

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. 2023A00064
MENDOZA MAINTENANCE)	
GROUP, INC.,)	
)	
Respondent.)	
<hr style="width: 40%; margin-left: 0;"/>)	

Appearances: Ricardo A. Cuellar, Esq., for Complainant
Javier Mendoza, pro se, Respondent

ORDER TO FILE COMPLETE NOTICE OF INTENT TO FINE

I. PROCEDURAL HISTORY

This case arises under 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, 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, 2023. Complainant alleges that Respondent, Mendoza Maintenance Group, Inc., failed to prepare and/or present the Employment Eligibility Verification Form (Form I-9) for nine individuals and failed to ensure proper completion of Forms I-9 for seventeen individuals, all in violation of 8 U.S.C. § 1324a(a)(1)(B). Compl. ¶ 6.

Complainant attached to the complaint the Notice of Intent to Fine Pursuant to Section 274A of the INA (NIF), without the referenced attachment, that it personally served on Respondent through Mr. Javier Mendoza, Respondent's president, on July 24, 2019, seeking a fine of \$46,954.70. *Id.*, Ex. A. Also attached to the complaint was Respondent's signed request for a hearing before this Court (request for hearing). *Id.*, Ex. B.

II. DISCUSSION

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.¹ They 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).

Here, Complainant attached to the complaint Respondent's request for hearing, Compl. Ex. B, and the NIF, being the two-page ICE Form I-763. *Id.*, Ex. A. The attached ICE Form I-763 however does not specify the factual allegations and legal violations at issue. *Id.* at 1. Rather, page one of the attached ICE Form I-763 twice references an "attachment" that contains the allegations against Respondent and the provisions of law that the government asserts Respondent violated. *Id.* The attachment to the NIF was not included as part of Exhibit A to the complaint. As such, the complaint in this matter fails to satisfy 28 C.F.R. § 68.7(c) because the NIF is incomplete.

The Court now affords Complainant an opportunity to correct this technical defect and orders Complainant to file with the Court a copy of the complete NIF with attachment detailing the factual allegations against Respondent and the provisions of law that Complainant asserts Respondent violated. *See, e.g., United States v. PJ's of Tex., Inc.*, 18 OCAHO no. 1524a, 4 (2024) (noting that the ALJ directed the complainant to file "a copy of the complete NIF that it served on the Respondent . . . , including attachment(s)," which was not included with the original complaint); *United States v. Fresco Produce, Inc.*, 19 OCAHO no. 1530, 1 (2024) (noting a prior order requiring Complainant to file a copy of the NIF with proof of service on respondent where complainant did not attach the NIF to the complaint it filed with OCAHO).²

¹ OCAHO's Rules are available on the United States Department of Justice's website. *See* <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-regulations>.

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, 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 <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-decisions>.

Complainant's filing is due no later than thirty days from the date of this Order. Complainant shall serve Respondent with the complete NIF with the referenced attachment containing the factual allegations and alleged violations of the law.

III. ORDER

IT IS SO ORDERED that, within thirty days of the date of this Order, Complainant shall satisfy 28 C.F.R. § 68.7(c) by filing with the Court the complete Notice of Intent to Fine Pursuant to Section 274A of the INA with the attachment detailing the factual allegations against Respondent, Mendoza Maintenance Group, Inc., and the provisions of law that it asserts Respondent violated. Complainant also shall serve Respondent with a copy of the complete Notice of Intent to Fine.

SO ORDERED.

Dated and entered on June 18, 2025.

Honorable Carol A. Bell
Administrative Law Judge