

U.S. Department of Labor

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Issue Date: 23 August 2013

OALJ No.: 2013-TLC-00050
ETA No.: H-300-13163-785022

In the Matter of:

MAINE-LY POULTRY, INC.,
Employer

Certifying Officer: Chicago National Processing Center

Before: **WILLIAM S. COLWELL**
Associate Chief Administrative Law Judge

ORDER OF REMAND

On August 23, 2013, the parties in the above-captioned H-2A temporary labor certification matter jointly requested a remand to the Certifying Officer (CO) based on an agreed resolution.¹ According to an email to the undersigned from the attorney for the CO:

Under this agreement, the employer will have 14 days from today's date to submit any new material to the Certifying Officer. The Certifying Officer will consider that material and all other information in the appeal file to determine if the H-2A labor certification should be granted. The Certifying Officer will then issue a new decision in this case. If it is adverse, the parties agree that this new decision may be appealed under the normal H-2A regulatory procedures.

The Employer's agent subsequently emailed to undersigned a confirmation that this is the agreement of the parties.

¹ In H-2A appeals, it is necessary to dispense with some of the formality normally associated with ALJ hearings because of the speed in which the cases are adjudicated. Thus, email is often used to communicate with the parties and to transmit time-sensitive filings. In the instant case, the joint request for remand was made in the body of email communications. Despite the general informality of H-2A appeals, making a request for a remand in body of an email, rather than in the form of a pleading attached to the email, borders on being too informal. Thus, in the future parties are encouraged to file motions in the form of pleading rather than in the body of email.

Based on the foregoing, it is hereby **ORDERED** that the appeal in the above-captioned matter is **DISMISSED** without prejudice, and the matter **REMANDED** to the Certifying Officer for further proceedings consistent with the above.

WILLIAM S. COLWELL
Administrative Law Judge