

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

May 24, 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 DENYING 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, this Court received Complainant's Motion to Compel. In the motion, Complainant asserts that it served written interrogatories and requests for production of documents on Respondent on March 16, 2023, by mail, but Respondent did not provide the discovery. Mot. to Compel 2.<sup>1</sup> After thirty days, Complainant states that it contacted Respondent for an update, but Respondent did not respond. *Id.* Complainant asks the Court to compel Respondent to respond to the interrogatories and requests for production. *Id.*

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<sup>1</sup> Complainant served the discovery requests while the case was stayed during the referral period for the Settlement Officer Program. Nevertheless, it appears Respondent did not respond thirty days after the expiration of the stay period. See 28 C.F.R. §§ 68.19(b), 68.20(d).

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. *Zajradhara v. Gig Partners*, 14 OCAHO no. 1363, 2 (2020) (citing *United States v. Rose Acre Farms, Inc.*, 12 OCAHO no. 1285, 2 (2016)).<sup>2</sup> 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 does not indicate the nature of the questions or requests. Including a detailed description of the nature of the discovery or the discovery requests, or the discovery requests themselves, is critical for the Court to understand what it is compelling. Accordingly, Complainant’s motion is denied.

As Complainant asserts that Respondent has thus far not responded to its discovery requests, however, the Court reminds Respondent that it must either respond to Complainant’s discovery requests, or file a protective order. 28 C.F.R. §§ 68.18(c), 68.23(a).

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<sup>2</sup> 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>.

If Respondent continues not to respond, Complainant may resubmit the motion to compel, accompanied by a copy of the discovery requests or a detailed description of them, the response, if any, by Respondent, and a certification that Complainant attempted to confer with Respondent to resolve the matter before June 19, 2023.

SO ORDERED.

Dated and entered on May 24, 2023.

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Honorable Jean C. King  
Chief Administrative Law Judge