

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

September 30, 2022

UNITED STATES OF AMERICA,	)	
Complainant,	)	
	)	
v.	)	8 U.S.C. § 1324a Proceeding
	)	OCAHO Case No. 2022A00044
	)	
PATMO CONCRETE LLC,	)	
Respondent.	)	
_____	)	

NOTICE THAT REQUEST FOR HEARING  
MAY BE DEEMED ABANDONED

This case arises under the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324a. Complainant, the U.S. Department of Homeland Security, Immigration and Customs Enforcement (ICE), filed a complaint with the Office of the Chief Administrative Hearing Officer on June 6, 2022. Complainant alleges that Respondent, Patmo Concrete LLC, failed to ensure proper completion of Forms I-9 for twenty individuals, in violation of § 1324a(a)(1)(B).

This office sent Respondent a Notice of Case Assignment for Complaint Alleging Unlawful Employment (NOCA), a copy of the complaint, the Notice of Intent to Fine, and Respondent’s request for a hearing on June 6, 2022, via U.S. certified mail. The NOCA directed that an answer was to be filed within thirty (30) days of receipt of the complaint, that failure to answer could lead to default, and that proceedings would be governed by Department of Justice regulations.<sup>1</sup> The U.S. Postal Service indicates service on Respondent on June 16, 2022, making an answer due no later than July 18, 2022. See §§ 68.3(a), 68.9(a).

On August 10, 2022, the Court issued an Order to Show Cause (OTSC). *United States v. Patmo Concrete, LLC*, 17 OCAHO no. 1448, 1–2 (2022).<sup>2</sup> In the OTSC, the administrative law judge

<sup>1</sup> OCAHO Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2022).

<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

(ALJ) identified that “[f]ailure of the respondent 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,” such that the ALJ “may enter a judgment by default.” *Id.* at 1 (citing 28 C.F.R. § 68.9(b), and then citing *Nickman v. Mesa Air Grp.*, 9 OCAHO no. 1106, 1 (2004)). The Court then ordered Respondent to file an answer and show good cause for its failure to timely file an answer within 21 days of the date of the Order; that is, by August 31, 2022. *Id.* at 2.

To date, Respondent has not filed an answer, showed cause for its failure to timely file an answer, or otherwise appeared in these OCAHO proceedings.

The OCAHO Rules provide that a request for hearing may be deemed abandoned if a party or its representative fails to respond to ALJ orders. 28 C.F.R. § 68.37(b)(1); *United States v. Louie’s Wine Dive LLC*, 15 OCAHO no. 1404, 2 (2021); *Hosung Cleaning Corp.*, 4 OCAHO no. 681, 776, 777–78 (1994).

Accordingly, the Court puts Respondent on notice that failure to respond to this Order may result in its request for hearing being deemed abandoned and subject to dismissal.

The Court therefore **ORDERS** Respondent, Patmo Concrete, LLC, to respond to the August 10, 2022, Order to Show Cause, within fourteen days from the date of this Order. The response shall include both Respondent’s answer and its explanation for failure to timely file an answer.

Upon receipt of Respondent’s filings, the Court will determine if Respondent has demonstrated good cause for failing to file its answer and will decide whether to allow its untimely answer.

If Respondent fails to respond as ordered or cannot show good cause for its failure to timely answer the complaint, the Court may enter a default judgment against it pursuant to 28 C.F.R. § 68.9(b), or the Court may conclude that Respondent has abandoned its request for a hearing and dismiss the complaint. 28 C.F.R. § 68.37(b).

SO ORDERED.

Dated and entered on September 30, 2022.

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Honorable Jean C. King  
Chief Administrative Law Judge

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database “FIM-OCAHO,” or in the LexisNexis database “OCAHO,” or on the website at <http://www.justice.gov/eoir/OcahoMain/ocahosibpage.htm#PubDecOrders>.