

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

UNITED STATES OF AMERICA)
Complainant,)
)
v.) 8 U.S.C. §1324a Proceeding
) Case No. 92A00268
ROSARIO STRANO D/B/A)
STRANO FARMS,)
Respondent.)
_____)

ORDER
(June 22, 1993)

On June 21, 1993, Respondent filed a proposed subpoena duces tecum for appearance at a deposition on July 8, 1993 of Jorge Reyes a/k/a Eliaz Vela. The tendered subpoena format provides an adequate basis for issuance of a subpoena but for omission of evidence that the request is made on notice to Complainant. Accordingly, I will withhold issuing the requested subpoena until Respondent files an appropriate certificate that a copy of the subpoena has been served on Complainant as required by the OCAHO Rules of Practice and Procedure, i.e., 28 C.F.R. §68.25(b) [1992].

The present text of subsection 25(b) was accompanied by a new subsection (d) as to which the explanatory note provides as follows:

A new subsection (d) of § 68.25 was added, which gives a party standing to challenge a subpoena issued to a nonparty if the party can claim a personal right or privilege in the discovery sought. This amendment is also in response to a commenter's suggestion to make clear that parties have standing to challenge a subpoena issued to a nonparty.

57 Fed. Reg. 57619, 57670 (12/7/92).

Complainant, in any event, is entitled to notice of the third party deposition in aid of which Respondent requests the subpoena. 28

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C.F.R. §68.22(b). For an instructive discussion concerning subpoena practice on discovery, but predating the 1992 rules changes, see U.S. v. Harris Ranch Beef Co., 2 OCAHO 302 (3/7/91) (Order Granting in Part Respondent's Motion For Protective Order).

A blank OCAHO subpoena form for use by a requesting party is enclosed with Respondent's copy of this Order.

SO ORDERED.

Dated and entered this 22nd day of June, 1993.

MARVIN H. MORSE
Administrative Law Judge