

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

US TECH WORKERS ET. AL.,)	
Complainant,)	
)	
v.)	8 U.S.C. § 1324b Proceeding
)	OCAHO Case No. 2024B00048
)	
WALGREENS)	
Respondent.)	
)	

Appearances: John M. Miano, JD, for Complainant¹
Eric S. Bord, Esq. and Eric L. Mackie, Esq., for Respondent

ORDER ON MOTION FOR EXTENSION OF TIME

This case arises under the antidiscrimination provisions of the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324b. Complainant, US Tech Workers, filed a Complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) on February 9, 2024, alleging that Respondent, Walgreens, discriminated against it on the basis of citizenship status in violation of 8 U.S.C. § 1324b(a)(1).

On February 21, 2024, the Chief Administrative Hearing Officer sent by certified U.S. mail a copy of the Complaint and a Notice of Case Assignment for Complaint Alleging Unfair Immigration-Related Employment Practices (NOCA) to the address for Respondent identified on the complaint. The United States Postal Service website’s tracking information indicates that the complaint and NOCA were delivered to Respondent on February 26, 2024. Accordingly, Respondent’s answer is due no later than March 27, 2024. *See* 28 C.F.R. §§ 68.3(b), 68.9(a).²

On March 19, 2024, Respondent filed a Notice of Appearance for two attorneys, and Respondent’s First Unopposed Motion for Extension of Time. In its Motion for Extension of Time, Respondent writes that counsel was recently retained in this matter and is “in the process

¹ The Complaint lists John M. Miano, JD as the “attorney or authorized representative” for Complainant. To the extent that Mr. Miano is an attorney seeking to represent the Complainant in this matter, he must file a notice of appearance in compliance with the requirements of 28 C.F.R. § 68.33(f).

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

of investigating the allegations in the complaint,” and anticipates filing a motion in response to the Complaint. Mot. Extension 2. Respondent requests a 30-day extension of the answer deadline until April 29, 2024,³ which would “allow Walgreens sufficient time to fully evaluate the complaint and prepare an appropriate responsive pleading.” *Id.* Respondent notes that this is its first extension request, that the request is made in good faith and not intended to cause undue delay, and that it would not cause prejudice to the parties. *Id.* Counsel for Complainant confirmed that Complainant does not oppose an extension of the answer deadline until April 29, 2024. *Id.*

“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); and then citing 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)).⁴

Here, the Court finds that Respondent has shown good cause for an extension of the deadline to answer the Complaint. This Court has previously found that the parties demonstrated good cause to extend the answer deadline where counsel was recently retained. *See, e.g., 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). Moreover, the Court does not find that an extension would prejudice the opposing party, considering the short length of the extension, the early stages of the case, and the fact that Complainant has confirmed that it does not oppose the extension. *See, e.g., Space Exploration Techs.*, 18 OCAHO no. 1499, at 7 (finding that an extension of 30 days was “not so great as to impact substantially these proceeding,” and noting that it was the “first requested extension of time from either party and the request is agreed”).

³ Respondent asserts that it was served with the Complaint on February 27, 2024, and therefore, the response deadline is March 28, 2024. Mot. Extension 1. However, as discussed above, USPS tracking information suggests that the complaint and NOCA were served on Respondent on February 26, 2024, making the answer deadline March 27, 2024. *See* 28 C.F.R. § 68.3(b) (“Service of complaint and notice of hearing is complete upon receipt by addressee.”). Nonetheless, given that Complainant has not opposed Respondent’s request for an extension until April 29, 2024 (being 30 days from March 28, 2024), the Court will use this date for the extended answer deadline.

⁴ 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 been 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 “FIMOCAHO,” or in the LexisNexis database “OCAHO,” or on the website at <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-decisions>.

The Court therefore GRANTS Respondent's motion to extend the time for Respondent to file an answer. Respondent's answer is due no later than April 29, 2024.

SO ORDERED.

Dated and entered on March 27, 2024.

John A. Henderson
Administrative Law Judge