

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. 2023A00060
JLG BUSINESS VENTURES, INC.,	)	
D/B/A RECIO AUTO SALES,	)	
	)	
Respondent.	)	
	)	

Appearances: Oscar Montemayor, Esq., for Complainant
Jose Luse Gonzalez for Respondent

ORDER ON COMPLAINANT'S NOTICE OF APPEARANCE AND
MOTION FOR SUBSTITUTION

I. PROCEDURAL HISTORY

This case arises under 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. 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) on May 15, 2023. Complainant alleges that Respondent, JLG Business Ventures, Inc., doing business as Recio Auto Sales, failed to prepare and/or present the Employment Eligibility Verification Form (Form I-9) for four individuals and failed to ensure that the employee properly completed section 1 and/or failed to properly complete section 2 or 3 of the Forms I-9 for eighteen individuals, all in violation of 8 U.S.C. § 1324a(a)(1)(B). Compl. ¶ 6.

On July 29, 2025, DHS Deputy Chief Counsel (DCC) Oscar J. Montemayor filed a Notice of Appearance and Motion for Substitution.¹ Through the filing, DHS DCC Montemayor entered his appearance in this matter and moved the Court to

¹ Complainant submitted a courtesy copy of its filing to the Court on July 17, 2025.

substitute him as Complainant's lead counsel. Notice Appearance & Mot. Substitution 1. Further, he requested that the Court permit him to file electronically in this case and attached to the filing a completed and signed Attorney Registration Form and Certification for OCAHO's Electronic Filing Pilot Program. *Id.* Ex. A.

II. LEGAL STANDARDS AND DISCUSSION

Complainant has filed a Notice of Appearance and Motion for Substitution. Through this filing, DHS DCC Oscar J. Montemayor enters a Notice of Appearance on behalf of Complainant. Notice Appearance & Mot. Substitution 1. OCAHO's Rules of Practice and Procedure for Administrative Hearings² require each attorney to file a notice of appearance. *See* 28 C.F.R. § 68.33(f). As explained in 28 C.F.R. § 68.33(f), a notice of appearance must "indicate the name of the case or controversy, the case number if assigned, and the party on whose behalf the appearance is made," and shall be "signed by the attorney, and accompanied by [a certificate of service]." Complainant's Notice of Appearance meets these regulatory requirements. Therefore, the Court finds that DHS DCC Oscar J. Montemayor has entered his appearance in this matter.

In its Motion for Substitution, Complainant moves the Court, pursuant to 28 C.F.R. § 68.33(g), to substitute DHS DCC Oscar J. Montemayor as lead counsel for Complainant in place of DHS Assistant Chief Counsel (ACC) Nain Martinez, Jr. Notice Appearance & Mot. Substitution 1. Complainant does not explain the reason for the change in counsel.

Although Complainant did not indicate Respondent's position on its motion, Respondent stated its lack of opposition to the Motion for Substitution during the parties' initial prehearing conference on July 24, 2025, and did not file a response within the time afforded it under OCAHO's Rules of Practice and Procedure for Administrative Hearings. *See* 28 C.F.R. § 68.11(b) ("Within ten (10) days after a written motion is served . . . any party to the proceeding may file a response in support of, or in opposition to, the motion."). Given that more than ten days have passed since Respondent was served with the motion, it is ripe for a ruling.

OCAHO's Rules of Practice and Procedure for Administrative Hearings provide that "[w]ithdrawal or substitution of an attorney or representative may be permitted by the Administrative Law Judge upon written motion. The Administrative Law Judge shall enter an order granting or denying such motion for

² OCAHO's Rules of Practice and Procedure, 28 C.F.R. pt. 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>.

withdrawal or substitution.” 28 C.F.R. § 68.33(g). Given DHS DCC Montemayor’s entry of appearance as Complainant’s counsel, the posture of this case, and Respondent’s lack of opposition, the Court grants Complainant’s Motion for Substitution pursuant to 28 C.F.R. § 68.33(g). *See, e.g., United States v. Oil Patch Petroleum, Inc.*, 18 OCAHO no. 1508a, 3–4, 8 (2024) (granting unopposed motion to substitute where DHS counsel was reassigned within the agency); *United States v. El Camino, LLC*, 18 OCAHO no. 1479b, 2 (2023) (granting motion to substitute counsel where a new ACC took over all new and existing employment-based cases, and the motion was unopposed); *United States v. Spring & Soon Fashion Inc.*, 8 OCAHO no. 1003, 102, 128–29 (1998) (granting a motion to substitute government counsel, finding that the request was “reasonable,” and noting that the respondents had not objected to the request).

DHS DCC Oscar J. Montemayor is substituted for DHS ACC Martinez, Jr., as Complainant’s counsel of record in these proceedings. DHS ACC Nain Martinez, Jr., shall be removed from the service list in this case after service of this Order. Respondent shall serve all filings on Complainant through DCC Montemayor at the address on the Certificate of Service.

Lastly, Complainant requests that the Court “update its Email Filing Program by removing Nai[n] Martinez, Jr., and adding Oscar J. Montemayor as the Complainant’s email recipient.” Notice Appearance & Mot. Substitution 1. Because DHS ACC Martinez, Jr., never submitted his completed Attorney/Participant Registration Form and Certification to participate in OCAHO’s Electronic Filing Pilot Program, this case was not enrolled in electronic filing. As the Court explained in its Order for Prehearing Statements and Scheduling Initial Prehearing Conference, all parties must elect to become electronic filers, or the parties will continue to file case documents by the means set forth in 28 C.F.R. part 68 for the duration of the case. *See* 28 C.F.R. § 68.6. On April 2, 2024, Respondent, through Mr. Gonzalez, submitted a completed Attorney/Participant Registration Form and Certification to participate in OCAHO’s Electronic Filing Pilot Program. Now that DHS DCC Montemayor has submitted his completed registration form and certification, the Court has issued a separate order enrolling this case in OCAHO’s Electronic Filing Pilot Program.

III. ORDERS

IT IS SO ORDERED that DHS Deputy Chief Counsel Oscar J. Montemayor’s appearance is ENTERED in this case.

IT IS FURTHER ORDERED that the Motion for Substitution filed by Complainant, the United States Department of Homeland Security, Immigration and Customs Enforcement, is GRANTED. DHS Deputy Chief Counsel Oscar J.

Montemayor is substituted for DHS Assistant Chief Counsel Nain Martinez, Jr., as counsel of record for Complainant in this matter.

SO ORDERED.

Dated and entered on August 20, 2025.

Honorable Carol A. Bell
Administrative Law Judge