

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. 2024A00008
	)	
PATCH SUB LLC, D/B/A SUBWAY #12490	)	
Respondent.	)	
	)	

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Appearances: Latrice Campbell, Esq., for Complainant  
Chaya M. Gourarie, Esq., for Respondent

ORDER TO SHOW CAUSE

This case arises under the employer sanctions provisions of the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324a. On October 10, 2023, 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). The complaint alleges that Respondent, Patch Sub LLC, violated 8 U.S.C. § 1324a(a)(1)(B).

Complainant attached to the complaint the Notice of Intent to Fine Pursuant to Section 274A of the Immigration and Nationality Act (NIF) dated January 30, 2023. Compl. 7. On February 27, 2023, Respondent, through counsel, requested a hearing before this Court. *Id.* at 11.

This office sent Respondent and Respondent’s counsel a Notice of Case Assignment Regarding Unfair Immigration-Related Employment Practices (NOCA) and a copy of the Complaint on October 16, 2023 by U.S. certified mail. The NOCA directed that an answer was to be filed within 30 days of receipt of the Complaint, that failure to answer could lead to default, and that proceedings would be governed by U.S. Department of Justice regulations.<sup>1</sup>

The U.S. Postal Service website indicates service of the NOCA on Respondent on October 19, 2023, and on Respondent’s counsel on October 23, 2023, making Respondent’s answer due no

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<sup>1</sup> OCAHO Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2023).

later than November 20, 2023. *See United States v. TX Pollo Feliz*, 18 OCAHO no. 1503, 3<sup>2</sup> (Where a respondent received the complaint before respondent's counsel, "service on the actual Respondent started the clock because [28 C.F.R. § 68.9(a)] contemplates the prospect of service on either a party or their representative.").

Under the OCAHO Rules of Practice and Procedure, to contest a material fact alleged in the complaint or a penalty assessment, a respondent must file an answer. 28 C.F.R. § 68.9(c). Failure to file an answer "within the time provided may be deemed to constitute a waiver of his or her right to appear and contest the allegations of the complaint. The Administrative Law Judge may enter a judgment by default." 28 C.F.R. § 68.9(b). Further, "failure to respond to an Order may trigger a judgment by default." *United States v. Hotel Valet Inc.*, 6 OCAHO no. 849, 252, 254 (1996). "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).

However, it has long been OCAHO's practice to issue an order to show cause before entering a default. *See United States v. Shine Auto Serv.*, 1 OCAHO no. 70, 444 (1989) (Vacating order denying default judgment).

Respondent's answer was due November 20, 2023, and to date, Respondent has not filed an answer. Accordingly, Respondent is ORDERED to file an answer, pursuant to 28 C.F.R. § 68.9(c), within 21 days of the date of this Order. Respondent is FURTHER ORDERED to file a submission that demonstrates good cause for its failure to timely file an answer, within 21 days of the date of this Order.

Should Respondent fail to file to respond as ordered or cannot show good cause, the Court may enter a default judgment against Respondent, pursuant to 28 C.F.R. § 68.9(b).

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<sup>2</sup> 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 subsequent to Volume 8, where the decision has not yet 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," or in the LexisNexis database "OCAHO," or on the website at <http://www.justice.gov/eoir/OcahoMain/ocahosibpage.htm#PubDecOrders>.

SO ORDERED.

Dated and entered on December 26, 2023.

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Honorable John A Henderson  
Administrative Law Judge