

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

December 5, 2022

ALI TALEBINEJAD,	)	
Complainant,	)	
	)	
v.	)	8 U.S.C. § 1324b Proceeding
	)	OCAHO Case No. 2023B00002
	)	
MASSACHUSETTS INSTITUTE OF	)	
TECHNOLOGY,	)	
Respondent.	)	
_____	)	

Appearances: John McGivney, Esq. and David B. Stanhill, Esq., for Complainant  
Mark DiVincenzo, Esq., Antonio Moriello, Esq. and Leon Rodriguez, Esq., for  
Respondent<sup>1</sup>

ORDER GRANTING EXTENSION OF TIME TO RESPOND TO COMPLAINT

This case arises under the antidiscrimination provisions of the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324b. On October 13, 2022, Complainant Ali Talebinejad filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) asserting claims of discrimination and retaliation arising under 8 U.S.C. § 1324b against Respondent Massachusetts Institute of Technology (MIT).

On October 24, 2022, this office sent Respondent a Notice of Case Assignment for Complaint Alleging Unlawful Employment (NOCA) and a copy of the complaint via U.S. certified mail. According to the United States Postal Service, these documents were served upon Respondent on

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<sup>1</sup> The Court notes that although Attorneys Moriello and Rodriguez signed the Assented Motion for Extension of Time to Answer Complaint, and Attorney Mark DiVincenzo is listed as Respondent's attorney on the complaint, *see* Compl. 5, no attorney has yet filed a notice of appearance on behalf of Respondent in this matter. The Court exercises its discretion to accept this filing, but directs counsel to file notices of appearance pursuant to 28 C.F.R. § 68.33(f).

October 27, 2022, making Respondent's answer due on November 26, 2022. *See* 28 C.F.R. § 68.9.<sup>2</sup>

On December 1, 2022, this office received Respondent's Assented Motion for Extension of Time to Answer Complaint (Ext. Mt.). Respondent asserts that because the complaint is 84 pages long, including 50 pages of exhibits, it "requires additional time to review the Complaint and prepare and file an appropriate answer." Ext. Mt. 1. According to Respondent, Complainant has assented to an extension of time until December 30, 2022. *Id.*

"OCAHO rules do not provide specific standards for granting extensions, but the standard routinely applied is good cause." *Tingling v. City of Richmond*, 13 OCAHO no. 1324c, 2 (2021) (citations omitted).<sup>3</sup> 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 with the time specified in the rule." *Id.* (citations omitted).

The Court finds that Respondent has demonstrated good cause for an extension of time to file an answer, specifically, the need for additional time to formulate its response to a lengthy complaint. Accordingly, the Court will GRANT Respondent an extension of time to file an answer. Respondent may file its answer no later than thirty (30) days from the issuance of this order.

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<sup>2</sup> In its Assented Motion for Extension of Time to Answer Complaint, Respondent asserts that it received the NOCA on November 2, 2022, and calculated an answer deadline of December 2, 2022. In either case, the Court will grant Respondent's request for an extension.

<sup>3</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>.

The Court cautions that a failure to answer by the reset deadline “may be deemed to constitute a waiver of his or her right to appear and contest the allegations of the complaint,” and the ALJ “may enter a judgment by default.” 28 C.F.R. § 68.9(b).

SO ORDERED.

Dated and entered on December 5, 2022.

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Honorable Jean C. King  
Chief Administrative Law Judge