

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. 2026A00041
DUNDEE WATERPARK, LLC,	)	
D/B/A SPLASH UNIVERSE	)	
WATERPARK RESORT,	)	
	)	
Respondent.	)	
	)	

Appearances: Theresa M. Bross, Esq., for Complainant
Steven T. Kioulosis, Esq., for Respondent

ORDER FOR PREHEARING STATEMENTS AND SCHEDULING INITIAL
PREHEARING CONFERENCE

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 April 2, 2026. Complainant alleges that Respondent, Dundee Waterpark, LLC, doing business as Splash Universe Waterpark Resort, failed to prepare and/or present the Employment Eligibility Verification Form (Form I-9) for ten individuals in violation of 8 U.S.C. § 1324a(a)(1)(B) (Count I), failed to ensure that the employee properly completed section 1 and/or failed to properly complete section 2 or 3 of the Form I-9 for eighteen individuals in violation of 8 U.S.C. § 1324a(a)(1)(B) (Count II), and knowingly continued to employ three individuals

knowing that they were unauthorized for work in violation of 8 U.S.C. § 1324a(a)(2) (Count III). Compl. 3–6.¹

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 through Michelle R. Moore on September 23, 2025.² Compl. 10. Through the NIF, DHS sought a fine of \$61,136 for the alleged violations. *Id.* at 9. 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.* at 10. Also attached to the complaint was a letter from attorney Patrick N. Butler, dated October 16, 2025, which requested a hearing before an ALJ on behalf of Respondent. *Id.* at 15–16.

Pursuant to 28 C.F.R. § 68.7(b)(5), Complainant asked OCAHO to serve the complaint on Respondent’s counsel at an address in Madison Heights, Michigan. Compl. 8.

On April 9, 2026, 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.* ¶ 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 package mailed to Respondent’s counsel indicates that it was “delivered to an individual at the address” on April 15, 2026. The tracking information for the complaint package mailed to the Respondent-business address

¹ While the Complaint was paginated, attachments to it were not continuously paginated or identified by separate exhibits, so citations to specific page numbers are to the combined PDF file of the complaint and all attachments.

² DHS did not specify Ms. Moore’s relationship to Respondent-business.

indicates that it was “delivered to an individual at the address” on April 13, 2026. OCAHO did not receive a return receipt for either mailing.

On May 18, 2026, Respondent filed a Notice of Appearance for attorney Steven T. Kiouisis. Also on May 18, 2026, Respondent filed Respondent’s Answer to Complaint Regarding Unlawful Employment Pursuant to 8 U.S.C. § 1324A (INA § 274A) and Respondent’s Special and Affirmative Defenses.

II. DISCUSSION AND ANALYSIS

A. Timeliness of Respondent’s Filings

The Court first addresses the question of service of the Complaint package on Respondent. OCAHO sent—via the USPS certified mail—the Complaint package to Respondent at its business address and to Respondent’s counsel, Patrick N. Butler, at the address provided by Complainant. Although no return receipt was received, the USPS tracking information reflects that the Complaint package was “delivered to an individual” at counsel’s address on April 15, 2026. The Court finds that OCAHO perfected service of the Complaint package on Respondent on April 15, 2026, in accordance with 28 C.F.R. §§ 68.3(a)(3), (b).

After service of the complaint, OCAHO’s Rules of Practice and Procedure for Administrative Hearings afford a respondent thirty days to file an answer. *See* 28 C.F.R. § 68.9(a). Through the NOCA, the Deputy CAHO explained this requirement to Respondent. *See* Notice of Case Assignment ¶ 4. Given that service of the complaint was perfected on April 15, 2026, the Court finds that Respondent’s answer was due no later than May 15, 2026. *See* 28 C.F.R. §§ 68.3(b), 68.9(a). Respondent filed its answer three days late on May 18, 2026.

“In deciding whether to credit a party’s explanations and accept a late filing, OCAHO courts employ a standard of good cause.” *United States v. MRD Landscaping & Maint., Corp.*, 15 OCAHO no. 1407c, 5 (2022). The Court finds good cause in this case to accept the late-filed answer because Respondent’s counsel contacted OCAHO staff before the answer deadline and explained that he was experiencing technological difficulties while filing via OCAHO’s web-based electronic filing system (OCAHO Portal). As a result, and as a one-time courtesy, OCAHO permitted Respondent’s counsel to file its answer via email.

III. INITIAL PREHEARING CONFERENCE

The Court will hold an initial telephonic prehearing conference on June 16, 2026, at 2:30 p.m. Eastern Time³ to develop a case schedule, including dates for the completion of discovery, the filing of motions, and a hearing in this matter. *See* 28 C.F.R. § 68.13. The Court also may schedule dates for the submission of a proposed final pretrial order and final pretrial conference.

At the conference, the parties should be fully prepared and have authority to discuss any questions regarding the case, including questions raised by the pleadings, jurisdiction, pending motions, motions contemplated to be filed, the probable length of time needed for discovery, and the possibility of settlement of the case. The parties will have the opportunity to discuss any problems confronting them, including the need for time in which to prepare for a hearing. The parties shall be prepared at the conference to tell the Court their preferred location for a hearing, should one be required in this matter.⁴

IV. ELECTRONIC FILING THROUGH OCAHO PORTAL

As mentioned above, OCAHO has implemented a web-based electronic filing system for cases filed with OCAHO under 8 U.S.C. §§ 1324a, 1324b, and 1324c. The system is the result of a successful pilot program to test electronic filing by email, which launched in 2014 and was extended indefinitely in 2015. All litigants can use the OCAHO Portal for their cases for filing and receipt of decisions and orders.

Use of the OCAHO Portal for all filings in OCAHO cases is mandatory for attorneys and authorized representatives. *See* 28 C.F.R. § 68.6(b)(1). Registration requires a valid email address for electronic service. *See id.* § 68.6(c)(3). A certificate of service is required on filings made through the Portal. *See id.* § 68.6(c)(1). Parties may register for the OCAHO Portal and log into their account to file by visiting the OCAHO filing page on the United States Department of Justice's website: <https://ocaho.eoir.justice.gov/>. The parties should contact the help desk for the

³ If the parties need to reschedule the initial prehearing conference, at least five days in advance of the date set for the prehearing conference, they shall provide the Court with a joint written notice of a minimum of three proposed agreed dates and times in Eastern Standard Time for the rescheduled conference. The Court will confirm the date and time for the rescheduled conference either telephonically or in writing as soon thereafter as practicable.

⁴ Sections 274A(e)(3)(B) and 274C(d)(2)(B) of the INA dictate that hearings be held “at the nearest practicable place to the place where the person or entity resides or to the place where the alleged violation occurred.” 28 C.F.R. § 68.5(b).

Executive Office for Immigration Review (EOIR) if they need assistance registering for the OCAHO Portal.⁵

If both parties are filing through the OCAHO Portal, the Portal will effectuate service by providing notification of each filing to all parties via email. *See* 28 C.F.R. § 68.6(c)(1). The filing party must include a certificate of service stating that “all parties are using OCAHO’s electronic filing application and, therefore, no separate service was completed.” *Id.* If one party is not using the OCAHO Portal or if the Portal is unavailable, the parties shall serve their filings by one of the means specified in 28 C.F.R. § 68.6(c)(2).

Regardless of which filing method is used, the Court will accept courtesy copies of the parties’ filings by email to OCAHO.

V. RULES GOVERNING PROCEEDINGS

Proceedings in this case will generally be governed by OCAHO’s Rules of Practice and Procedure for Administrative Hearings, being the provisions contained in 28 C.F.R. part 68 (2026). OCAHO’s Rules are available in the Electronic Code of Federal Regulations. *See* <https://www.ecfr.gov/current/title-28/chapter-I/part-68>.

The parties must familiarize themselves with these rules, including the standards of conduct under 28 C.F.R. § 68.35. The parties also may avail themselves of the OCAHO Practice Manual which outlines procedures and provides recommendations regarding practice before OCAHO.⁶

The Federal Rules of Civil Procedure may be used in situations not provided for, or controlled by, OCAHO’s rules, by the Administrative Procedure Act, or other applicable statutes, executive orders, and regulations. 28 C.F.R. § 68.1.

During the pendency of this case, the parties shall comply with the following rules governing discovery, motions practice, and case filings:

⁵ EOIR’s help desk can be reached by calling 1-877-388-3842 or emailing ecas.techsupport@usdoj.gov. Should the parties encounter difficulties viewing the Court’s orders and decisions through the OCAHO Portal, or need to confirm the Court’s receipt of a filing, they may contact OCAHO directly.

⁶ The OCAHO Practice Manual, which is part of the EOIR Policy Manual, provides an outline of the procedures and rules applicable to cases before OCAHO. It is likewise available on the United States Department of Justice’s website. *See* <https://www.justice.gov/eoir/policy-manual-eoir/part-IV/ocaho>.

1. The Court authorizes the parties in this matter to begin their discovery at any time and will set a discovery schedule at the initial prehearing conference.

2. Except when the discovery is used as an exhibit to a filing or as evidence during a hearing, the parties shall not file with the Court their discovery requests or responses to discovery requests, including, but not limited to, interrogatories, requests for production of documents, requests for admissions, deposition notices, and transcripts. *See* 28 C.F.R. § 68.18(a).

3. The parties must cooperate with each other in honoring discovery requests and make good-faith efforts to coordinate deposition dates. One party's failure or inability to respond to discovery does not excuse another party from promptly complying with discovery requests.

4. The parties can, and should, work out most discovery disputes. Before filing a discovery motion, the parties must confer, preferably in person or by telephone, in a good-faith effort to resolve the dispute without the Court's intervention. *See* 28 C.F.R. § 68.23(b)(4). Motions to compel, motions to quash, and other discovery motions must be accompanied by the relevant discovery requests and responses, along with a declaration stating with specificity when and how the movant complied with 28 C.F.R. § 68.23(b)(4). Parties must immediately notify the Court if they are withdrawing (or narrowing) any previously filed discovery motions.

5. Before filing a motion, the filing party must ask opposing counsel or the opposing party whether there is an objection to the motion, and the motion must state that the conferral occurred, or if not, why not. If there is an objection, the movant must note that fact on the first page of the motion and of any separate brief in support. Joint, uncontested, and agreed motions must be so identified in both the title and the body of the motion. Hearing dates and discovery deadlines generally will not be reset except by written motion.

6. The pendency of a motion, such as a motion to dismiss, does not necessarily operate as a stay of discovery, although the parties may seek one from the Court.

7. Responses to motions, accompanied by such affidavits or other evidence upon which the party desires to rely, are due ten days after service unless the Court sets a different schedule, and the parties must seek leave before filing a reply or a sur-reply under 28 C.F.R. § 68.11(b).

8. During the initial prehearing conference, the Court may set limits on the amount of discovery in this case and will set a discovery closing date. Except to the extent specified by the Court on motion by either party, discovery must be completed before the discovery closing date. Discovery requested, but not scheduled for completion, before the closing date, does not comply with this rule. Any motion to extend discovery must demonstrate good cause for the extension, state the other party's position on the motion, and be filed before the discovery closing date.

9. All filings in this matter, including joint filings and filings submitted through the OCAHO Portal, shall be accompanied by a certification indicating service to all parties of record and identifying the date and manner of service. 28 C.F.R. § 68.6(c). Filings that fail to comply with this rule shall be subject to being stricken or rejected by the Court.

10. All multi-page filings and exhibits must be paginated. The parties must identify exhibits and attachments by letter, name, or number. Briefs and motions that exceed fifteen pages must have a table of contents with the pages noted and a table of cases. Any filing that does not comply with this rule may be stricken by the Court.

VI. OCAHO SETTLEMENT OFFICER PROGRAM

OCAHO offers a voluntary mediation program through which the parties may use a settlement officer to mediate settlement negotiations as a means of alternative dispute resolution.⁷ The program works as follows:

1. Upon receipt of a joint motion by the parties, the Court may refer a case for mediation before a settlement officer at any time while proceedings are pending, up to thirty days before the date scheduled for a hearing in the matter. The settlement officer may convene and oversee settlement conferences and negotiations, may confer with the parties jointly and/or individually, and will seek voluntary resolution of issues in the case.

2. With the consent of the parties, the settlement officer may, in his or her discretion, seek to extend the time for negotiations for a reasonable amount of time, not to exceed an additional thirty days. If an extension of the negotiation period is sought, the settlement officer shall seek approval of the extension from the presiding ALJ. If the presiding ALJ determines that an extension of the negotiation period is appropriate, the presiding ALJ shall issue an order extending the period of settlement

⁷ EOIR Policy Memorandum 20-16 sets forth the OCAHO Settlement Officer Program and has been incorporated into the OCAHO Practice Manual as Chapter 4.7. See <https://www.justice.gov/eoir/policy-manual-eoir/part-IV/ocaho/chapter-4-7>.

negotiations and specifying whether and to what extent any procedural deadlines in the case are stayed.

3. The Court recommends that the parties undertake settlement negotiations at the earliest practicable point in the litigation. The parties shall confer before the initial prehearing conference regarding their interest in participating in the OCAHO Settlement Officer Program. Additionally, before the prehearing conference, the parties may file a joint motion for a referral to the program. Any such motion should be signed by counsel for both parties and represent that the parties have reviewed the program's rules, consent to participate in the program, and agree to engage in settlement negotiations in good faith. If the parties file a joint motion for a referral to mediation in advance of the dates set in this Order, they may advise the Court of their positions regarding a reasonable continuance of the filing dates for prehearing statements and/or the initial prehearing conference.

VII. INITIAL PREHEARING STATEMENTS

Pursuant to 28 C.F.R. § 68.12, the parties shall file written prehearing statements of position with this Court and, if both parties are not using the OCAHO Portal, serve their statements on each other. The parties' initial prehearing statements shall contain the following sections:

1. The Nature of the Case

- a. Identify the representative(s) or attorney(s) of record for each party, including the lead attorney. Confirm the best email address and telephone number for OCAHO to use for scheduling issues.
- b. State the basis for OCAHO jurisdiction.
- c. Describe the nature of the claims asserted in the complaint and any counterclaims.
- d. State the major legal and factual issues in the case.
- e. Describe the relief sought by the complainant(s).

2. Pending Motions and Discovery Case Plan

- a. Identify all pending motions.
- b. Submit a proposal for a discovery plan, including the following information:
 - i. The general type of discovery needed. If no discovery is needed, please state so.
 - ii. A proposed fact discovery completion date.
 - iii. If there will be expert discovery, a proposed expert discovery completion date, including dates for the delivery of expert reports

- (or summaries for non-retained expert testimony).
- iv. A proposed date for the filing of dispositive motions.

3. Pretrial Information

- a. *Proposed Stipulations and Uncontested Facts.* In numbered paragraphs, list proposed stipulations and uncontested facts. Before the deadline for filing dispositive motions, the parties should plan to confer in good faith to arrive at as many stipulations and uncontested facts as possible to eliminate the necessity of taking evidence with respect to allegations as to which there are no genuine or substantial disputes.
- b. *Preliminary Witness Description List.* Provide a list of witnesses, including expert witnesses, divided into (1) witnesses who *will* be called and (2) witnesses who *might* be called. For each witness, provide a concise (two or three sentences) description of the witness, the witness's role in the case, and a summary of the testimony expected.
- c. *Preliminary Exhibit List.* Include a list of your anticipated exhibits. Identify each exhibit with the designation to be used at the hearing. Complainant will identify its exhibits with the letter C and sequential numbers, e.g., C-1, C-2, and C-3, while Respondent will identify its exhibits as R-1, R-2, R-3, and so forth. Include substantive and proposed demonstrative exhibits. For each exhibit, provide a brief, neutral description of the exhibit and a concise statement of the exhibit's relevance. Do not file the exhibits themselves.

4. Status of Settlement Discussions and Settlement Officer Program

- a. State whether any settlement discussions have occurred.
- b. Describe the status of any settlement discussions.
- c. State whether the parties have conferred regarding the OCAHO Settlement Officer Program and whether each party is interested in a referral to the program.

VIII. INITIAL DISCLOSURES

Simultaneously with the filing of the party's prehearing statement, the filing party will make its initial disclosure of its documentary evidence to the other party without waiting for a formal discovery request to be made. *See* Fed. R. Civ. P. 26(a)(1)(A)(ii). Copies of any exhibits listed in Section VII(3)(c) are to be disclosed to the other party, not to this Court. If any exhibit on a party's preliminary exhibit list does not yet exist, the party must disclose that exhibit to the other party within two weeks of its creation.

Mandatory initial disclosures include the names and contact information for persons other than those individuals listed under Section VI(3)(b) who have knowledge or discoverable information about the matters at issue unless the information would be solely for impeachment. *See* Fed. R. Civ. P. 26(a)(1)(A)(i).

Supplementation of initial disclosures is required in the same manner as would be required pursuant to 28 C.F.R. § 68.18(d).

IX. CASE SCHEDULE

The Court directs the parties to EOIR's Policy Memorandum 25-50 entitled "OCAHO Case Completion Goals."⁸ In accordance with this memorandum, which was released on September 15, 2025, the parties should expect the Court to set a schedule in this matter that permits the completion of this case within 450 days of the filing date of the complaint.

X. NOTICE

The Court puts the parties on notice that failure to respond to the Court's orders, including by failing to make initial disclosures, file prehearing statements, or appear at prehearing conferences, may lead to a finding of abandonment and dismissal pursuant to 28 C.F.R. § 68.37(b) or an entry of default pursuant to 28 C.F.R. § 68.9(b).

⁸ EOIR Policy Memorandum 25-50 is available through the EOIR Policy Manual through the United States Department of Justice's website. *See* <https://www.justice.gov/eoir/media/1414121/dl?inline>.

XI. ORDERS

IT IS SO ORDERED that Complainant, the United States Department of Homeland Security, Immigration and Customs Enforcement, and Respondent, Dundee Waterpark, LLC, doing business as Splash Universe Waterpark Resort, shall make their initial disclosures and file their prehearing statements with the Court on or before June 12, 2026, being twenty-one days from the date of this Order; and

IT IS FURTHER ORDERED that an initial telephonic prehearing conference in this matter will be held on June 16, 2026, at 2:30 p.m. Eastern Time. Both parties shall attend the prehearing conference by calling telephone number [x-xxx-xxx-xxxx] and entering the meeting number ([xxx xxx xxx]) and meeting password ([xxxx]).

SO ORDERED.

Dated May 22, 2026.

Honorable Carol A. Bell
Acting Chief Administrative Law Judge