

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

March 26, 2025

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

Appearances: Christopher Ford, Esq., for Complainant¹
Guillermo G. Alarcon, Esq., for Respondent

ORDER OF INQUIRY – COMPLAINANT POTENTIAL INCLUSION OF SETTLEMENT
DISCUSSIONS AS ATTACHMENT TO MOTION FOR SUMMARY DECISION

This case arises under the employer sanctions provisions of the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324a.

On January 17, 2024, Complainant filed a Motion for Summary Decision.² Complainant separately provided another filing, resulting in additional time for Respondent’s submission of additional matters. After receipt of Respondent’s submission, the Court considered summary decision fully briefed. With its Motion for Summary Decision, Complainant includes several evidentiary exhibits. These exhibits include affidavits, email correspondence, business records, and agency-generated reports. Germane to this Order, the final few exhibits are “supplemental” Reports of Investigation (ROI) beginning at sequential page 172.

Troublingly, the final Supplemental ROI (internally, a two-page document) begins with a summary cover page which described the contents as “document[ing] the mediation session held by the

¹ Attorney Christopher Ford was not the attorney of record who filed the Motion for Summary Decision; however, as the Attorney of Record, he must still respond to this Order.

² The Motion and attached evidence total 196 pages. The Motion contains page numbers; however, the attached evidence is not paginated (either in total or individually). To the extent page numbers are referenced in this Order, those page numbers correspond to the document as a combined PDF.

Office of the Chief Administrative Hearing Officer.” Mot. Summ. Dec. 195-96, Ex. 2. After reading this cover page, the undersigned did not proceed in reading any further.

OCAHO offers to parties in litigation a no-cost mediation service (referred to as the Settlement Officer Program) in which the presiding Administrative Law Judge (ALJ) may refer a case to a different OCAHO ALJ to assist the parties in exploring out-of-court resolutions to cases. Referral only occurs after the Court receives, in writing, a request from both parties to participate in the mediation program. This matter was referred to the mediation program on July 31, 2023, and later returned to active litigation. Because the Court has concerns about the propriety³ of considering whatever exists beyond the cover page referenced above, it now issues this Order to Complainant’s Counsel, and expects answers to the following inquiries:

1. Does Page 196 of your 196-page in fact filing contain a description of confidential matters discussed in mediation? (If no, please provide a proffer of the contents).
2. Assuming the page does contain a summary of confidential settlement discussions, Complainant’s submission does not expressly demonstrate Respondent stipulated to disclosure. *See* OCAHO Practice Manual, Chap. 4.7(d)(1).⁴
 - a. Did Complainant obtain a stipulation prior to potential disclosure? If no, why not?
 - b. If such a stipulation was obtained, why is it not included with Complainant’s motion to demonstrate compliance with the Settlement Officer Program?
 - c. Please attach written evidence of such stipulation (if it exists) to your response.
3. Assuming the page does contain a summary of confidential settlement discussions, its inclusion may be violative of 5 U.S.C. § 574(b).⁵ What is Complainant’s position on whether Complainant’s conduct violated 5 U.S.C. § 574(b)?
4. If Complainant’s conduct is violative the Settlement Officer Program requirements as memorialized in the OCAHO Practice Manual and/or 5 U.S.C. § 574(b), what is Complainant’s position on how such a violation should be treated by the Court?

Complainant must submit its responsive filing by April 30, 2025.

³ *See generally Wangperawong v. Meta Platforms, Inc.*, 18 OCAHO no. 1510k, 3-4 (2025).

⁴ “No evidence regarding statements or conduct in the settlement proceedings under this settlement officer program shall be admissible in the underlying proceeding or any subsequent administrative proceeding before OCAHO, except by stipulation of all parties.” OCAHO PM, Chap. 4.7(d)(1).

⁵ “The proceedings before the settlement officer shall be subject to the confidentiality provisions of 5 U.S.C. § 574.” OCAHO Practice Manual Chapter 4, Section 4.7, para (d)(2).

SO ORDERED

Dated and entered on March 26, 2025.

Honorable Andrea R. Carroll-Tipton
Administrative Law Judge