

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

October 25, 2023

UNITED STATES OF AMERICA,)	
Complainant,)	
)	
v.)	8 U.S.C. § 1324a Proceeding
)	OCAHO Case No. 2023A00054
)	
PASQUEL HERMANOS, INC.)	
Respondent.)	
_____)	

Appearances: Omiga Cape, Esq., for Complainant
Guillermo G. Alarcon, Esq., for Respondent

ORDER SUMMARIZING PREHEARING CONFERENCE

This case arises under the employer sanctions provisions of the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324a. Complainant, the U.S. Department of Homeland Security, Immigration and Customs Enforcement (ICE), filed a complaint alleging that Respondent, Pasquel Hermanos, Inc., violated § 1324a(a)(1)(B). On May 11, 2023, Respondent filed an answer.

On June 6, 2023, the Court held an initial prehearing conference.

On July 25, 2023, the Court referred this case to the Settlement Officer Program for a period of sixty days. *See* Order Referring Case to Settlement Officer Program.

On September 22, 2023, the Settlement Officer terminated the case from the program.

On October 19, 2023, the Court held a prehearing conference. 28 C.F.R. § 68.13(a).¹ Ms. Cape attended on behalf of Complainant, replacing Kevin Terrill, who has departed DHS. Mr. Alarcon attended on behalf of Respondent. As a courtesy, the Court permitted Ms. Cape to appear on

¹ OCAHO Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2023). OCAHO’s regulations are available at: <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-regulations>. The Court encouraged parties to carefully review OCAHO’s regulations.

behalf of the Department with the understanding she would file a Notice of Appearance immediately.

The Court discussed OCAHO's Electronic Filing Pilot Program.² The Court received Complainant's e-filing form. Once a party has elected to e-file, it need not submit a new form when a new counsel appears. To date, Court has not received an e-filing form from Respondent.

After discussion with the parties, the Court revised the case schedule as follows:

- Discovery closes (discovery motions due): December 18, 2023
- Summary decision motions³ due: January 17, 2024
- Tentative hearing: April or May 2024 in San Antonio, TX

The Court also explained that while parties normally have 10 days to file a response to a motion, the Court will allow 30 days to respond to any dispositive motion (i.e. summary decision or other dispositive motions). *See generally* 28 C.F.R. § 68.11(b). Parties may file a motion to request another prehearing conference at any time, and should jointly propose several dates of availability in such a motion. *See* 28 C.F.R. § 68.13(a). Finally, the Court highlighted several resources available to the parties: OCAHO's published decisions (organized by volume)⁴ and cumulative topical index.⁵

² *See* Office of the Chief Administrative Hearing Officer Electronic Filing Pilot Program, 79 Fed. Reg. 31143 (May 30, 2014), *available at* https://www.justice.gov/eoir/pages/attachments/2015/03/24/79fedreg31143_05-30-2014.pdf; *see also* <https://www.justice.gov/eoir/ocaho-filing>.

³ The Court cautioned the parties to ensure they include (by way of attachments) any evidence upon which they rely. *See Sanchez Molina v. Securitas Sec. Servs. USA, Inc.*, 11 OCAHO no. 1261, 7 (2015) (“Conclusory and unsupported allegations do not provide an adequate basis for summary decision[.]”); *Sharma v. NVIDIA Corp.*, 17 OCAHO no. 1450g, 5 (2023). In the context of summary decision where Complainant is the moving party, the Complainant still retains “the burden with respect to penalties and ‘must prove the existence of any aggravating factors by a preponderance of the evidence.’” *United States v. Kodiak Oilfield Servs.*, 16 OCAHO no. 1436b, 4 (2023) (quoting *United States v. 3679 Commerce Place, Inc.*, 12 OCAHO no. 1296, 4 (2017)).

Parties must also file any other dispositive motions on or before this date.

⁴ *See* <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-decisions>.

⁵ *See* <https://www.justice.gov/eoir/page/file/1572986/download>.

SO ORDERED.

Dated and entered on October 25, 2023.

Honorable Andrea R. Carroll-Tipton
Administrative Law Judge