

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OFFICE OF THE CHIEF ADMINISTRATIVE HEARING OFFICER

July 13, 2022

ROBERT PAUL HEATH,)	
Complainant,)	
)	
v.)	8 U.S.C. § 1324b Proceeding
)	OCAHO Case No. 2022B00010
)	
NIHA TECHNOLOGIES, INC.)	
Respondent.)	
_____)	

Appearances: Robert Heath, pro se Complainant
Anantha Paruthipattu, Esq., for Respondent

ORDER TO SHOW CAUSE FOR STATUS REPORT

This case arises under the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324b. Complainant, Robert Heath, filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) on December 13, 2021. Complainant alleges that Respondent, Niha Technologies, Inc., discriminated against him based on his national origin and citizenship status, and engaged in unfair immigration-related documentary practices, in violation of § 1324b.

On January 19, 2022, Respondent filed an answer. On January 28, 2022, the Court issued an Order for Prehearing Statements. On March 18, 2022, Complainant filed his prehearing statement. On March 31, 2022, Respondent its prehearing statement.

On May 2, 2022, the Court received a Request for Continuance of the Prehearing Conference. In its request, Respondent represented that it had learned of Complainant’s health status, and had made attempts to contact Complainant on prehearing conference availability and the possibility of settlement. According to Respondent, Respondent had been unable to reach Complainant since April 13, 2022.

On May 4, 2022, the Court issued an Order Issuing Stay of Proceedings. After disclosing Complainant’s communication about a health emergency, the Administrative Law Judge (ALJ) determined a sua sponte sixty day stay of proceedings to be appropriate given the circumstances.

See Heath v. Niha Techs., Inc., 16 OCAHO no. 1427, 1–2 (2022) (citations omitted).¹ The ALJ ordered the parties to provide a joint status report, to include agreed upon dates for a prehearing conference, within sixty days. *Id.* at 2–3. The ALJ permitted Respondent fourteen days “to provide any response it deem[ed] appropriate.” *Id.* at 1–2 (citation omitted).

Pursuant to the May 4, 2022, Order, the parties were to provide a joint status report for OCAHO Case Number 2022B00010 by July 5, 2022. To date, the Court has not received the joint status report or further filings from the parties.

A complaint may be deemed abandoned and subject to dismissal if “[a] party or his or her representative fails to respond to orders issued by the Administrative Law Judge[.]” 28 C.F.R. § 68.37(b)(1); *see also Ravines de Schur v. Easter Seals-Goodwill N. Rocky Mountain, Inc.*, 15 OCAHO no. 1388g, 3 (2022) (citations omitted) (collecting OCAHO cases where, inter alia, the complaint was deemed abandoned given a party’s failure to respond to ALJ orders). Further, Federal Rule of Civil Procedure 55, a permissible guidance in OCAHO proceedings, *see* 28 C.F.R. § 68.1, instructs that a Court shall issue a default if a party against whom a judgment for relief is sought has failed to “otherwise defend.” Fed. R. Civ. P. 55(a); *cf.* § 68.9(c) (stating that a default decision may be entered against any party who fails to appear at a hearing without good cause). Moreover, failure to comply with Court orders frustrates sound case management. *See United States v. El Dorado Furniture Mfg., Inc.*, 3 OCAHO no. 417, 208, 210 (1992).

Thus, the Court **ORDERS** the parties to file a status report within twenty-one (21) days of the date of this Order. The status report shall be joint and further describe the parties’ attempts to ‘meet and confer’ regarding the initial prehearing conference. If Complainant does not intend to move forward with this litigation, the joint status report shall include a statement to this effect. If the parties are unable to meet and confer, each party shall file a separate status report detailing its efforts to meet and confer.

¹ 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 subsequent to Volume 8, where the decision has not yet 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,” or in the LexisNexis database “OCAHO,” or on the website at <http://www.justice.gov/eoir/OcahoMain/ocahosibpage.htm#PubDecOrders>.

Failure to file a status report may result in a finding that Complainant abandoned his complaint or a default order against Respondent.

SO ORDERED.

Dated and entered on July 13, 2022

Jean C. King
Chief Administrative Law Judge