

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

July 5, 2023

UNITED STATES OF AMERICA,)	
Complainant,)	
)	
v.)	8 U.S.C. § 1324a Proceeding
)	OCAHO Case No. 2022A00052
)	
MSNF FOODS 4 LLC)	
D/B/A DOMINO’S PIZZA,)	
Respondent.)	
_____)	

Appearances: Stephanie Robins, Esq., for Complainant
Spencer Robbins, Esq., for Respondent

ORDER GRANTING MOTION TO COMPEL

This case arises under the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324a. On August 18, 2022, 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). Complainant alleges that Respondent, MSNF Foods 4 LLC d/b/a Domino’s Pizza, engaged in multiple violations of 8 U.S.C. § 1324a(a)(1)(B).

This case was referred to OCAHO’s Settlement Officer Program, and was stayed for 60 days beginning February 2, 2023. On April 5, 2023, the Court issued an Order Resetting Case Schedule, which included a date of June 19, 2023, for the close of discovery. Order Reset. 2. On May 9, 2023, Complainant filed a Motion to Compel which was denied by this Court on May 24, 2023. *United States v. MSNF Foods 4 LLC*, 17 OCAHO no. 1459a, 1 (2023).¹

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>.

On June 21, 2023, Complainant filed its Renewed Motion to Compel.² Complainant asserts that it sent Respondent discovery requests on March 26, 2023. According to Complainant, Respondent did not comply; nor did Respondent respond to follow up emails requesting the discovery. Respondent did not respond to this motion or the prior motion.

An OCAHO Administrative Law Judge (ALJ) has the authority to “compel the production of documents” and to compel responses to discovery requests, pursuant to 28 C.F.R. §§ 68.23 and 68.28.³ *Zajradhara v. Gig Partners*, 14 OCAHO no. 1363, 2 (2020) (citing *United States v. Rose Acre Farms, Inc.*, 12 OCAHO no. 1285, 2 (2016)). The OCAHO rules permit parties to file motions to compel responses to discovery if the responding party fails to adequately respond or objects to the request. 28 C.F.R. § 68.23(a). However, the OCAHO rules require motions to compel to set forth and include:

- (1) The nature of the questions or request;
- (2) The response or objections of the party upon whom the request was served;
- (3) Arguments in support of the motion; and
- (4) A certification that the movant has conferred or attempted to confer with the person or party failing to make the discovery in an effort to secure information or material without action by the Administrative Law Judge.

28 C.F.R. § 68.23(b).

Complainant’s motion satisfies these requirements: the motion includes the discovery sought; Complainant represented that Respondent had not provided any response to the discovery; and Respondent did not respond to Complainant’s attempt to resolve the impasse. Further, the discovery sought—responses to interrogatories and requests for production—are relevant and not unduly burdensome. 28 C.F.R. § 68.18(b).

Therefore, Complainant’s motion is GRANTED. Respondent is hereby COMPELLED to respond to Complainant’s discovery requests in full within 14 days of this Order.

If Respondent does not respond, Respondent may be subject to any of the provisions in 28 C.F.R. § 68.23(c), including that “the matter or matters concerning which the order was issued be taken as established adversely to the non-complying party.” 28 C.F.R. § 68.23(c)(2).

² The motion is dated June 14, 2023, but was not received until June 21, 2023, two days after the close of discovery on June 21, 2023. Given mail delays, the lack of objection or, for that manner, participation in these proceedings by Respondent, and to avoid further delay, the Court will consider the motion. See *Ehere v. HawaiiUSA Fed. Credit Union*, 17 OCAHO no. 1471, 2–3 (2023) (setting forth the good cause standard for accepting late filings).

³ OCAHO Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2023).

Given that the discovery period is closed, no new discovery may be propounded. The Court will reset the remaining deadlines in this case as follows:

- Respondent's discovery due: July 19, 2023
- Dispositive motions due: August 19, 2023
- Oppositions to dispositive motions due: September 19, 2023
- Replies in support of dispositive motions: October 19, 2023
- Tentative hearing: December 2023 in Newark, NJ

SO ORDERED.

Dated and entered on July 5, 2023.

Honorable Jean C. King
Chief Administrative Law Judge