

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. 2026A00010
SONGHAI CONSTRUCTION, LLC,	)	
	)	
Respondent.	)	
_____	)	

Appearances: Kenneth R. Knapp, Esq., for Complainant
Songhai Construction, LLC, Respondent

SECOND NOTICE AND ORDER TO SHOW CAUSE

I. PROCEDURAL HISTORY

This case arises under 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 (DHS), Immigration and Customs Enforcement, filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) on December 19, 2025.

Complainant alleges that Respondent, Songhai Construction, LLC, failed to prepare and/or present the Employment Eligibility Verification Form (Form I-9) for eleven individuals (Count I) and failed to ensure the employee properly completed section 1 and/or failed to properly complete section 2 or 3 of the Form I-9 for fourteen individuals (Count II), all in violation of 8 U.S.C. § 1324a(a)(1)(B). Compl. ¶ 4–12.

Complainant attached to the complaint the Notice of Intent to Fine Pursuant to Section 274A of the INA (NIF) that it personally served on Respondent in Richfield, Minnesota, through Mr. Benjamin Ojogwu, who was identified as the “President/CEO” of the Respondent-business, on July 28, 2025, seeking a fine of \$60,800 for the alleged violations. Compl. Ex. A. The NIF put Respondent on notice of its right to contest the fine by submitting a written request for a hearing before an

Administrative Law Judge (ALJ) to DHS “within 30 days from the service of this [NIF].” *Id.*

Also attached to the complaint was a letter dated August 27, 2025, signed by Ms. Mary Reihsen, Esq., on behalf of the Respondent-business, through which Ms. Reihsen requested a hearing before an ALJ (“request for hearing”). Compl. Ex. B. Complainant then attached a letter dated September 15, 2025, signed by Ms. Reihsen, in which she advised DHS that “as of today, our firm has withdrawn as counsel of record for Songhai Construction LLC.”¹ *Id.*

Pursuant to 28 C.F.R. § 68.7(b)(5),² Complainant asked OCAHO to serve the complaint on Respondent at its business address in Minnetonka, Minnesota, through its owner Mr. Benjamin Ojogwu. Compl. 9.

On January 5, 2025, using the United States Postal Service’s (USPS) certified mail service, OCAHO mailed Respondent a Notice of Case Assignment for Complaint Alleging Unlawful Employment (NOCA), the complaint, the NIF, and Respondent’s request for hearing (together, the “Complaint package”).

Through the NOCA, OCAHO’s Deputy Chief Administrative Hearing Officer (Deputy CAHO) informed Respondent that these proceedings would be governed by OCAHO’s Rules of Practice and Procedure for Administrative Hearings and applicable case law. Notice of Case Assignment ¶ 2. The NOCA included links to OCAHO’s Rules and its Practice Manual, along with contact information for OCAHO. *Id.* The Deputy CAHO directed Respondent to answer the complaint within thirty days in accordance with 28 C.F.R. § 68.9(a). *Id.* at 4. The Deputy CAHO cautioned Respondent that its failure to file an answer could lead the Court to enter a judgment by default and all appropriate relief pursuant to 28 C.F.R. § 68.9(b). *Id.*

Per its standard practice, OCAHO requested a tracking number for the Complaint package and proof of service through a USPS Domestic Return Receipt Form (PS Form 3811) (“return receipt”). The USPS certified mail tracking information for the Complaint package mailed to the Respondent-business indicated that it was “delivered to the front desk, reception area, or mail room” of the

¹ Should Respondent retain other counsel in this matter, its counsel shall file a notice of appearance in accordance with 28 C.F.R. § 68.33(f).

² OCAHO’s Rules of Practice and Procedure for Administrative Hearings, being the provisions contained in 28 C.F.R. part 68 (2025), generally govern these proceedings and 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>.

Respondent-business on January 9, 2026. OCAHO also received an USPS return receipt for the delivery, however, it lacked a date and signature for the delivery.

On January 5, 2026, Mr. Benjamin Ojogwu called OCAHO staff and acknowledged receiving an email from OCAHO with a case number, namely, the number assigned to this case. OCAHO staff told him that DHS had filed a case against the Respondent-business.

On February 10, 2026, Mr. Ojogwu called OCAHO staff and acknowledged receipt of the Complaint package at the Respondent-business on an unspecified date. OCAHO staff explained how to file pleadings with OCAHO and emailed Mr. Ojogwu OCAHO's Rules of Practice and Procedure for Administrative Hearings and a sample certificate of service.

On February 11, 2026, the Court issued a Notice and Order to Show Cause. *See United States v. Songhai Constr., LLC*, 22 OCAHO no. 1691 (2026).³ The Court found that OCAHO perfected service of the Complaint package on Respondent on January 9, 2026. *Id.* at 4. The Court explained that under OCAHO's Rules of Practice and Procedure for Administrative Hearings, which generally govern these proceedings, Respondent's answer to the complaint was due no later than February 9, 2026. *Id.* (citing 28 C.F.R. §§ 68.8(a), 68.9(a)). The Court noted that Respondent had failed to file a timely answer. *Id.*

Following this discussion, the Court repeated a warning the Deputy CAHO made in the NOCA that Respondent's failure to file an answer may lead the Court to enter a judgment by default. *Songhai Constr., LLC*, 22 OCAHO no. 1691, at 5 (citing Notice of Case Assignment at 4 (citing 28 C.F.R. § 68.9(b))). The Court informed Respondent that, as the acting CAHO had explained in *United States v. Shine Auto Serv.*, 1 OCAHO no. 70, 445–46 (1989), Respondent would need to demonstrate good cause to avoid entry of default. *Id.* The Court ordered Respondent, within twenty-one days of the issuance of that Order, to file both an answer and a response showing good cause for its failure to file a timely answer. *Id.* at 5–6.

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 the United States Department of Justice's website at <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-decisions>.

The Court also put Respondent on notice that “if it fail[ed] to respond to the Court’s orders, the Court will find that it has abandoned its request for hearing pursuant to 28 C.F.R. § 68.37(b)(1),” resulting in dismissal. *Songhai Constr., LLC*, 22 OCAHO no. 1691, at 6 (citing *United States v. Steidle Lawn & Landscape, LLC*, 17 OCAHO no. 1457c, 2 (2023)). At the end of the Order, the Court repeated its warnings of the potential consequences of entry of a default pursuant to 28 C.F.R. § 68.9(b) and dismissal of Respondent’s request for hearing pursuant to 28 C.F.R. § 68.37(b) should the Court find that Respondent had abandoned its request for hearing by failing to respond to the Court’s orders. *Id.* at 5–6. Indeed, if Respondent failed to respond to the Court’s orders, the Court stated that it “shall conclude that Respondent has abandoned its request for a hearing and issue an order of dismissal.” *Id.* at 6 (citing 28 C.F.R. § 68.37(b)). Respondent’s submissions in response to the Notice and Order to Show Cause were due on March 4, 2026.

On February 23, 2026, Respondent filed what it described as a response to the complaint.

To date, Respondent has not submitted a response providing facts sufficient to show good cause for its failure to timely answer the complaint in this case.

II. DISCUSSION AND ANALYSIS

Respondent, who is appearing pro se in these proceedings, has filed a response to the complaint in this case. The Court construes this filing to be an untimely answer to the complaint as the Court ordered Respondent to file through the Notice and Order to Show Cause. *See Songhai Constr., LLC*, 22 OCAHO no. 1691, at 5–6. Respondent, however, has not submitted a filing proffering good cause for its failure to file a timely answer as directed by the Court. *See id.* As such, Respondent is in violation of the Court’s Notice and Order to Show Cause. The Court now issues this Second Notice and Order to Show Cause and again orders Respondent, within twenty-one days of the date of issuance of this Notice and Order, to submit a response providing facts sufficient to show good cause for its failure to timely answer the complaint. Upon receipt of Respondent’s filing, the Court will determine if Respondent has demonstrated the requisite good cause for failing to file a timely answer to the complaint and will decide whether to allow its untimely answer.

To determine whether good cause exists in a case, the Court considers the following non-exhaustive factors: “(1) whether there was culpable or willful conduct; (2) whether setting the default aside would prejudice the adversary; and (3) whether the default party presents a meritorious defense to the action.” *US Tech Workers v. Oak Street Health*, 19 OCAHO no. 1574a, at 2 (2024) (citing *Nickman v. Mesa Air Grp.*, 9 OCAHO no. 1106, 2–3 (2004)). OCAHO ALJs have found that

“serious illnesses or challenges outside work may constitute good cause for a litigant’s unintentional failure to meet a filing deadline.” *United States v. Sal’s Lounge*, 15 OCAHO no. 1394c, 5–6 (2022) (crediting the respondent’s counsel’s medical issues as a factor weighing in favor of a finding of good cause). *See also United States v. Treescapes, Inc.*, 15 OCAHO no. 1389, 2 (2021) (finding good cause for failure to timely file an answer based on the serious illnesses of the respondent’s president and counsel’s care of a dying family member); *Woods v. Philips N. Am., LLC*, 14 OCAHO no. 1371, 3 (2020) (finding good cause for failure to answer complaint where, in part, the respondent’s counsel “encountered several challenges outside work that may have exacerbated the delay in receiving notice of these proceedings.”). Misunderstandings of the law by pro se parties may be another factor considered in determining good cause. *See United States v. R&V Steel Erectors Sys., Inc.*, 18 OCAHO no. 1501, 3–4 (2023).

If Respondent fails to file a response, the Court may find that Respondent has waived its right to appear and contest the allegations of the complaint. 28 C.F.R. § 68.9(b). The Court may then enter a default judgment. *Id.*

If Respondent fails to respond to the Court’s orders, the Court will find that it has abandoned its request for hearing and dismiss its request pursuant to 28 C.F.R. § 68.37(b)(1). *See, e.g., Steidle Lawn & Landscape, LLC*, 17 OCAHO no. 1457c, at 2 (finding that the respondent abandoned its request for a hearing when it failed to respond to the ALJ’s orders). “A final order of dismissal based on abandonment is analogous to entry of a default judgment under the Federal Rules of Civil Procedure.” *United States v. Vilardo Vineyards*, 11 OCAHO no. 1248, 4 (2015). “Abandonment will result in DHS’s NIF becoming the final order.” *United States v. DJ’s Trans.*, 18 OCAHO no. 1488a, 5 (2024).

III. ORDERS

IT IS ORDERED that, within twenty-one days of the date of this Order, Respondent, Songhai Construction, LLC, shall file a response with the Court in which it must provide facts sufficient to show good cause for its failure to timely answer the complaint in this case.

The Court puts Respondent on notice that its failure to file an answer and a response to this Notice and Order to Show Cause “may be deemed to constitute a waiver of his or her right to appear and contest the allegations of the complaint” and the Court may enter a default judgment against Respondent as to both liability and penalties. 28 C.F.R. § 68.9(b).

If Respondent fails to respond to the Court's orders, the Court shall conclude that Respondent has abandoned its request for a hearing and issue an order of dismissal. 28 C.F.R. § 68.37(b). The NIF will be rendered the final agency order.

SO ORDERED.

Dated March 12, 2026.

Honorable Carol A. Bell
Acting Chief Administrative Law Judge