

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. 2024A00005
DNT CONSTRUCTION, LLC,)	
)	
Respondent.)	
_____)	

Appearances: Anne Marie P. Cordova, Esq., for Complainant
Melissa M. Fletcher, Esq., for Respondent

ORDER EXTENDING REFERRAL TO THE OCAHO SETTLEMENT
OFFICER PROGRAM

I. PROCEDURAL HISTORY

On October 3, 2023, Complainant, the United States Department of Homeland Security (DHS), Immigration and Customs Enforcement, filed a complaint with Office of the Chief Administrative Hearing Officer (OCAHO) alleging that Respondent, DNT Construction, LLC, violated the employer sanctions provisions of the Immigration and Nationality Act (INA), as amended by the Immigration Reform and Control Act of 1986, 8 U.S.C. § 1324a. Complainant attached to the complaint the Notice of Intent to Fine Pursuant to Section 274A of the INA that it served on Respondent on June 9, 2021, and Respondent’s request for a hearing dated July 7, 2021. Compl., Exs. A-B. Respondent filed an answer to the complaint on November 16, 2023.

On January 11, 2024, the Court issued an order permitting the parties to file electronically all filings in this case. On January 30, 2024, the Court issued an Order for Prehearing Statements and Scheduling Initial Prehearing Conference. The Court ordered the parties to make their initial disclosures and file their prehearing statements with the Court within twenty-one days of the date of issuance of the Order. Order for Prehr’g Statements and Scheduling Prehr’g Conference 6, 8. The

Court also scheduled the initial prehearing conference in this matter for March 5, 2024. *Id.* at 2, 8.

On February 16, 2024, Respondent filed its Prehearing Statement of Position in which it represented that the parties had conferred on February 3, 2024, and that Respondent was interested in a referral to the OCAHO Settlement Officer Program. Resp't Prehr'g Statement of Position 5. On February 20, 2024, Complainant filed its Prehearing Statement in which it indicated that the parties had conferred and that they were interested in participating in the OCAHO Settlement Officer Program. DHS Prehr'g Statement 10.

On February 27, 2024, the parties filed a Joint Motion for and Consent to Settlement Officer Program, asking the Court to refer this matter to the program and “expressly consent[ing] to participation in the Settlement Officer Program and agree[ing] to engage in settlement negotiations in good faith.” Joint Mot. & Consent to Settlement Officer Prog. 1.

On March 4, 2024, the Court granted the parties’ Joint Motion for and Consent to Settlement Officer Program, referred this case the OCAHO Settlement Officer Program for sixty days through May 3, 2024, and designated OCAHO Chief Administrative Law Judge Jean C. King as the Settlement Officer. *See United States v. DNT Construction, LLC*, 19 OCAHO no. 1529, 4-5 (2024).¹

On May 2, 2024, with the consent of the parties, Chief Judge King requested a fourteen-day extension of time of this case’s referral to the OCAHO Settlement Officer Program to continue settlement negotiations.

¹ 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 through the Westlaw database “FIMOCAHO,” the LexisNexis database “OCAHO,” and on the United States Department of Justice’s website at <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-decisions>.

II. RULES GOVERNING THE OCAHO SETTLEMENT OFFICER PROGRAM

OCAHO announced its Settlement Officer Program in August 2020 through Policy Memorandum 20-16.² 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.” 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

Pending before the Court is the Settlement Officer’s request to extend the referral of this matter by fourteen days so that the parties may continue their settlement discussions. Given the Settlement Officer’s representation that the parties continue to make progress toward settlement through their participation in the OCAHO Settlement Officer Program, the Court finds that a two-week extension of the time for settlement negotiations is reasonable and appropriate in this case. The Court therefore extends the referral of this case to the OCAHO Settlement Officer Program through May 20, 2024, to account for the weekend and to give the parties an additional business day to conclude their mediation efforts in the program. This extension of time does not affect any procedural deadlines in this matter.

Should this case not settle through the OCAHO Settlement Officer Program, the Settlement Officer will refer this matter back for further proceedings. At that time, the Court may request that the parties file a joint status report. The Court also may schedule a prehearing conference during which the parties must be prepared to set additional case deadlines, including dates for the completion of discovery, the filing of dispositive motions and responses, and a hearing.

Should the parties reach a settlement agreement through the OCAHO Settlement Officer Program, the Court may issue an order setting deadlines for the

² <https://www.justice.gov/eoir/page/file/1300746/download>

filing of any settlement materials. The parties should consult 28 C.F.R. § 68.14³ to understand the two avenues for leaving this forum after settlement. If the parties enter into a settlement agreement, 28 C.F.R. § 68.14(a)(2) provides that the parties may jointly file a notice of full settlement and an agreed motion to dismiss. The Court may require the filing of the settlement agreement. The parties should indicate in their filing whether they seek dismissal with or without prejudice.

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 May 20, 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.

SO ORDERED.

Dated and entered on May 3, 2024.

Honorable Carol A. Bell
Administrative Law Judge

³ OCAHO's Rules of Practice and Procedure for Administrative Hearings, 28 C.F.R. pt. 68, are available at <https://www.govinfo.gov/content/pkg/CFR-2023-title28-vol2/pdf/CFR-2023-title28-vol2-part68.pdf>.