

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. 2023A00038
CHILITTO PIKIN LLC,	)	
	)	
Respondent.	)	
_____	)	

Appearances: Ariel Chino, Esq., for Complainant  
Jodi Goodwin, Esq., for Respondent

ORDER GRANTING JOINT MOTION FOR AND CONSENT TO REFERRAL TO  
SETTLEMENT OFFICER PROGRAM, REFERRING CASE TO THE OCAHO  
SETTLEMENT OFFICER PROGRAM, AND DESIGNATING  
SETTLEMENT OFFICER

I. PROCEDURAL HISTORY

On January 18, 2023, Complainant, the United States Department of Homeland Security, Immigration and Customs Enforcement, filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) against Respondent, Chilitto Pikin LLC. The complaint alleges that Respondent violated the employer sanctions provisions of the Immigration and Nationality Act, as amended by the Immigration Reform and Control Act of 1986, 8 U.S.C. § 1324a. Compl. ¶ 6.

After Respondent failed to timely file an answer, on July 6, 2023, the Court issued an Order to Show Cause. *See United States v. Chilitto Pikin LLC*, 18 OCAHO no. 1486 (2023).<sup>1</sup> The Court ordered Respondent to file both an answer

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<sup>1</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

comporting with 28 C.F.R. § 68.9 and a “response . . . in which it must provide facts sufficient to show good cause for its failure to file an answer to the Complaint in this case.” *Id.* at 5.

On July 28, 2023, OCAHO received Respondent’s Answer to Order to Show Cause and Answer to Complaint Regarding Unlawful Employment. On February 13, 2024, the Court issued an Order Accepting Respondent’s Response and Answer and Discharging Order to Show Cause. The Court exercised discretion to accept Respondent’s untimely response to the Order to Show Cause and Answer and found that good cause existed to accept Respondent’s Answer and discharge the Order to Show Cause so that the case could be decided on its merits. *See United States v. Chilitto Pikin LLC*, 18 OCAHO no. 1486a, 4-7 (2024).

On February 13, 2024, the Court issued an Order for Prehearing Statements and Scheduling Initial Prehearing Conference. The Court scheduled an initial telephonic prehearing conference for March 14, 2024, to develop a case schedule. Order for Prehr’g Statements & Setting Initial Prehr’g Conf. 2 (citing 28 C.F.R. § 68.13). The Court also ordered the parties to file written prehearing statements of position with the Court and serve the statements on each other by March 5, 2024. *Id.* at 6-8. In this Order, the Court provided the parties with information regarding the OCAHO Settlement Officer Program, through which the parties may use a settlement officer to facilitate their negotiations as a means of alternative dispute resolution. *Id.* at 5-6. The Court provided the parties with links to the Executive Office for Immigration Review’s Policy Memorandum 20-16 and Chapter 4.7 of OCAHO’s Practice Manual, both of which describe the policies and procedures for the use of settlement officers in OCAHO cases. *Id.* The Court directed the parties to confer regarding the OCAHO Settlement Officer Program and to state in their prehearing statements whether the parties were interested in a referral to the program. *Id.* at 6, 7.

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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 through the Westlaw database “FIMOCAHO,” the LexisNexis database “OCAHO,” and on the United States Department of Justice’s website at <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-decisions>.

Neither party filed a prehearing statement with the Court by March 5, 2024. On March 7, 2024, the parties filed a Joint Motion for and Consent to Settlement Officer Program. In this joint motion, the parties requested that the Court refer this matter to a settlement officer and “expressly consent[ed] to participate in the Settlement Officer Program and agree[d] to engage in settlement negotiations in good faith.” Joint Mot. & Consent Settlement Officer Prog. 1.

On March 14, 2024, this case was enrolled in OCAHO’s Electronic Filing Pilot Program through the Court’s Order on Electronic Filing.<sup>2</sup>

## II. RULES GOVERNING OCAHO SETTLEMENT OFFICER PROGRAM

OCAHO announced its Settlement Officer Program in August 2020 through Policy Memorandum 20-16.<sup>3</sup> It is a voluntary program through which the parties use a Settlement Officer to mediate settlement negotiations as a means of alternative dispute resolution. The Settlement Officer convenes and oversees settlement conferences and negotiations, confers with the parties jointly and/or individually, and seeks voluntary resolution of issues. The proceedings before the Settlement Officer are subject to the confidentiality provisions of 5 U.S.C. § 574. The presiding Administrative Law Judge (ALJ) may refer a case for up to sixty days for settlement negotiations before the Settlement Officer. However, with the consent of the parties, the Settlement Officer may seek the approval of the presiding ALJ to extend the period for negotiations for a reasonable period of time, not to exceed an additional thirty days. If the parties reach a settlement, the provisions of 28 C.F.R. § 68.14 apply. If the parties’ settlement negotiations are unsuccessful, the case is returned to the presiding ALJ to set appropriate procedural deadlines.

The presiding ALJ may refer a case to a Settlement Officer upon: (1) receipt of written confirmation of consent to referral from each party in the case, and (2) subject to 5 U.S.C. § 572(b) and the eligibility provisions of the program, a

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<sup>2</sup> OCAHO’s Electronic Filing Pilot Program is described in detail in the Federal Register. *See* 79 Fed. Reg. 31143 (May 30, 2014).

<sup>3</sup> <https://www.justice.gov/eoir/page/file/1300746/download>.

determination by the presiding ALJ that the case is appropriate for referral.<sup>4</sup> The eligibility provisions include, as relevant, that an ALJ shall not refer a case if (a) either party objects to the referral, (b) one or more parties are proceeding pro se unless the pro se parties are fully informed regarding program's procedures and consent to their use, or (c) a case is not appropriate for referral. OCAHO Settlement Officer Program Policy Memorandum 20-16, Sec. 1.C.

### III. DISCUSSION AND ANALYSIS

Pending before the Court is the parties' Joint Motion for and Consent to Referral to Settlement Officer Program. In their motion, the parties ask the Court to refer the case to a settlement officer and expressly consent to engage in settlement negotiations in good faith. Joint Mot. Settlement Officer Program 1. Counsel for both parties signed the motion. *Id.*

Based on the Court's review of the pleadings in this matter and the parties' Joint Motion for and Consent to Referral to Settlement Officer Program, the Court finds that referral of this matter to the OCAHO Settlement Officer Program is appropriate. This case meets the eligibility requirements for the program set forth in Section I.C.1-2 of Policy Memorandum 20-16 and Chapter 4.7(a)(4)(A)-(B) of the OCAHO Practice Manual because both parties have agreed to referral to a settlement officer and both parties are represented by counsel. The Court further finds that the factors enumerated in 5 U.S.C. § 572(b), Section I.C.3 of Policy Memorandum 20-16, and Chapter 4.7(a)(4)(C) of the OCAHO Practice Manual do not counsel against referral of this case to the OCAHO Settlement Officer Program.

Given the Court's finding that this case is appropriate for referral to the OCAHO Settlement Officer Program, the Court now grants the parties' Joint Motion for and Consent to Referral to Settlement Officer Program and refers this case for settlement negotiations for sixty days beginning on March 18, 2024, and continuing through May 17, 2024, pursuant to 28 C.F.R. § 68.28(a). Therefore, the initial prehearing conference previously set for March 14, 2024, is canceled. No procedural deadlines need to be stayed in this matter for purposes of this referral

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<sup>4</sup> See Section II.A.1-2 of OCAHO Settlement Officer Program Policy Memorandum 20-16, available at <https://www.justice.gov/eoir/page/file/1300746/download>. See also Chapter 4.7(b)(1) of the OCAHO Practice Manual, available at <https://www.justice.gov/eoir-policy-manual/iv/4/7>.

because the Court has not yet set a case schedule. At the conclusion of the referral, the settlement officer will refer this matter back for further proceedings.

Should this case not settle through the OCAHO Settlement Officer Program, the Court will set a date for another prehearing conference before which the parties must file their prehearing statements. At the next prehearing conference, the parties must be prepared to set additional case deadlines, including dates for the completion of discovery, the filing of dispositive motions and responses, and a hearing.

Should the parties reach a settlement agreement through the OCAHO Settlement Officer Program, the Court may issue an order setting deadlines for the filing of any settlement materials. The parties should consult 28 C.F.R. § 68.14 to understand the two avenues for leaving this forum after settlement. If the parties enter into a settlement agreement, 28 C.F.R. § 68.14(a)(2) provides that the parties may jointly file a notice of full settlement and an agreed motion to dismiss. The Court may require the filing of the settlement agreement. The parties should indicate in their filing whether they seek dismissal with or without prejudice.

#### IV. ORDERS

IT IS SO ORDERED that the parties' Joint Motion for and Consent to Referral to Settlement Officer Program is GRANTED;

IT IS FURTHER ORDERED that this case is referred to the OCAHO Settlement Officer Program for settlement negotiations for sixty days beginning on March 18, 2024, and continuing through May 17, 2024;

IT IS FURTHER ORDERED that Administrative Law Judge John A. Henderson is designated as the Settlement Officer for this case;

IT IS FURTHER ORDERED that the initial telephonic prehearing conference scheduled for March 14, 2024, is CANCELED; and

IT IS FURTHER ORDERED that, should the parties reach a settlement, they shall proceed in accordance with 28 C.F.R. § 68.14.

SO ORDERED.

Dated and entered on March 14, 2024.

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Honorable Carol A. Bell  
Administrative Law Judge