

ROBERT PAUL HEATH,	)	
Complainant,	)	
	)	8 U.S.C. § 1324b Proceeding
v.	)	
	)	OCAHO Case No. 2021B00060
I-SERVICES, INC.,	)	
Respondent.	)	
	)	

## ORDER

On December 8, 2022, the Court issued an Order that, inter alia, took official notice of Complainant's death and found Federal Rule of Civil Procedure 25 (Rule 25) to be applicable in this matter. *See Heath v. I-Services, Inc.*, 15 OCAHO no. 1413d, 2–4 (2022).<sup>2</sup>

<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>.

On January 12, 2023, this Court took official notice of Ms. Tonya Heath as Complainant's executor and determined that she had notice of these proceedings. *See Heath v. I-Services, Inc.*, 15 OCAHO no. 1413e, 1–3 (2023). The Court then determined that Mr. Heath's § 1324b claims survived his death. *Id.* at 2–3. Accordingly, the 90-day window for filing motions for substitution, pursuant to Rule 25(a)(1), began. *Id.* at 3. The Court advised: "If a motion to substitute is not made within 90 days from the date of this Order, this action by Mr. Heath (OCAHO Case No. 2021B00060) may be subject to dismissal." *Id.*

The 90-day window began on January 12, 2023, and closed on April 12, 2023. To date, the Court has not received substitution motions for this case. "If the motion [for substitution] is not made within 90 days after service of a statement noting the death, the action by or against the decedent must be dismissed." Fed. R. Civ. P. 25(a)(1). As the conditions for dismissal under Rule 25(a)(1) are present in this case, Mr. Heath's Complaint against I-Services, Inc. is DISMISSED without prejudice. Any pending motions are denied as MOOT.

SO ORDERED.

Dated and entered April 19, 2023.

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Honorable Jean C. King  
Chief Administrative Law Judge

### Appeal Information

In accordance with the provisions of 8 U.S.C. § 1324b(g)(1), this Order shall become final upon issuance and service upon the parties, unless, as provided for under the provisions of 8 U.S.C. § 1324b(i), any person aggrieved by such Order files a timely petition for review of that Order in the United States Court of Appeals for the circuit in which the violation is alleged to have occurred or in which the employer resides or transacts business, and does so no later than 60 days after the entry of such Order. Such a petition must conform to the requirements of Rule 15 of the Federal Rules of Appellate Procedure.