

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. 2025A00022
IMPACT STAFFING, LLC,)	
)	
Respondent.)	
_____)	

Appearances: Geoffrey Gilpin, Esq., for Complainant
David L. Miller, Esq., and Elijah A. Turner, Esq., for Respondent

ORDER REFERRING CASE TO OCAHO SETTLEMENT OFFICER PROGRAM
AND DESIGNATING SETTLEMENT OFFICER

I. PROCEDURAL HISTORY

On November 27, 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, Impact Staffing, LLC, 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 26, 2025, Respondent, through counsel, filed Respondent's Answer to Complainant's Complaint Regarding Unlawful Employment Practices.

On March 25, 2025, the Court issued an Order for Prehearing Statements and Scheduling Initial Prehearing Conference. The Court ordered the parties to make their initial disclosures and file their prehearing statements with the Court within twenty-one days of the Order, or by April 15, 2025. Mar. 25, 2025, Order for Prehr'g Statements 8. The Court also scheduled an initial prehearing conference with parties for May 1, 2025. *Id.* at 9.

On April 23, 2025, Complainant filed Complainant's Prehearing Statement in which it sought a referral of this matter to the OCAHO Settlement Officer Program. Also, on that date, Respondent's counsel emailed OCAHO staff and Complainant's counsel and asked the Court to reschedule the prehearing conference to an agreed date and time. Further, Respondent's counsel said that he intended to file a motion seeking an extension of time until May 8, 2025, to file Respondent's prehearing statement and to serve initial disclosures.

On April 24, 2025, Respondent filed Respondent Impact Staffing, LLC's Unopposed Motion for Extension of Time to File Prehearing Statement.

On April 30, 2025, the Court issued an Order Granting Respondent's Unopposed Motion for Extension of Time to File Prehearing Statement and Rescheduling Initial Prehearing Conference. Through the Order, the Court gave Respondent until May 8, 2025, to file its prehearing statement and make its initial disclosures, and rescheduled the prehearing conference to June 5, 2025. Apr. 30, 2025, Order 5.

On May 8, 2025, Respondent filed Respondent Impact Staffing, LLC's Prehearing Statement and, through that filing, it requested a referral to mediation through the OCAHO Settlement Officer Program.

On June 5, 2025, the Court held an initial prehearing conference with the parties. On June 10, 2025, the Court issued an Order Memorializing Initial Prehearing Conference in which it included its finding that this case was appropriate for a referral to the OCAHO Settlement Officer Program for mediation.

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) 20-16.¹ 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

¹ 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>.

(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 a 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.

III. DISCUSSION AND ANALYSIS

As explained in its Order Memorializing Initial Prehearing Conference dated June 10, 2025, the Court finds that referral of this matter to the OCAHO Settlement Officer Program is appropriate. This case meets the eligibility requirements for the program set forth in Section I.C.1-2. of Policy Memorandum 20-16 and Chapter 4.7(a)(3)(A)-(B) of the OCAHO Practice Manual. After considering the factors enumerated in 5 U.S.C. § 572(b), Section I.C.3. of Policy Memorandum 20-16, and Chapter 4.7(a)(3)(C) of the OCAHO Practice Manual, the Court finds that they do not counsel against referral of this case to the OCAHO Settlement Officer Program. The Court's referral is based on the nature of the case, its review of the pleadings in this matter, the parties' written consent to a referral to the program in their respective prehearing statements,² and the Court's discussions with the parties' counsel during the initial prehearing conference in which they affirmed their understanding of the policies and procedures for the program, consented to their use, and agreed to mediate in good faith.³

² See Complainant Prehr's Statement 6; Resp't Prehr's Statement 4; *see also* PM 20-16, Section II.A.1 (providing that no referral to the Settlement Officer Program be made without "receipt of written confirmation of consent to referral from each party in the case.").

³ See June 10, 2025, Order Memorializing Preh's Conf. 3.

Accordingly, and as discussed and agreed to by the parties during the prehearing conference, the Court refers this case to the OCAHO Settlement Officer Program for settlement negotiations for a total of sixty days, from June 16, 2025, and continuing through August 15, 2025, pursuant to 28 C.F.R. § 68.28(a) and Sections II.C and II.D.2 of PM 20-16. The Court designates the Honorable Jean King as the Settlement Officer for this case.

As the Court explained to the parties during the prehearing conference, it finds that no procedural deadlines need to be stayed during this matter's referral to the OCAHO Settlement Officer Program. *See* PM 20-16, Section II.C. And while the Court provided a general timeline for case proceedings should the parties fail to resolve this matter through mediation, including proposed time periods for the close of discovery and the filing of dispositive motions and responses, it deferred setting any deadlines. *See* June 10, 2025, Order Memorializing Prehr's Conf. 3–4. Because these proceedings have not been stayed, the parties may engage in discovery during mediation or seek a stay if discovery obligations prevent them from meaningful mediation.

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.

Should the parties reach a settlement agreement, they shall follow the guidelines of 28 C.F.R. § 68.14 in seeking dismissal of the action. This regulation provides two avenues for settlement, one which permits the parties to file a notice of settlement and joint motion to dismiss signed by counsel for both parties. 28 C.F.R. § 68.14(a)(2). If the parties pursue this avenue, the Court may require them to file a copy of the settlement agreement. Additionally, any joint motion to dismiss should indicate whether the parties seek dismissal with or without prejudice. Absent notification by the Settlement Officer and/or the parties of this matter's resolution through the OCAHO Settlement Officer Program, the parties should expect an order from the Court setting a case schedule upon conclusion of the referral period.

IV. ORDERS

IT IS 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 a total of sixty days, from June 16, 2025, through August 15, 2025;

IT IS FURTHER ORDERED that OCAHO Chief Administrative Law Judge Jean King 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 June 12, 2025.

Honorable Carol A. Bell
Administrative Law Judge