.1. During the initial prehearing conference on April 15, 2025, counsel for both parties reiterated their consent to the use of the OCAHO Settlement Officer Program's policies and procedures, their understanding of the program, and their commitment to mediate in good faith. *SUMAJ, LLC*, 21 OCAHO no. 1648a, at 4.

Given the Court's discussions with the parties' counsel during the initial prehearing conference and based on its review of the filings in this case, including the complaint, Respondent's answer, the parties' Joint Prehearing Statement, and the parties' Joint Motion for and Consent to Referral to Settlement Officer Program, the Court finds that this matter meets the eligibility requirements for the OCAHO Settlement Officer Program, as set out in Section I.C.1–2 of PM 20-16 and Chapter 4.7(a)(3)(A)–(B) of the OCAHO Practice Manual, and is appropriate for referral. Moreover, the Court does not find that any of the factors in 5 U.S.C. § 572(b), Section I.C.3. of PM 20-16, and Chapter 4.7(a)(3)(C) of the OCAHO Practice Manual counsel against referral of this case to the program.

Given the Court's previous finding during the initial prehearing conference that this case is appropriate for referral to the OCAHO Settlement Officer Program, *see SUMAJ, LLC*, 21 OCAHO no. 1648a, at 4, and having found that none of the eligibility factors counsel against referral, the Court now grants the parties' Joint Motion and Consent to Referral to the Settlement Officer Program and refers this case to the program for settlement negotiations for sixty days beginning on April 22, 2025, and continuing through June 23, 2025,⁵ pursuant to 28 C.F.R. § 68.28(a) and

⁵ In accordance with 28 C.F.R. § 68.8(a), because the last day of the time period falls on a Saturday, namely, June 21, 2025, the referral period is extended to include the next business day, being Monday, June 23, 2025.

Sections II.C and II.D.2 of PM 20-16. The Court designates Administrative Law Judge John A. Henderson as the Settlement Officer for this case.

The Court finds that no procedural deadlines need to be stayed during this case's referral to the OCAHO Settlement Officer Program. *See* PM 20-16, Section II.C. At the parties' request, the Court deferred setting further case deadlines in this matter, including dates for the completion of discovery, the filing of dispositive motions, and a hearing date. *SUMAJ, LLC*, 21 OCAHO no. 1648a, at 5. As the Court explained during the initial prehearing conference, the parties may engage in discovery during mediation or seek a stay if discovery requests become burdensome. *Id.* at 4.

During the referral period, the parties shall comply with the OCAHO Settlement Officer Program's confidentiality requirements, *see* PM 20-16, Section IV, and, as specified in the program, the statutory provisions of 5 U.S.C. § 574 "which generally prohibit disclosure of dispute resolution communications by parties and a settlement officer unless a specific enumerated exception applies." *Id.* Section IV.B.

As the Court explained during the initial prehearing conference, if the parties reach a settlement agreement through the OCAHO Settlement Officer Program, the Court may issue an order setting deadlines for the filing of any settlement materials. *SUMAJ, LLC*, 21 OCAHO no. 1648a, at 4. The parties may consult 28 C.F.R. § 68.14, which sets forth the two avenues for leaving this forum upon settlement. If the parties enter into a settlement agreement, 28 C.F.R. § 68.14(a)(2) provides that the parties may file a notice of settlement and a joint motion to dismiss signed by counsel for both parties. If the parties pursue this avenue, the Court may require the filing of the parties' settlement agreement. The parties should state in their joint motion whether they are seeking dismissal with or without prejudice.

If the parties do not reach a settlement during the referral to the OCAHO Settlement Officer Program, they may seek an extension of the referral period for up to an additional thirty days. PM 20-16, Section II.D.2. When the referral period ends, the Settlement Officer will terminate negotiations and return the case to the presiding ALJ. *Id.* Section V.B. Settlement negotiations before the Settlement Officer also will be terminated and the case will be returned to the presiding ALJ if a party unambiguously indicates that it does not wish to participate or if the Settlement Officer determines that further negotiations would be unproductive or inappropriate. *Id.* Section V.C.

IV. ORDERS

IT IS SO ORDERED that the Joint Motion for and Consent to Referral to the Settlement Officer Program filed by Complainant, the United States Department of Homeland Security, Immigration and Customs Enforcement, and Respondent, SUMAJ, LLC, is GRANTED;

IT IS FURTHER ORDERED that, pursuant to 28 C.F.R. § 68.28(a) and EOIR Policy Memorandum 20-16, Sections II.C and II.D.2., this case is referred to the OCAHO Settlement Officer Program for settlement negotiations for sixty days beginning on April 22, 2025, and continuing through June 23, 2025;

IT IS FURTHER ORDERED that OCAHO Administrative Law Judge John A. Henderson is designated as the Settlement Officer for this case; and

IT IS FURTHER ORDERED that, should the parties reach a settlement agreement, they shall proceed in accordance with 28 C.F.R. § 68.14.

SO ORDERED.

Dated and entered on April 21, 2025.

Honorable Carol A. Bell
Administrative Law Judge