

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

November 17, 2022

UNITED STATES OF AMERICA,	)	
Complainant,	)	
	)	
v.	)	8 U.S.C. § 1324a Proceeding
	)	OCAHO Case No. 2022A00052
	)	
MSNF FOODS 4 LLC	)	
D/B/A DOMINO'S PIZZA,	)	
Respondent.	)	
_____	)	

Appearances: Stephanie Robins, Esq., for Complainant  
Spencer Robbins, Esq., for Respondent<sup>1</sup>

ORDER

This case arises under the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324a. On August 18, 2022, Complainant, the United States Department of Homeland Security, Immigration and Customs Enforcement (ICE), filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO). Complainant alleges that Respondent, MSNF Foods 4 LLC d/b/a Domino's Pizza, engaged in multiple violations of 8 U.S.C. § 1324a(a)(1)(B).

The Court 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 August 22, 2022, via U.S. certified mail. The NOCA directed that an answer was to be filed within thirty 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>2</sup>

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<sup>1</sup> The Court received an answer from Spencer Robbins, Esq., on October 31, 2022. However, Mr. Robbins has not filed a formal notice of appearance with this Court. *See* 28 C.F.R. § 68.33(f). The Court ORDERS Mr. Robbins to file a notice of appearance by December 2, 2022.

<sup>2</sup> OCAHO Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2022).

Although the U.S. Postal Service indicated service of the NOCA on Respondent on August 27, 2022, *see* 28 C.F.R. §§ 68.3(a), 68.9(a), Respondent did not file an answer within thirty days. On October 20, 2022, the Court issued an Order to Show Cause, directing Respondent to file an answer comporting with the requirements of 28 C.F.R. § 68.9(c), and to explain why it failed to timely file an answer, within twenty-one days of the date of the Order to Show Cause.

On October 31, 2022, Respondent filed an answer comporting with the requirements of 28 C.F.R. § 68.9(c), but did not include an explanation for why the answer was not timely filed.

As the Court noted in its Order to Show Cause, the OCAHO Rules state 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,” and “[t]he Administrative Law Judge may enter a judgment by default.” 28 C.F.R. § 68.9(b); *see also* *Nickman v. Mesa Air Grp.*, 9 OCAHO no. 1106, 1 (2004).<sup>3</sup> The default must be excused before a respondent is permitted to answer. *United States v. Quickstuff, LLC*, 11 OCAHO no. 1265, 4 (2015). “A showing of good cause is a condition precedent to permitting a late answer, and where that showing is not made, a late answer may not be accepted.” *United States v. Steidle Lawn & Landscape LLC*, 17 OCAHO no. 1457, 2 (2022) (citations omitted).

As Respondent has made no proffer of good cause for its failure to timely file an answer, the Court may enter a default judgment against it pursuant to 28 C.F.R. § 68.9(b). Mindful of the preference for resolving cases on the merits, *see United States v. MRD Landscaping & Maint. Corp.*, 15 OCAHO no. 1407c, 3 (2022), the Court will provide Respondent a final opportunity to provide an explanation for its failure to timely file an answer.

The Court therefore ORDERS Respondent file a response with the Court by December 2, 2022, in which it must provide facts sufficient to show good cause for its failure to timely file an answer to the complaint in this case.

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<sup>3</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>.

Upon receipt of the response, the Court will determine if Respondent has demonstrated the requisite good cause for its failure to timely file an answer to the complaint and will decide whether to allow its untimely answer.

SO ORDERED.

Dated and entered on November 17, 2022.

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Honorable Jean C. King  
Chief Administrative Law Judge