

ZAJI ZAJRADHARA,  
 Complainant,  
  
 v.  
  
 ALIA DELOS SANTOS OLARTE-ESTRELLADO,  
 d/b/a PROPHET MANPOWER SERVICES,  
 Respondent.

Appearances: Zaji Zajradhara, pro se Complainant  
Janet H. King, Esq., for Respondent

## I. PROCEDURAL HISTORY

On March 11, 2025, the Court issued an Order that took official notice of Respondent's death, granted Respondent's Motion for Stay, and directed Respondent to identify a party to substitute

for Respondent. *Zajradhara v. Olarte*, 21 OCAHO no. 1622a (2025).<sup>1</sup> The Respondent was ordered to identify the proper party to substitute in place of the deceased Ms. Olarte by April 10, 2025. *Id.* at 5. Respondent did not respond to the Court's Order and accordingly, on May 13, 2025, the Court issued an Order to Show Cause to Respondent to submit a filing articulating the appropriate party, and ordered Respondent to demonstrate good cause for failing to respond to the Court's March 11, 2025, Order.

Respondent filed a response on May 27, 2025. Meanwhile, Complainant had already filed a response to the Court's order on May 13, 2025, titled "Complainant's Response to the Court's Order to Show Cause for Substitution of Parties and Motion for Summary Decision." Complainant also filed "Motion to Add Eduardo B. Olarte and Alia Delos Olarte-Estrellado as Parties," followed by "Motion to Add Sue Chan as a Defendant." Complainant then filed "Complainant's Response to the Court's Order to Show Cause for Substitution of Parties, Demand for Sanctions Against Attorney King and Motion for Summary Judgment," on May 27, 2025, and then the next day filed "Complainant's Response to Attorney Janet King's Filing Identifying Proper Party for Substitution and Demonstrating Good Cause, Demand For Summary Judgment, Sanctions Against Attorney King, and Request for Judicial Notice."<sup>2</sup>

## II. ORDER TO SHOW CAUSE

In response to the Court's Order to Show Cause, Respondent states that "Respondent's staff inadvertently did not see the Court's March 11, 2025 order and consequently did not place the matter on counsel's calendar." R's Filing Identifying Proper Party for Substitution and Demonstrating Good Cause, 2 (R's Filing). Respondent asks that the Court excuse the missed deadline due to "administrative oversight." *Id.*

In his response to Respondent's show cause filing, Complainant argues that the stated reason for missing the court's order is a "fabrication." C's Resp. 3. His "evidence" is that respondent's businesses have operated normally since the order, and he argues that negligence is not a valid excuse for missing deadlines, citing *In Re Phenylpropanolamine (PPA) Products Liability Litigation*, 460 F.3d 1217 (2006). In that case, the Court set forth the principles a tribunal must

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<sup>1</sup> Citations to OCAHO precedents in bound volumes one through eight include the volume and case number of the particular decision followed by the specific page in the bound volume where the decision begins; the pinpoint citations which follow are to the pages, seriatim, of the specific entire volume. Pinpoint citations to OCAHO precedents after volume eight, 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 through the Westlaw database "FIM OCAHO," the LexisNexis database "OCAHO," and on the United States Department of Justice's website: <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-decisions>.

<sup>2</sup> Complaint has, since this Court's March 11, 2025 order, filed a total of eleven separate motions. The Court will address any issues raised by these motion in need of resolution in a subsequent order.

weigh in determining whether to dismiss a case for failure to comply with court orders. *Id.* at 1226.<sup>3</sup>

The proper standard this Court set forth for Respondent to show was good cause. Good cause is primarily used in the Federal Rules and the Ninth Circuit Court of Appeals when a party seeks to extend a deadline, and excusable neglect is considered when the party is seeking an extension after a deadline's expiration. *See* Fed. R. Civ. P. 16(b)(4), (b)(1)(B); *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992); *Lemoge v. United States*, 587 F.3d 1188 (9th Cir. 2009). *See also Pioneer Inv. Servs. Co. v. Brunswick Assoc. Ltd. P'ship*, 507 U.S. 380, 392 (1993). Good cause looks to the diligence of the party seeking the extension. Excusable neglect, on the other hand, “encompass[es] situations in which the failure to comply with a filing deadline is attributable to negligence,” and includes “omissions caused by carelessness.” *Lemoge*, 587 F.3d 1182 at 1192. This standard appears to most directly address the failure to respond to the court's order in this case. Four factors determine whether neglect is excusable: (i) the danger of prejudice to the opposing party; (ii) the length of the delay and its potential impact on the proceedings; (iii) the reason for the delay; and (iv) whether the movant acted in good faith. *See Bateman v. U.S. Postal Serv.*, 231 F.3d 1220, 1223–24 (9th Cir. 2000) (citing *Pioneer*, 507 U.S. at 395). This is an equitable determination. *Pioneer*, 507 U.S. at 395; *see also Pincay v. Andrews*, 389 F.3d 853, 860 (9th Cir. 2004) (it is within a court's discretion to determine whether excusable neglect exists). It “is to be liberally construed to effectuate the general purpose of seeing that cases are tried on the merits.” *Ahancian v. Xenon Pictures, Inc.*, 624 F.3d 1253, 1259 (9th Cir. 2010); *see also Eitel v. McCool*, 782 F.2d 1470, 1472 (9th Cir. 1986) (the strong policy underlying the Federal Rules of Civil Procedure favors decisions on the merits).

Applying these factors, this Court does not see prejudice to the Complainant as the delay has been two months, not so long that Complainant would be hindered in bringing his case. *See Falk v. Allen*, 739 F.2d 461, 463 (9th Cir. 1984). In terms of impact on the proceedings, while the length of delay is not extensive, an Answer has still not been filed given the need to clarify who the proper party is, delaying the initiation of the proceedings. The reason given for the delay is not really a reason—it appears counsel simply missed the deadline. Nevertheless, a court may find excusable neglect even where the party's reason for missing a deadline is “weak.” *See Bateman*, 231 F.3d at 1225 (finding excusable neglect because while the party's attorney “showed a lack of regard for his client's interests and the court's docket . . . there [was] no evidence that he acted with anything less than good faith”). Moreover, Complainant's claim that the reason is a fabrication is unhelpful. The fact that the company continues to operate has no bearing on whether the Respondent and/or counsel simply made a mistake and missed the deadline. In terms of bad faith, counsel has participated in the case, and this is the first missed deadline, thus the Court cannot say that there is a history of dilatory tactics. *See Bateman*, 231 F.3d at 1225 (finding party acted in good faith where their “errors resulted from negligence and carelessness, not from deviousness or willfulness”). Viewing the factors together, the most negative factor is Counsel's concession that

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<sup>3</sup> These factors are “(1) the public's interest in expeditious resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the availability of less drastic sanctions.” *Id.* (quoting *Malone v. U.S. Postal Serv.*, 833 F.2d 128, 130 (9th Cir. 1987); *Thompson v. Hous. Auth. of City of L.A.*, 782 F.2d 829 (1986) (per curiam)).

the missed deadline was an oversight by counsel. The other factors are neutral or are at least not adverse to Complainant. In light of the strong policy in favor of resolving cases on the merits, the Court will accordingly discharge the Order to Show Cause.

### III. SUBSTITUTION OF PARTIES

As the Court noted in its previous order, Federal Rule of Procedure 25(a)(1) provides that upon the death of a party, “the court may order substitution of the proper party” if the death does not extinguish the claim. *Olarte*, 21 OCAHO no. 1622a, at 3. “A motion for substitution may be made by any party or by the decedent’s successor or representative.” *Id.*

Here, the Court ordered Respondent to identify the proper party for substitution. *Zajradhara v. Olarte*, 21 OCAHO no. 1622a (2025). Respondent asserts in the filing that Alia Delos Santos Olarte-Estrellado, the daughter of the previously named party, is the appropriate party for substitution. R’s Filing 1. Complainant has provided the names of three individuals he believes should serve as Respondents in this matter: the same person identified by Respondent, the husband of the deceased Respondent, and an employee of a business that is allegedly associated with Respondent. Mot. to Add Eduardo and Alia Olarte 2; Mot. to Add Sue Chan 1.

Respondent, through counsel in counsel’s brief, states that the husband of the deceased Respondent does not have any business association or connection relevant to the matter and is not an appropriate party. *Id.* at 2. The employee named by Complainant is no longer employed with the company. *Id.* Counsel did not provide any evidence, such as an affidavit, to support these statements.

Complainant argues that Respondent’s husband is a central figure in the operation, asserting that Respondent’s husband has been actively involved in the company. *Zajradhara v. Olarte*, 21 OCAHO no. 1622a (2025). C’s Resp. 2. The court could not locate any relevant evidence submitted by Complainant to support this claim. Complainant also argues that the former employee is liable for her actions while she was employed. *Id.* at 3.

Both parties agree that Ms. Alia Delos Santos Olarte-Estrellado is an appropriate party for substitution, and the court will thus substitute her as a party. This Court has previously noted that “[t]he pertinent statutory wording [of § 1324b] clearly reveals that Congress did not intend to impose personal liability upon employees of persons and business entities.”<sup>4</sup> *Tal v. M.L. Energia, Inc.*, 4 OCAHO no. 639, 451, 451–52 (1994). Both parties agree that Sue Chan is a former employee. Accordingly, it is improper to name her in the suit. Complainant may certainly use evidence of her actions in bringing his claim against the company, but the employee is not an appropriate named party, and will not be substituted. As to Respondent’s husband, neither party provided evidence as to the husband’s involvement. In any event, the person named in the suit

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<sup>4</sup> Federal courts, including the Ninth Circuit, have said the same about Title VII. *See Miller v. Maxwell's Int'l Inc.*, 991 F.2d 583 (9th Cir.1993) (“The statutory scheme [of Title VII] itself indicates that Congress did not intend to impose individual liability on employees.”).

is named in their professional capacity because of their relationship to the company. Ms. Olarte is thus named as a representative of the corporate entity, Prophet Manpower Services. Without any evidentiary basis to include Ms. Olarte's husband, the Court will not order his substitution.

Accordingly, the Court now orders the substitution of Alia Delos Santos Olarte-Estrellado for Nenita Delos Santos Olarte in this matter. The caption is revised accordingly.

The Court lifts the stay and orders Respondent to file an Answer by July 24, 2025. Should Respondent fail to file an answer, the Court may enter default judgment against it pursuant to 28 C.F.R. § 68.37(b)(1);<sup>5</sup> *see also* *Zajradhara v. Taga Inc.*, 19 OCAHO no. 1577b, 2 (2024).

#### IV. ORDERS

Alia Delos Santos Olarte-Estrellado is substituted for Nenita Delos Santos Olarte.

Respondent is ORDERED to file an Answer by July 24, 2025.

SO ORDERED.

Dated and entered on June 25, 2025.

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Honorable Jean C. King  
Chief Administrative Law Judge

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<sup>5</sup> OCAHO's Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2024).