

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. 2025A00027
CABELLO ENTERPRISES, LLC,)	
)	
Respondent.)	
_____)	

Appearances: Ariel Chino, Esq., for Complainant
Cabello Enterprises, LLC, Respondent¹

NOTICE AND ORDER TO SHOW CAUSE

I. PROCEDURAL HISTORY

This case arises under the Immigration and Nationality Act (INA), as amended by the Immigration Reform and Control Act of 1986, 8 U.S.C. § 1324a. Complainant, the United States Department of Homeland Security (DHS), Immigration and Customs Enforcement, filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) on December 26, 2024. Complainant alleges that Respondent, Cabello Enterprises, LLC, failed to timely prepare and/or present the Employment Eligibility Verification Form (Form I-9) for one individual (Count I) and failed to ensure the employee properly completed section 1 and/or failed to properly complete section 2 or 3 of the Form I-9 for twenty-five individuals (Count II), all in violation of 8 U.S.C. § 1324a(a)(1)(B). Compl. ¶ 6.

Complainant attached to the complaint the Notice of Intent to Fine Pursuant to Section 274A of the INA (NIF) that it personally served on Respondent through Mr. Cesar Cabello in Laredo, Texas, on May 1, 2024, seeking a fine of \$59,696 for the alleged violations. Compl. Ex. A. The NIF put Respondent on notice of its right to

¹ Should Respondent retain counsel in this matter, its counsel shall file a notice of appearance in accordance with 28 C.F.R. § 68.33(f).

contest the fine by submitting a written request for a hearing before an Administrative Law Judge (ALJ) to DHS “within 30 days from the service of this [NIF].” *Id.*

Also attached to the complaint was a letter dated May 25, 2024, signed by Cesar Cabello on behalf of “Roger Cabello Towing & Storage,” through which Mr. Cabello wrote that he “would like at this time [to] appeal to you the decision being that, we fully cooperate[d]” with DHS. Compl. Ex. B. He asserted that “their finding is not knowing” and asked DHS to review the “file and findings, and assist us in this matter.” *Id.* The letter was stamped as being received by DHS on May 30, 2024. *Id.* DHS characterized the May 25, 2024, letter as being a request for a hearing before an ALJ by the Respondent-business (“request for hearing”). *See* Compl. ¶ 4.

Pursuant to 28 C.F.R. § 68.7(b)(5),² Complainant asked OCAHO to serve the complaint on Respondent through Mr. Cabello at an address in Laredo, Texas. Compl. 7.

On January 29, 2025, using the United States Postal Service’s (USPS) certified mail service, OCAHO’s Deputy Chief Administrative Hearing Officer (Deputy CAHO) sent Respondent an Order by the Deputy CAHO and Notice of Case Assignment for Complaint Alleging Unlawful Employment (NOCA), the complaint, the NIF, and Respondent’s request for hearing (together, the “Complaint package”).³ The Deputy CAHO informed Respondent that these proceedings would be governed by OCAHO’s Rules of Practice and Procedure for Administrative Hearings and applicable case law. Notice of Case Assignment ¶ 2. The NOCA included links to OCAHO’s Rules and its Practice Manual, along with contact information for OCAHO. *Id.* The Deputy CAHO directed Respondent to answer the complaint within thirty days in accordance with 28 C.F.R. § 68.9(a). *Id.* ¶ 4. The Deputy CAHO cautioned Respondent that its failure to file an answer could lead the Court to enter a judgment by default and all appropriate relief pursuant to 28 C.F.R. § 68.9(b). *Id.*

Per its standard practice, OCAHO requested a tracking number for the Complaint package and proof of service through a USPS Domestic Return Receipt Form (PS Form 3811) (“return receipt”). The USPS certified mail tracking

² OCAHO’s Rules of Practice and Procedure for Administrative Hearings, being the provisions contained in 28 C.F.R. part 68 (2024), are available on the United States Department of Justice’s website. *See* <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-regulations>.

³ OCAHO corrected what appeared to be a typographical error in the street number provided by Complainant and mailed the Complaint package to the Laredo, Texas, address at which DHS personally served Respondent with the NIF. This was also the address Respondent provided in its May 25, 2024, letter to DHS.

information for the Complaint package mailed to Respondent indicated that it was “delivered to the front desk, reception area, or mail room” of the Respondent-business on February 7, 2025. As such, Respondent’s answer was due by March 10, 2025.⁴ OCAHO did not receive a signed and dated USPS return receipt identifying who received the Complaint package. To date, Respondent has not filed an answer or communicated with OCAHO.

II. REGULATORY AND LEGAL STANDARDS

OCAHO’s Rules of Practice and Procedure for Administrative Hearings generally govern these proceedings. OCAHO’s Rules explain that the filing of a complaint commences an adjudicatory proceeding before OCAHO. 28 C.F.R. § 68.2. However, “the formal stage of a case actually does not begin (the time deadlines do not start) until the OCAHO serves the original complaint on the respondent employer.” *United States v. Arnold*, 1 OCAHO no. 119, 781, 785 (1989) (internal citations omitted).⁵

OCAHO’s Rules require the complainant to identify “the party or parties to be served by the Office of the Chief Administrative Hearing Officer with notice of the complaint pursuant to [28 C.F.R.] § 68.3.” 28 C.F.R. § 68.7(b)(5). Complainant must include this information in a statement accompanying the complaint. *Id.* After receiving this information, OCAHO will serve the complaint through one of the following methods:

- (1) By delivering a copy to the individual party, partner of a party, officer of a corporate party, registered agent for

⁴ In accordance with 28 C.F.R. § 68.8(a), because the last day of the time period fell on a Sunday, namely, March 9, 2025, the thirty-day time period for filing an answer was extended to include the next business day, being Monday, March 10, 2025.

⁵ 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 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 in the Westlaw database “FIM–OCAHO,” the LexisNexis database “OCAHO,” or on OCAHO’s homepage on the United States Department of Justice’s website at <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-decisions>.

service of process of a corporate party, or attorney or representative of record of a party;

(2) By leaving a copy at the principal office, place of business, or residence of a party; or

(3) By mailing to the last known address of such individual, partner, officer, or attorney or representative of record.

Id. § 68.3(a)(1–3). Whichever method is chosen, “[s]ervice of [the] complaint . . . is complete upon receipt by [the] addressee.” *Id.* § 68.3(b).

III. DISCUSSION

On January 29, 2025, OCAHO sent—via the USPS certified mail—the Complaint package to Respondent in Laredo, Texas. Although OCAHO did not receive a signed and dated USPS return receipt for the delivery, the USPS tracking information reflected that the Complaint package was delivered to Respondent on February 7, 2025. The Court therefore finds that OCAHO perfected service of the Complaint package on Respondent on February 7, 2025, in accordance with 28 C.F.R. §§ 68.3(a)(3), 68.3(b). The Court also notes that the service address was the address at which DHS personally served the NIF on Respondent, and it was the address Respondent listed in its May 25, 2024, letter to DHS. *See* Compl. Exs. A, B.

OCAHO’s Rules of Practice and Procedure for Administrative Hearings afford a respondent thirty days to file an answer following service of the complaint. *See* 28 C.F.R. § 68.9(a). Through the NOCA, the Deputy CAHO explained this requirement to Respondent. *See* Notice of Case Assignment ¶ 4. Given that service of the complaint was perfected on February 7, 2025, Respondent’s answer was due no later than March 10, 2025. *See* 28 C.F.R. §§ 68.3(b), 68.8(a), 68.9(a). Respondent, however, failed to file an answer to the complaint.

In the NOCA, the Deputy CAHO warned Respondent that if it failed to file a timely answer, the Court might deem it to have waived its right to appear and contest the allegations of the complaint and that a judgment by default and other appropriate relief might follow. *Id.* (citing 28 C.F.R. § 68.9(b)). “If a default judgment is entered, the request for hearing is dismissed, AND judgment is entered for the complainant without a hearing.” *Nickman v. Mesa Air Grp.*, 9 OCAHO no. 1106, 1 (2004).

OCAHO’s long-established practice has been to issue an order to show cause before entering a default. *See United States v. Shine Auto Serv.*, 1 OCAHO no. 70, 444 (1989). In *Shine Auto Service*, the acting CAHO explained:

Respondent must justify [in its response to the order to show cause] its failure to respond in a timely manner. Based on the Respondent's reply, the [ALJ] shall determine whether the respondent has met the threshold for good cause. If the [ALJ] determines that the Respondent possessed the requisite good cause for failing to file a timely answer, then the [ALJ] may allow the Respondent to file a late answer.

Id. at 445–46. This Court follows the same practice here and now issues this Notice and Order to Show Cause.

The Court orders Respondent to file a response to this Order in which it must proffer facts sufficient to show good cause for its failure to file a timely answer to the complaint. Additionally, the Court orders Respondent to file an answer to the complaint simultaneously with the filing of its response showing good cause. Respondent's answer must comport with 28 C.F.R. § 68.9. Upon receipt of Respondent's filings, the Court will determine if Respondent has demonstrated the requisite good cause for failing to file a timely answer to the complaint and will decide whether to allow its untimely answer.

If Respondent fails to file an answer and a response, the Court may find that Respondent has waived its right to appear and contest the allegations of the complaint. 28 C.F.R. § 68.9(b). The Court may then enter a default judgment. *Id.*

If Respondent fails to respond to the Court's orders, the Court will find that it has abandoned its request for hearing and dismiss its request pursuant to 28 C.F.R. § 68.37(b)(1). *See, e.g., United States v. Steidle Lawn & Landscape, LLC*, 17 OCAHO no. 1457c, 2 (2023) (finding that the respondent abandoned its request for a hearing when it failed to respond to the ALJ's orders). "A final order of dismissal based on abandonment is analogous to entry of a default judgment under the Federal Rules of Civil Procedure." *United States v. Vilardo Vineyards*, 11 OCAHO no. 1248, 4 (2015). "Abandonment will result in DHS's NIF becoming the final order." *United States v. DJ's Trans.*, 18 OCAHO no. 1488a, 5 (2024).

IV. ORDERS

IT IS ORDERED that, within twenty days of the date of this Order, Respondent, Cabello Enterprises, LLC, shall file a response with the Court in which it must provide facts sufficient to show good cause for its failure to timely answer the complaint in this case.

IT IS FURTHER ORDERED that, within twenty days of the date of this Order, Respondent, Cabello Enterprises, LLC, shall file with the Court an answer to the complaint that comports with 28 C.F.R. § 68.9.

The Court puts Respondent on notice that its failure to file an answer and a response to this Order to Show Cause “may be deemed to constitute a waiver of his or her right to appear and contest the allegations of the complaint” and the Court may enter a default judgment against Respondent as to both liability and penalties. 28 C.F.R. § 68.9(b). If Respondent fails to respond to the Court’s orders, the Court shall conclude that Respondent has abandoned its request for a hearing and issue an order of dismissal. *Id.* § 68.37(b). The NIF will be rendered the final agency order.

SO ORDERED.

Dated and entered on September 11, 2025.

Honorable Carol A. Bell
Administrative Law Judge