

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. 2024A00008
)	
PATCH SUB LLC, D/B/A SUBWAY #12490)	
Respondent.)	
)	

Appearances: Latrice Campbell, Esq., for Complainant
Chaya M. Gourarie, Esq., for Respondent

ORDER ON MOTION FOR EXTENSION

I. BACKGROUND

This case arises under the employer sanctions provisions of the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324a. On October 10, 2023, the United States Department of Homeland Security (DHS), Immigration and Customs Enforcement filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO). The Complaint alleges that Respondent, Patch Sub LLC, violated 8 U.S.C. § 1324a(a)(1)(B).

Complainant attached the Notice of Intent to Fine Pursuant to Section 274A of the Immigration and Nationality Act (NIF) dated January 30, 2023. Compl. 7. On February 27, 2023, Respondent, through counsel, requested a hearing before this Court. Id. at 11.

This office sent Respondent and counsel a Notice of Case Assignment Regarding Unfair Immigration-Related Employment Practices (NOCA) and a copy of the Complaint on October 16, 2023 by U.S. certified mail. The NOCA directed that an answer was to be filed within 30 days of receipt of the Complaint, that failure to answer could lead to default, and that proceedings would be governed by U.S. Department of Justice regulations.¹

¹ OCAHO Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2023).

The U.S. Postal Service website indicates service of the NOCA on Respondent on October 19, 2023, and on Respondent's counsel on October 23, 2023, making Respondent's answer due no later than November 20, 2023. *See United States v. TX Pollo Feliz*, 18 OCAHO no. 1503, 3² (Where a respondent received the complaint before respondent's counsel, "service on the actual Respondent started the clock because [28 C.F.R. § 68.9(a)] contemplates the prospect of service on either a party or their representative.").

On December 26, 2024, this Court issued an Order to Show Cause, ordering Respondent to file an answer and an explanation showing good cause for its delayed answer within 21 days of the order. In the order, the Court warned that failure to file an answer might result in a default judgment.

On January 16, 2024, Respondent filed a Notice of Settlement and Request for Extension via fax. Respondent states that the "parties have reached a settlement in principle, and . . . are in the process of finalizing [the] same." Notice Settlement Req. Extension 1. As a result, Respondent asks for "thirty (30) days to submit the settlement agreement to this Court[.]" *Id.*

II. EXTENSION

"OCAHO's Rule of Practice and Procedure for Administrative Hearings do not provide specific standards for granting extensions, but the standard routinely applied is good cause." *United States v. Space Exploration Techs.*, 18 OCAHO no. 1499, 5 (2023) (citing *United States v. Exim*, 3 OCAHO no. 591, 1925, 1929 (1993); *United States v. Four Star Knitting, Inc.*, 5 OCAHO no. 815, 711, 714 (1995)); *see also Talebinejad v. Mass. Inst. Tech.*, 17 OCAHO no. 1464, 2 (2022) (citing *Tingling v. City of Richmond*, 13 OCAHO no. 1324c, 2 (2021)).

Here, Respondent asks for an extension of time to file a settlement agreement, which the Court interpret as a request for an extension of the answer deadline, as the Court has not yet set any other deadlines in this matter.

This Court has previously found that the parties demonstrated good cause to extend the answer deadline when respondent requested additional time to review a lengthy complaint, *see e.g., Talebinejad*, 17 OCAHO no. 1464 at 2, when counsel was recently retained, *see e.g.*

² 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>.

Ackermann v. Mindlance, Inc., 17 OCAHO no. 1462, 1-2 (2022); Lowden, Jr., v. Ann Arbor Elec. JATC Training Ctr., 18 OCAHO no. 1490, 2 (2023), and when the parties were engaged in settlement negotiations and required additional time to complete their discussions. *See e.g.* United States v. Black Belt Sec. & Investigations, LLC, 17 OCAHO no. 1456, 2 (2022).

In the matter presently before the Court, the parties are finalizing a settlement agreement. Moreover, the parties have advised that a settlement agreement exists in principle, and that they are awaiting the execution of the written agreement. The Court finds that this circumstance constitutes good cause for an extension. Further, the Complainant has not filed any opposition to the motion for extension, the Court finds that no prejudice would arise from extending the answer deadline in this case.

The Court therefore GRANTS Respondent's motion to extend the time for Respondent to file an answer. Respondent may file its answer no later than 30 days from the issuance of this Order.

If the parties finalize a settlement agreement before the reset answer deadline, they shall follow the procedures in 28 C.F.R. § 68.14(a)(2) to seek dismissal of the action pursuant to full settlement.

SO ORDERED.

Dated and entered on January 30, 2024.

Honorable John A Henderson
Administrative Law Judge