

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. 2024A00098
GLENCOE CAMPRESORT II, LLC,)
)
Respondent.)
)

Appearances: Kenneth Knapp, Esq., for Complainant
Clete Samson, Esq., for Respondent

ORDER ON COMPLAINANT'S MOTION TO WITHDRAW AS COUNSEL AND
MOTION FOR SUBSTITUTION OF COUNSEL

I. PROCEDURAL HISTORY

This case arises under the employer sanctions provisions of the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324a. On April 8, 2024, Complainant, the United States Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) against Respondent, Glencoe CampResort II, LLC. Complainant alleges that Respondent failed to prepare and/or present the Employment Eligibility Verification Form (Form I-9) for two individuals and failed to ensure that the employee properly completed section 1 and/or failed to properly complete section 2 or 3 of the Form I-9 for 180 individuals, all in violation of 8 U.S.C. § 1324a(a)(1)(B). Compl. ¶¶ 4–14. Complainant attached the following to the complaint: (a) the Notice of Intent to Fine Pursuant to Section 247A of the INA it served on Respondent on December 19, 2022, through which it sought a fine of \$387,842 for the alleged violations, (b) Respondent's request for a hearing before OCAHO by letter dated January 10, 2023, (c) the Notice of Inspection Complainant served on Respondent on September 20, 2022, (d) Complainant's October 13, 2022, Request for Missing Forms I-9, (e) a spreadsheet

with information about individual Forms I-9, and (f) a Certificate of Organization for Respondent from the Office of the South Dakota Secretary of State. *Id.* Exs. A–F.

On July 29, 2024, Respondent’s counsel filed a Notice of Appearance. On November 12, 2024, DHS Assistant Chief Counsel (ACC) Nicole Wells filed Complainant’s Motion to Withdraw as Counsel for DHS. On that same date, DHS ACC Kenneth Knapp filed Complainant’s Motion for Substitution of Counsel for Complainant. On December 13, 2024, DHS ACC Knapp filed a Notice of Appearance in this matter.

II. LEGAL STANDARDS AND DISCUSSION

OCAHO’s Rules of Practice and Procedure for Administrative Hearings, being the provisions contained in 28 C.F.R. part 68 (2024),¹ require each attorney to file a notice of appearance “[e]xcept for a government attorney filing a complaint pursuant to section 274A, 274B, or 274C of the INA.” 28 C.F.R. § 68.33(f). The notices of appearance filed by DHS ACC Kenneth Knapp and Respondent’s counsel comport with OCAHO’s Rules as they are signed and identify “the name of the case or controversy, the case number . . . and the party on whose behalf the appearance is made.” *Id.* They also are accompanied by “a certification indicating that such notice was served on all parties of record.” *Id.*

Complainant’s counsel, DHS ACC Nicole Wells, has filed a Motion to Withdraw as Counsel for DHS. In the motion, she explains that “counsel is departing ICE/OPLA, and therefore will be unavailable to continue to represent ICE in this matter.” Mot. Withdraw 2.² She moves the Court to grant her motion to withdraw and explains that a different DHS attorney, namely, ACC Kenneth Knapp, has been assigned to handle this matter. *Id.*

ACC Knapp also filed a Motion for Substitution of Counsel for Complainant in which he moves the Court, pursuant to 28 C.F.R. § 68.33(g), to substitute as counsel for Complainant. Mot. Substitution 2. He explains that ACC Wells is departing ICE and

¹ OCAHO’s Rules of Practice and Procedure for Administrative Hearings are available on the United States Department of Justice’s website. *See* <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-regulations>.

² Pinpoint citations to Complainant’s Motion to Withdraw are to the page numbers of the PDF version of the motion on file with the Court.

that he “has been assigned to this matter . . . [and] has familiarized himself with the procedural history of this matter, the facts of this matter, and granting this motion will not cause any undue delay.” *Id.*

Complainant did not indicate Respondent’s position on its motions, and Respondent has not filed any responses. According to Complainant’s certifications, it served Respondent with the motions on November 6, 2024. Mot. Withdraw 4; Mot. Substitution 4. Given that more than ten days have passed since Respondent was served with the motions, they are ripe for a ruling. *See* 28 C.F.R. § 68.11(b) (“Within ten (10) days after a written motion is served . . . any party to the proceeding may file a response in support of, or in opposition to, the motion.”).

OCAHO’s Rules of Practice and Procedure for Administrative Hearings provide that “[w]ithdrawal or substitution of an attorney or representative may be permitted by the Administrative Law Judge upon written motion. The Administrative Law Judge shall enter an order granting or denying such motion for withdrawal or substitution.” 28 C.F.R. § 68.33(g). The Court has granted motions to substitute DHS counsel where the counsel of record was no longer employed by Complainant, *see United States v. PJ’s of Tex., LLC*, 18 OCAHO no. 1524, 5–7 (2024), or where the counsel of record was reassigned, *see United States v. Oil Patch Petroleum, Inc.*, 18 OCAHO no. 1508a, 3–4 (2024).³

Here, the Court considers Complainant’s representation in both motions that ACC Wells is leaving ICE, ACC Knapp’s entry of appearance and request to substitute as Complainant’s counsel, and the lack of evidence of opposition to the motions. The Court also notes that a change in government counsel will not unduly delay this case which is in the early stages and in which no hearing has been set. Having considered these facts and the posture of this case, the Court finds Complainant’s motions to be reasonable and now grants Complainant’s Motion to Withdraw as Counsel for DHS and

³ 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 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 in the Westlaw database “FIMOCAHO,” or in the LexisNexis database “OCAHO,” or on the website at <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-decisions>.

Motion for Substitution of Counsel for Complainant. *See, e.g., United States v. Spring & Soon Fashion Inc.*, 8 OCAHO no. 1003, 102, 128–29 (1998) (granting motion to substitute counsel and noting that the request was reasonable and unopposed); *see also United States v. RITALKA, Inc.*, 21 OCAHO no. 1638, 3 (2025) (granting the government’s motions to withdraw and substitute counsel where counsel was leaving ICE and there was no evidence of opposition to the motions). DHS ACC Knapp is substituted for ACC Wells as Complainant’s counsel of record. DHS ACC Wells shall be removed from the service list in this case after service of this Order.⁴ Respondent shall serve all filings on Complainant through DHS ACC Knapp at the address on this Order’s Certificate of Service.

III. ORDERS

IT IS SO ORDERED that the Motion to Withdraw as Counsel for DHS filed by Complainant, the United States Department of Homeland Security, Immigration and Customs Enforcement, is GRANTED. DHS Assistant Chief Counsel Nicole Wells is withdrawn as counsel for Complainant and shall be removed from the service list in this matter after service of this Order.

IT IS FURTHER ORDERED that Complainant’s Motion for Substitution of Counsel for Complainant is GRANTED. DHS Assistant Chief Counsel Kenneth Knapp is substituted for Nicole Wells as counsel of record for Complainant in this matter. Respondent shall serve all filings on Complainant through DHS Assistant Chief Counsel Kenneth Knapp at the address on this Order’s Certificate of Service.

SO ORDERED.

Dated and entered on April 14, 2025.

Honorable Carol A. Bell
Administrative Law Judge

⁴ OCAHO shall serve this Order on both DHS ACC Knapp and ACC Wells.