

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. 2023A00058
PJ'S OF TEXAS, INC.,)	
)	
Respondent.)	
_____)	

Appearances: Nain Martinez, Jr., Esq., for Complainant
Kevin R. Lashus, Esq., for Respondent

ORDER EXTENDING REFERRAL TO THE OCAHO SETTLEMENT
OFFICER PROGRAM

I. PROCEDURAL HISTORY

On May 9, 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, PJ's of Texas, Inc. Complainant 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.

On June 21, 2023, Respondent filed a Special Appearance, Special Exceptions, and Answer. In its filing, Respondent expressed its interest in participating the OCAHO Settlement Officer Program. Special Appearance, Special Exceptions, & Ans. ¶ 6.

On January 29, 2024, Complainant filed a Notice of Appearance and Motion for Substitution. On January 31, 2024, the Court issued an Order on Service, Complainant's Notice of Appearance and Motion for Substitution, Electronic Filing, Prehearing Statements, and Scheduling Initial Prehearing Conference. *See United*

States v. PJ's of Tex., Inc., 18 OCAHO no. 1524 (2024).¹ Through this order, the Court scheduled an initial prehearing conference. The Court also provided the parties with information about the OCAHO Settlement Officer Program, including links to the Executive Office for Immigration Review (EOIR) 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.² *Id.* at 10.

Complainant filed the United States Department of Homeland Security's Prehearing Statement on February 16, 2024, in which it stated that the parties had discussed a referral to the OCAHO Settlement Officer Program and that the parties were interested in a referral. U.S. Dep't Homeland Security's Prehr'g Statement 6.

Respondent filed its Prehearing Statement and Initial Disclosures on February 21, 2024, and its First Amended Prehearing Statement and Initial Disclosures on February 23, 2024. In the amended prehearing statement, Respondent indicated that it "maintains a desire to resolve the matter through alternative dispute resolution." Resp't's First Am. Prehr'g Statement & Initial Disclosures 2.

¹ Citations to OCAHO precedents in bound Volumes 1 through 8 include the volume and case number of the particular decision followed by the specific page in the bound volume where the decision begins; the pinpoint citations which follow are 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 "FIM-OCAHO," the LexisNexis database "OCAHO," and on the United States Department of Justice's website: <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-decisions>.

² EOIR Policy Memorandum 20-16 is available at <https://www.justice.gov/eoir/page/file/1300746/download>. Chapter 4.7 of OCAHO's Practice Manual also describes the OCAHO Settlement Officer Program and may be found at <https://www.justice.gov/eoir/eoir-policy-manual/iv/4/7>.

The Court conducted an initial telephonic prehearing conference with the parties pursuant to 28 C.F.R. § 68.13³ on March 18, 2024. During the conference, the Court explained the policies and procedures governing the OCAHO Settlement Officer Program, including the timing of an initial referral to the Program and the possibility of obtaining an extension of the referral period of up to thirty days. Order Memorializing Prehr’s Conf. 5. The Court directed the parties to review Chapter 4.7 of OCAHO’s Practice Manual and EOIR Policy Memorandum 20-16, which contain additional information regarding the Settlement Officer Program’s policies and procedures. *Id.* The Court provided the parties with an opportunity to ask questions regarding the Settlement Officer Program, and both parties confirmed their interest in a referral. *Id.* Given the discussion during the prehearing conference and the parties’ prehearing submissions, the Court found that the case was appropriate for referral to the Settlement Officer Program and advised the parties to submit a joint motion requesting referral. *Id.* at 5-6 (citing Policy Memorandum 20-16, Section II.A. (August 3, 2020)).

On March 29, 2024, the parties filed a Joint Motion for and Consent to Referral to the Settlement Officer Program. In their joint motion, the parties requested that the Court refer this matter to a Settlement Officer and stated that the parties “expressly consent to participation in the Settlement Officer Program and agree to engage in settlement negotiations in good faith.” Joint Mot. Consent Referral 2 (citations omitted).

On April 23, 2024, the Court issued an Order Granting Joint Motion for and Consent to Referral to the OCAHO Settlement Officer Program, Referring Case to the OCAHO Settlement Officer Program, and Designating Settlement Officer. *United States v. PJ’s of Tex., Inc.*, 18 OCAHO no. 1524a (2024). The Court found that the parties’ joint motion satisfied Policy Memorandum 20-16’s requirement that no referral be made without “receipt of written confirmation of consent” from both parties and reiterated its determination during the prehearing conference that the case was appropriate for referral. *Id.* at 5. The Court found no need to stay procedural deadlines during the referral period, appointed an OCAHO Administrative Law Judge as the Settlement Officer, and ordered that the case be

³ OCAHO’s Rules of Practice and Procedure for Administrative Hearings, being the provisions contained in 28 C.F.R. part 68 (2023), are available on OCAHO’s homepage on the United States Department of Justice’s website. *See* <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-regulations>.

referred to the OCAHO Settlement Officer Program for sixty days beginning on April 25, 2024, and continuing through June 24, 2024. *Id.* at 5-6.

On June 20, 2024, the assigned Settlement Officer requested a thirty-day extension of the case's referral to the OCAHO Settlement Officer Program. The Settlement Officer explained that he was seeking the extension of time at the parties' request to enable them to continue pursuing a resolution of this case through mediation.

II. RULES GOVERNING THE OCAHO SETTLEMENT OFFICER PROGRAM

OCAHO announced its Settlement Officer Program in August 2020 through Policy Memorandum 20-16. Section II.D.2 of the Policy Memorandum for the OCAHO Settlement Officer Program states that, "with the consent of the parties, the settlement officer may, in his or her discretion, seek to extend the time period for negotiations for a reasonable amount of time, not to exceed an additional thirty (30) days." Policy Memorandum 20-16, Section II.D.2. (August 3, 2020). It specifies that the Settlement Officer shall seek approval of the extension of time from the presiding Administrative Law Judge (ALJ), and provides that, "[i]f an extension of the negotiation period is appropriate, the presiding ALJ shall issue an order extending the period of settlement negotiations and specifying whether and to what extent the procedural deadlines in the case continue to be stayed." *Id.*

III. DISCUSSION

The assigned Settlement Officer has requested a thirty-day extension of the OCAHO Settlement Officer Program referral period so that the parties may continue to engage in settlement discussions. Given the Settlement Officer's representations that the parties consent to the requested extension and continue to engage in settlement discussions, the Court finds that the requested extension of the Settlement Officer Program referral is reasonable and appropriate. *See* Pol'y Memo. 20-16, Sec. II.D.2; *see also Vega v. BFS Asset Holdings LLC*, 19 OCAHO no. 1534, 2 (2024) (finding an extension of the Settlement Officer Program referral period "reasonable and appropriate"); *United States v. DNT Constr., LLC*, 19 OCAHO no. 1529a, 3 (2024) (accord). The Court accordingly grants the requested extension and extends this case's referral to the Settlement Officer Program through July 24, 2024. The Court need not stay any procedural deadlines during the extended referral period.

As the Court explained in its April 23, 2024, order referring this matter to the OCAHO Settlement Officer Program, should the parties reach a settlement agreement through the Program, they may request that the Court dismiss this matter through one of the methods provided in 28 C.F.R. § 68.14.⁴ *PJ's of Tex., Inc.*, 18 OCAHO no. 1524a, at 6. The parties may file a joint notice of settlement with an agreed motion to dismiss the matter pursuant to 28 C.F.R. § 68.14(a)(2), and the Court may require that the parties submit a copy of their settlement agreement for consideration. The parties should specify in any such filing whether they are requesting dismissal with or without prejudice.

If the parties do not reach a settlement agreement during the OCAHO Settlement Officer Program referral period, the assigned Settlement Officer will refer this matter back to the undersigned for further proceedings. At that time, the Court may request status reports from the parties and will set any other deadlines necessary for the case.

IV. ORDERS

IT IS SO ORDERED that the Settlement Officer's request for an extension of time is GRANTED, and this case's referral to the OCAHO Settlement Officer Program for settlement negotiations is extended through July 24, 2024; and

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

⁴ OCAHO Rules of Practice and Procedure for Administrative Hearings, 28 C.F.R. pt. 68 (2024), are available at <https://www.govinfo.gov/content/pkg/CFR-2023-title28-vol2/pdf/CFR-2023-title28-vol2-part68.pdf>.

SO ORDERED.

Dated and entered on June 20, 2024.

Honorable Carol A. Bell
Administrative Law Judge