

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

June 25, 2024

US TECH WORKERS, ET AL.,)	
Complainant,)	
)	
)	8 U.S.C. § 1324a Proceeding
v.)	OCAHO Case No. 2024B00081
)	
)	
GENSLER,)	
Respondent.)	
_____)	

Appearances: John Miano for Complainant
No Appearance Yet Entered for Respondent¹

ORDER GRANTING IN PART MOTION FOR EXTENSION

I. BACKGROUND

This case arises under the employment discrimination provisions of the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324b. On March 19, 2024, Complainant filed a complaint alleging Respondent, Gensler, violated 8 U.S.C. § 1324b(a)(1)(B).

On April 1, 2024, the Chief Administrative Hearing Officer sent a Notice of Case Assignment for Complaint Alleging Unfair Immigration-Related Employment Practices and a copy of the Complaint by United States Postal Service certified mail to the address for Respondent listed on

¹ Attorneys stating they represent Respondent Gensler filed the instant motion on Respondent’s behalf; however, those attorneys have yet to file a Notice of Appearance for this case. This motion was accepted and processed as a courtesy.

Absent a properly filed Notice of Appearance, future submissions by these attorneys may be rejected – including, but not limited to, the Answer for which Respondent seeks an extension.

Further, this Order will be served on those attorneys, but future orders will be served on only the Respondent and/or attorneys who have filed Notice(s) of Appearance.

the Complaint. That package was returned to the Court as undeliverable due to insufficient address. Complainant's charge form submitted to the Immigrant and Employee Rights Section of the Department of Justice's Civil Rights Division listed a different address for Respondent. The Court elected to resend the documents to that address on May 16, 2024.

On June 17, 2024, Respondent (through attorneys who have yet to file a Notice of Appearance) filed an "Unopposed Motion for Extension of Time." Respondent is "in the process of investigating the allegations in the Complaint" and requests an extension to its Answer deadline until July 17, 2024. Mot. Extension at 2. Respondent states (but provides no evidence) Complainant's counsel does not object to the proposed extension, and the "request for an extension is made in good faith and is not intended to cause undue delay." *Id.*

Respondent confirms it received a copy of Complainant's Motion to Consolidate and for Leave to File a Consolidated Amended Complaint on May 16, 2024. *Id.* at 1. Respondent requests an extension to reply to the Motion to Consolidate until July 24, 2024. *Id.* at 2.

II. LAW AND ANALYSIS

"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." *US Tech Workers et al. v. Walgreens*, 19 OCAHO no. 1541, 2 (2024) (quoting *United States v. Space Exploration Techs.*, 18 OCAHO no. 1499, 5 (2023) (internal quotations omitted)).² "Good cause requires 'a demonstration of good faith on the part of the party seeking an enlargement of time and some reasonable basis for noncompliance within the time specified in the rules.'" *Lowden v. Ann Arbor Elec. JATC Training Ctr.*, 18 OCAHO no. 1490, 2 (2023) (quoting *Tingling v. City of Richmond*, 13 OCAHO no. 1324c, 2 (2021)).

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 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 finds that Respondent proffered sufficient good cause for the requested extension for the answer and response to the Complainant's motion. The request may be unopposed,³ but apart from that, it is Respondent's first requested extension in this case, was submitted expeditiously, and is for a short amount of time. *See, e.g., United States v. Space Exploration Techs.*, 18 OCAHO no. 1499, at 7.

For these reasons, the Court GRANTS Respondent an extension of time to file an answer. The Court also GRANTS an extension to respond to Complainant's Motion to Consolidate.

Respondent's response to Complainant's Motion to Consolidate is now due on July 24, 2024.

However, the Court DENIES all other proposed deadlines. Respondent did not provide good cause as to why the Court should deviate from OCAHO's governing Rules of Practice and Procedure. *See* 28 C.F.R. § 68.11(b).

III. DISPOSITIVE MOTIONS, DISCOVERY, AND PREHEARING CONFERENCE

Parties shall submit case dispositive motions not requiring discovery on or before July 31, 2024. Responses to such motions must be filed within 14 days of receipt of the motion. Such motions submitted after July 31, 2024 must be accompanied by a motion seeking leave for the filing and an explanation of good cause for the otherwise untimely filing.

Parties are not to commence discovery before the initial prehearing conference unless otherwise instructed to do so by the presiding Administrative Law Judge. The initial prehearing conference shall be scheduled after receipt of a properly filed answer. *See* 28. C.F.R. § 68.5(a). Parties may anticipate a conference in October 2024.

SO ORDERED.

Dated and entered on June 25, 2024.

Honorable Andrea R. Carroll-Tipton
Administrative Law Judge

³ Respondent proffers the request is unopposed; but a better practice would be to submit evidence of such (i.e. an affidavit or even a PDF of email correspondence from opposing counsel).