



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY BEFORE THE ADMINISTRATOR

In the Matter of: )
Robert Lauter d/b/a Prime Cut Paint, ) Docket No. TSCA-03-2023-0034
Respondent. )

ORDER TO RESPONDENT TO SHOW CAUSE

This proceeding was initiated on December 7, 2022, when Complainant, the Director of the Enforcement and Compliance Assurance Division of the U.S. Environmental Protection Agency, Region 3, filed an Administrative Complaint and Notice of Opportunity for Hearing ("Complaint") against Respondent Robert Lauter d/b/a Prime Cut Paint for alleged violations of Section 409 of the Toxic Substances Control Act, 15 U.S.C. § 2689. Appearing pro se, Respondent subsequently filed a document, entitled "Response to Administrative Complaint," with the Regional Hearing Clerk of Region 3. Upon being designated to preside over this proceeding, I issued an Order to Respondent to File Answer on January 19, 2023, wherein I advised Respondent that his "Response to Administrative Complaint" failed to comply with the procedural rules governing this proceeding<sup>1</sup> and ordered Respondent to file an answer that corrected the deficiencies I had identified. In response, Respondent sent an Answer to this Tribunal by first class U.S. mail,<sup>2</sup> which was accepted for filing by the Headquarters Hearing Clerk on February 23, 2023.

Together with the Order to Respondent to File Answer, I also issued a Prehearing Order on January 19, 2023, wherein I established deadlines for a number of prehearing procedures, including a prehearing exchange of information by the parties pursuant to Section 22.19(a) of the Rules of Practice, 40 C.F.R. § 22.19(a). In particular, I ordered Complainant to file its Initial Prehearing Exchange no later than March 17, 2023, and Respondent to file his Prehearing Exchange no later than April 7, 2023. Complainant timely filed its Initial Prehearing Exchange on March 16, 2023. Conversely, this Tribunal has yet to receive Respondent's Prehearing Exchange, and Respondent confirmed to the Headquarters Hearing Clerk by telephone and email on April 18, 2023, that he has not filed one.

1 Styled as the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Rules of Practice" or "Rules"), the applicable procedural rules are set forth at 40 C.F.R. §§ 22.1 to 22.45.

2 Respondent is hereby reminded that electronic filing is strongly encouraged. As described in earlier orders, a party filing electronically shall use a web-based tool known as the OALJ E-Filing System by visiting the OALJ's website at www.epa.gov/alj. Attached to this Order is guidance on the use of the OALJ E-Filing System for purposes of electronic filing.

The Rules of Practice provide that a party may be found to be in default upon failure to comply with the requirement to exchange information pursuant to Section 22.19(a) or an order of the presiding Administrative Law Judge and that “[d]efault by respondent constitutes, for purposes of the pending proceeding only, an admission of all facts alleged in the complaint and a waiver of respondent’s right to contest such factual allegations.” 40 C.F.R. § 22.17(a). The Rules of Practice further provide that when default is found to have occurred, the presiding Administrative Law Judge “shall issue a default order against the defaulting party . . . unless the record shows good cause why a default order should not be issued.” 40 C.F.R. § 22.17(c). Accordingly, Respondent is **ORDERED** to file and serve a document, on or before **May 12, 2023**, showing cause as to why he failed to file a Prehearing Exchange as required by Section 22.19(a) of the Rules of Practice and as directed by the Prehearing Order, and why a default order should not be entered against him.

**SO ORDERED.**



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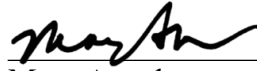
Susan L. Biro  
Chief Administrative Law Judge

Dated: April 20, 2023  
Washington, D.C.

In the Matter of *Robert Lauter d/b/a Prime Cut Paint*, Respondent.  
Docket No. TSCA-03-2023-0034

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing **Order to Respondent to Show Cause**, dated April 20, 2023, and issued by Chief Administrative Law Judge Susan L. Biro, was sent this day to the following parties in the manner indicated below.



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Mary Angeles  
Paralegal Specialist

Original by OALJ E-Filing System to:  
U.S. Environmental Protection Agency  
Office of Administrative Law Judges  
[https://yosemite.epa.gov/OA/EAB/EAB-ALJ\\_Upload.nsf](https://yosemite.epa.gov/OA/EAB/EAB-ALJ_Upload.nsf)

Copy by Electronic Mail to:  
Patrick J. Foley  
Conner Kingsley  
Assistant Regional Counsel  
U.S. Environmental Protection Agency, Region 3  
Email: [foley.patrick.j@epa.gov](mailto:foley.patrick.j@epa.gov)  
*Counsel for Complainant*

Copy by Electronic, Regular, and Certified Mail to:  
Robert Lauter  
Prime Cut Paint  
1414 Baychester Avenue  
Norfolk, VA 23503  
Email: [primecutpaint@gmail.com](mailto:primecutpaint@gmail.com)  
Certified Return Receipt No. 7019-1120-0001-6564-0544  
*Respondent*

Dated: April 20, 2023  
Washington, D.C.

**OFFICE OF ADMINISTRATIVE LAW JUDGES  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**WASHINGTON, D.C.**

**GUIDANCE ON USE OF OALJ E-FILING SYSTEM**

The Office of Administrative Law Judges (“OALJ”) utilizes a web-based tool known as the OALJ E-Filing System to allow registered users to file documents electronically. Sending a document to oaljfilings@epa.gov or an email address of a staff member within the OALJ is not a valid method of electronic filing, unless otherwise specified in writing by the presiding Administrative Law Judge. The OALJ E-Filing System is accessible at [www.epa.gov/alj](http://www.epa.gov/alj). Documents filed electronically are deemed to constitute both the original and one copy of the document, and are deemed to have been both filed with the Headquarters Hearing Clerk and served electronically on the presiding Administrative Law Judge.

Any party choosing to file electronically must first register with the OALJ E-Filing System at [https://yosemite.epa.gov/OA/EAB/EAB-ALJ\\_Upload.nsf](https://yosemite.epa.gov/OA/EAB/EAB-ALJ_Upload.nsf). Registration is not automated. There may be a delay of one to two business days between the time a party applies for registration and the time at which the party is able to upload documents into the system. Parties are advised to plan accordingly.

To be considered timely, documents submitted through the OALJ E-Filing System must be received by 11:59 p.m. Eastern Time on the day the document is required to be filed, unless another time is specified by the presiding Administrative Law Judge. Immediately upon reception by the OALJ E-Filing System, the document will be marked with the official filing date and time. The OALJ E-Filing system will then generate an electronic receipt of the submission that will be sent by email to both the party submitting the document and the Headquarters Hearing Clerk. There may be a delay of approximately one hour between submission of the document and transmission of the electronic receipt.

The OALJ E-Filing System will accept any type of digital file, but the file size is limited to 70 megabytes. Electronically filed textual documents must be in Portable Document Format (“PDF”).

A motion and any associated brief may be filed together through the OALJ E-Filing System. However, any documents filed in support of a brief, motion, or other filing, such as copies of proposed exhibits submitted as part of a party’s prehearing exchange of information, should be submitted separately as an attachment. Where a party wishes to file multiple documents in support of a brief, motion, or other filing, rather than filing a separate attachment for each such document, the documents should be compiled into a single electronic file and filed as a single attachment, to the extent technically practicable, with each document appropriately bookmarked within the file. For example, where a party is filing copies of 12 proposed exhibits as part of its prehearing exchange, those 12 proposed exhibits should be submitted together as

one attachment consisting of a single electronic file, to the extent technically practicable, with each of the 12 exhibits bookmarked within the file.

The OALJ E-Filing System is not equipped either to accommodate or to protect the privacy of confidential business information (“CBI”) or sensitive personally identifiable information (“PII”) that could be used to identify or trace an individual, such as Social Security numbers, medical records, or personal financial information. If a party wishes to electronically file a document containing such information, the party shall redact (i.e., remove or obscure) that information from the document before filing the redacted version of the document through the OALJ E-Filing System. If the party wishes for the presiding Administrative Law Judge to consider the CBI or PII contained in the document, the party shall also file a paper copy of the unredacted version of the document by means other than the OALJ E-Filing System, in accordance with the procedures specified on the OALJ’s website at [www.epa.gov/alj](http://www.epa.gov/alj). To the extent that any person files any un-redacted CBI or PII through the OALJ E-Filing System, that person thereby waives any claims to confidentiality and consents to public disclosure of all such information.