

US TECH WORKERS ET AL.,)	
Complainant,)	
)	8 U.S.C. § 1324b Proceeding
v.)	OCAHO Case No. 2024B00068
)	
RELATIVITY,)	
Respondent.)	
_____)	

ORDER GRANTING REQUEST FOR EXTENSION OF TIME

¹ The Court does not have an electronic filing registration form for either current counsel for Respondent. Respondent's former counsel had filed a registration form, but due to his substitution, the Court will need either or both of Respondent's counsel to register to receive and submit electronic filings in this matter. This Order is issued to them electronically as a courtesy, however.

substitution of counsel as well as an extension of the time to respond to the motion because prior counsel, Ralph Hua, passed away suddenly in November. Complainant has not responded to either motion, nor has Respondent indicated that it sought Complainant's position on the motion to extend time.

Under OCAHO's rules of Practice and Procedure, withdrawal or substitution of counsel is permitted "upon written motion" and permission from the presiding Administrative Law Judge. 28 C.F.R. § 68.33(g).² The Notice of Appearance is signed, includes a caption with the case name and number, indicates the party on whose behalf the appearance is made, and thus fulfills the regulatory requirements of 28 C.F.R. § 68.33(g). See *United States v. Salazar Ent.*, 20 OCAHO no. 1615, 1 (2024). Given prior counsel's death, and the fact that attorney Schwob was previously and is still counsel of record as well, the Court GRANTS the motion.

Turning to the request for an extension, pursuant to 28 C.F.R. § 68.11(b), a party may file a response to any motion within ten days after a written motion is served, making the response due December 23, 2024.

"[I]n assessing a timely request for extension, the showing required is good cause, but where the request is untimely made, the showing that must be made includes both good cause and excusable neglect." *US Tech Workers et al. v. Oak Street Health*, 19 OCAHO no. 1574, 2 (2024) (citations omitted).³ "Factors to consider in applying the excusable neglect standard are (1) the danger of prejudice to the non-movant, (2) the length of the delay and its impact on the judicial proceedings, (3) the reason for the delay (including whether the delay was within the control of the movant), and (4) the movant's good faith." *Id.* (citing *United States v. Quickstuff, LLC*, 11 OCAHO no. 1265, 7 (2015)). Good cause, meanwhile, requires "a demonstration of good faith on the part of the party seeking an enlargement of time and some reasonable basis for noncompliance with the time specified in the rule." *Tingling v. City of Richmond*, 13 OCAHO no. 1324c, 2 (2021) (citations omitted).

² OCAHO's Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2024).

³ 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>.

The Court finds that Respondent has shown excusable neglect and good cause for an extension of the deadline to file a response to Complainant's motion. Given the passing of counsel, the lack of response from Complainant, the relatively early stage of the proceedings such that prejudice to Complainant is unlikely, and the good faith of counsel, the extension is GRANTED. *See, e.g., United States v. Space Expl. Techs. Corp.*, 18 OCAHO no. 1499, 7 (2023). Respondent must file its Response by February 1, 2025.

SO ORDERED.

Dated and entered on January 22, 2025.

Honorable Jean C. King
Chief Administrative Law Judge