

8 U.S.C. § 1324b Proceeding
OCAHO Case No. 2026B00033

Addressing Complainant's first request, for limited discovery, the General Litigation Order provides in Section VI that the parties may engage in limited discovery in advance of the Prehearing Conference scheduled in this matter. Consequently, Complainant's motion is DENIED AS MOOT.

Addressing the second request, for an extension of time to file a response to the Motion to Dismiss, Section IX of the General Litigation Order provides that any responses to dispositive motions shall be filed within 30 days from the date of service.

Complainant's motion does not make clear why additional time would be purposeful in addressing the motion to dismiss. As the parties are aware, the arguments in support of or in opposition to a motion to dismiss are limited to the four corners of the Complaint and any documents incorporated by reference to the Complaint. Jarvis v. AK Steel, 7 OCAHO no. 930, 111, 113 (1997) (citations omitted). Any consideration of information outside the Complaint to address the motion to dismiss would effectively turn the motion to dismiss into a motion for summary decision. Consequently, the Court does not find that there is sufficient good cause for any extension of the deadline outside of the 30 days identified in this order, and the undersigned therefore DENIES Complainant's motion for an extended period to respond. However, the motion is denied without prejudice—Complainant may reargue the need for an additional extension during the Prehearing Conference, scheduled below.

This Order shall obtain for all proceedings in this matter. The parties are further advised that proceedings in this matter will generally be governed by the provisions of 28 C.F.R. § 68 et seq. All filings should be accompanied by a certification indicating service to all parties of record and identifying the manner of service pursuant to 28 C.F.R. § 68.6(a).

I. INITIAL PREHEARING CONFERENCE DATE

1. An initial prehearing conference to set case deadlines and discovery limitations will be held on **June 8, 2026 at 3:00 pm ET**. The Court staff will contact the parties separately with the call-in information.

II. ELECTRONIC CASE FILING REGISTRATION

1. Please consult the regulations identified in 28 C.F.R. § 68.6 concerning the OCAHO electronic filing system, which is mandatory for represented parties and discretionary, but encouraged, for pro se litigants. The electronic filing portal is available at: <https://ocaho.eoir.justice.gov/>

III. SETTLEMENT OFFICER PROGRAM

1. The Office of the Chief Administrative Hearing Officer (OCAHO) offers a voluntary process whereby the parties in cases before OCAHO may use a settlement officer to mediate settlement negotiations as a means of alternative dispute resolution.
2. Through the program, the Court may, upon a joint motion of the parties, refer the case to another judge or to the Chief Administrative Hearing Officer to serve as a settlement officer.

3. Upon a referral to a settlement officer, the parties will have a set period of time, of no more than 60 days, for conferral and mediation. Upon a showing of good cause, the Court may extend the mediation period for an additional 30 days.
4. The Court encourages the parties to confer, in advance of the initial prehearing conference, concerning the feasibility of a referral to the settlement officer program.

IV. INITIAL PREHEARING STATEMENT

1. The parties shall file initial prehearing statements with the Court within 7 days of receipt of this Order. The initial prehearing statements shall include the following:
 - a. The party's brief statement that it has met and conferred concerning the possibility of settlement, and the party's position concerning whether the matter should be referred to a settlement Administrative Law Judge or for some other form of alternative dispute resolution;
 - b. A statement concerning whether there are any pending motions, if so briefly describing the nature of the motions and the date that the motion was filed;
 - c. The party's assessment of the amount of discovery necessary in these proceedings, including a statement concerning the amount of time necessary for discovery, and the amounts of written and oral discovery which the party seeks;
 - d. A statement concerning whether the party anticipates the necessity of bifurcation of the proceedings;
 - e. Whether the party anticipates any amendment of claims or counterclaims, or potential joinder of parties;
 - f. A statement concerning the amount of time the party reasonably anticipates for a hearing on the merits of the claims presented;
 - g. The parties must each indicate at least one email address which the Court can reach for information regarding access to any scheduled teleconference.
 - h. A statement concerning any other matters that require the attention of the Court.

V. MOTIONS FOR CONTINUANCE DISFAVORED

1. Any requests for extension of time related to a motion or hearing date must be in writing, and, in general, are disfavored. The parties are referred to Tingling v. City of Richmond, 13 OCAHO no. 1324c, 4 (2021) and Federal Rules of Civil Procedure 6(b) and 16(b)(4) concerning the relevant good cause standard to amend deadlines.

VI. DISCOVERY RULES GENERALLY

1. The parties may proceed with discovery upon receipt of this Order; the parties are not required to delay discovery until the initial prehearing conference.
2. In advance of the initial prehearing conference, each party is permitted to issue no more than 10 Requests for Production of Documents, 10 Interrogatories, 10 Requests for Admission, and 3 Depositions.
3. The parties must cooperate with each other in honoring discovery requests. In advance of bringing any discovery dispute to the Court's attention, the parties must meet and confer in good faith to attempt to resolve the matter without the Court's intervention. *See* 28 C.F.R. § 68.23(b)(4).
4. Pursuant to 28 C.F.R. § 68.6(b), except when the discovery is used as an exhibit for a motion or as evidence during the hearing, copies of Interrogatories, Requests for Production of Documents, Requests for Admissions, Deposition Notices and transcripts, and responses to such should not be sent to the Court.
5. The limits on the number of Requests for Admission shall apply for all Requests for Admission concerning any fact, application of law to fact, or opinion about either. There is no limitation on the number of Requests for Admission seeking an admission on the genuineness of any document. Any Request for Admission seeking an admission of the genuineness of a document shall include a copy of the document in the discovery request. As with all other discovery, all Requests for Admission (including Requests for Admissions on the genuineness of a document) shall be served on the counterparty in sufficient time to permit an answer by the close of discovery.
6. A party must respond to a request for discovery within 30 calendar days from receipt of the request. Requests for discovery and objections to such requests must be specific. A notice of deposition does not require a written response; however, any objection to a notice of deposition must be served promptly on the moving party.
7. The parties are expected to make a good faith effort to coordinate deposition dates with the opposing party before noting a deposition. An agreed-upon deposition date is presumptively binding. A party seeking to change an agreed-upon date has a duty to coordinate a new date before changing the agreed-upon date. Unless otherwise ordered by the Court or agreed upon by the parties, 14 days shall be deemed reasonable notice for noting a deposition occurring within the continental United States, 21 days shall be sufficient for a deposition conducted outside of the continental United States.
8. All discovery requests must be issued at a sufficiently early time to assure that they are answered before the expiration of the discovery deadline set by the Court. Unless otherwise ordered by the Court, no discovery deadline will be extended because written discovery requests remain unanswered at its expiration.

9. Discovery motions, including motions to compel, must be filed within 21 calendar days after receipt of a deficient response or after the response to the discovery is due, whichever occurs first. Motions to compel and other discovery motions must be accompanied by the discovery requests and responses and a declaration stating that the moving party has made a good faith effort to resolve the discovery dispute. 28 C.F.R. § 68.23(b). The declaration shall indicate the efforts made to resolve the dispute and identify which items remain in dispute. The failure to timely file objections to discovery may result in the objections being deemed waived.

VII. MOTIONS FOR ADDITIONAL DISCOVERY

1. After conferring in good faith with the opposing party, a party may request additional discovery by filing a motion with the Court, including: 1) the verbatim text of the discovery request which the party seeks to issue, 2) an argument describing why the discovery is necessary, relevant, and not duplicative, and 3) a statement that the moving party has conferred in good faith with the opposing party prior to filing the motion.

VIII. MOTIONS PRACTICE GENERALLY

1. Any party which requests an oral argument on a motion shall do so by making the request in the motion.
2. Before seeking a hearing on any motion, it shall be incumbent on the party desiring the hearing on the motion to meet and confer with the opposing party in a good faith effort to narrow the areas of disagreement.
3. Absent a contrary rule by the Court, all memoranda in opposition to a motion shall be filed within 14 calendar days after receiving the motion. All replies shall be filed seven days thereafter.
4. Absent leave of the Court, all non-dispositive motions shall be limited to 25 pages, exclusive of tables of contents, table of authorities, and exhibits. All oppositions shall be also so limited. All reply briefs shall be limited to 15 pages.
5. Except as otherwise provided by the Court, any motion to reconsider any Order issued by the Court shall be filed no later than 14 days after entry of the Order.
6. All briefs in support of motions shall be paginated.
7. *Ex parte* submissions are disfavored; they are automatically stricken from the record. The parties are also referred to 28 C.F.R. § 68.36 concerning possible sanctions for prohibited *ex parte* communications.

8. Exclusive of dispositive motions, a moving party shall make a good faith effort to confer with the opposing party in an effort to obtain an agreement before filing a motion with the Court.
9. In filing a motion to request that an otherwise untimely filed motion should be treated as timely filed, the moving party shall submit, at the same time: 1) the motion seeking leave to untimely file, and 2) the substantive motion.

IX. DEADLINE FOR COMPLYING WITH ADMINISTRATIVE LAW JUDGE ORDER

1. After the Court has ruled on a discovery motion, any answer, production, designation, inspection, or examination ordered by the Court shall be completed within 14 days after entry of the Order on the motion, unless otherwise ordered by the Court.

X. OPPOSED MOTIONS TO AMEND THE SCHEDULING ORDER/EXPEDITED REVIEW OF MOTIONS

1. If a party seeks an expedited review of any motion, that party shall: 1) confer with opposing counsel, 2) file a motion seeking expedited review, 3) provide specific justification for the compelling need for a resolution immediately, including (when necessary) an affidavit attesting to the immediate need for a ruling, and 4) submit a proposed order providing for an expedited briefing schedule.

XI. DISPOSITIVE MOTIONS

1. Pursuant to 28 C.F.R. § 68.38, a party may file a motion for summary decision or summary judgment if that party believes that some or all material facts are not in genuine dispute and there is no genuine issue as to credibility. A motion for summary decision must include a statement of the undisputed material facts. Unless the Court rules otherwise, the party opposing any dispositive motion shall have 30 calendar days from receipt to file an opposition. The moving party shall have 14 calendar days from receipt of the opposition to file a reply. Motions for summary decision, and responses to such motions, shall contain specific citations to referenced evidence (*e.g.*, cite the specific pages of the exhibit in support of an argument).
2. The Court may also dismiss a complaint pursuant to 28 C.F.R. § 68.10. The Court may dismiss complaints on its own initiative, or upon a respondent's motion to dismiss a complaint.
3. Absent a contrary ruling from the Court, all dispositive motions and opposition briefs in non-class cases shall be limited to a maximum of 50 pages. This limitation is

exclusive of the cover page, index, table of cases relied upon, and exhibits. All reply briefs shall be limited to a maximum of 25 pages.

XII. FINAL PREHEARING STATEMENTS

1. The final prehearing statements shall include the following information, which shall constitute the subject matter of the Final Prehearing Conference:
 - a. **Contact Information:** Names, telephone numbers, e-mail addresses of the litigants, representatives, and/or counsel.
 - b. **Nature of the Case:** A brief explanation of the nature of the case, including the names of the parties and the claims.
 - c. **Uncontested Facts:** A brief statement of any uncontested facts. The uncontested facts are facts that at least one party intends to make part of the evidentiary record. The parties are directed to meet and confer in advance of filing the final prehearing statement to determine if there are any uncontested facts in this matter. The parties shall state factual contentions chronologically and concisely. Factual contentions shall be individually numbered.
 - d. **Contested Facts:** A brief statement of the facts the party intends to prove for either its claims or defenses. The summary should be sufficient to identify for the Court the essential facts at issue and to fairly notify the other party of what their counterparty expects to prove at the hearing. The parties shall state factual contentions chronologically and concisely. Factual contentions shall be individually numbered.
 - e. **Prima Facie Case/Defense:** The parties shall organize their final prehearing statements in a way that clearly states what evidence the parties will present at the hearing to establish their prima facie case and/or evidence of pretext or their defense.
 - f. **Issues of Law:** State with particularity each legal argument on which the party intends to rely at hearing together with appropriate legal references, case law, and other citations. Identify any issues of law which are contested between the parties.
 - g. **Witnesses:** Identify all non-impeachment witnesses which the party intends to call at the hearing by name, title, telephone number, and a brief statement of their anticipated testimony. The parties shall meet and confer in advance of filing the prehearing statements to determine which witnesses are objected to by the opposing party. The parties shall state in their final prehearing statements which witnesses are objected to by the opposing party.
 - h. **A List of Exhibits:** Identify all exhibits which the movant intends to introduce, providing a short description of each. The parties are directed to meet and confer in advance of filing the final prehearing statements to create a uniform numbering system for their exhibits. The parties shall also state which exhibits are objected to by the opposing party.
 - i. **A Statement of Damages, Including a Separate Statement of Attorney's Fees:** The parties shall meet and confer in advance of filing the final prehearing statements to discuss the parties' positions on monetary and nonmonetary relief. The Complainant's prehearing statement shall identify what forms of relief it is

seeking from the Court. The Complainant's statement on the relief sought will be made with specificity, identifying the monetary and nonmonetary relief sought (including attorney's fees). The Respondent's prehearing statement shall identify any legal or factual deficiencies in the Complainant's demand for relief.

- j. **Deposition Excerpts:** Identify all pages and/or lines of any portion of a deposition to be offered in a party's case in chief or any counter-designations under Fed. R. Civ. P. 32(a)(4).
 - k. **Any Pending Motions or Anticipated Motions (i.e. Motions in Limine).**
2. Failure to submit a Final Prehearing Statement may result in dismissal, entry of finding of facts as stated by the non-offending party, or other sanctions as deemed appropriate by the Court. A party who does not fully comply with this Order may, at the discretion of the Court, be restricted from raising factual contentions or legal arguments at the hearing.
 3. A party which fails to confer with the counterparty concerning the counterparty's proposed stipulations of fact, witnesses, and exhibits, will not be permitted to raise any objection to the entry of those facts and admission of the witnesses during the Final Prehearing Conference, absent leave of the Court.

XIII. ORDER DIRECTING PARTIES TO SHOW CAUSE WHEN NONCOMPLIANT WITH ADMINISTRATIVE ORDERS

1. Should a party fail to comply with this Order or any subsequent Order of the Administrative Law Judge, that party shall, on the date of compliance with the underlying order, provide a written submission to the Court showing cause as to why sanctions should not be imposed for their failure to comply with the Order.
2. Pursuant to 28 C.F.R. § 68.23(c), the sanctions imposed can be up to and including:
 - a) subjecting the noncompliant party to an adverse inference finding in favor of the other party;
 - b) considering the issues to which the requested information pertains to be favorable to the other party;
 - c) excluding evidence offered by the noncompliant party;
 - d) prohibiting the noncompliant party from objecting to the introduction of evidence demonstrating what the information which was withheld by the noncomplying party would have shown;
 - e) permitting the other party to obtain summary disposition in its favor on some or all the issues without a hearing;
 - f) striking a pleading by the noncompliant party; and
 - g) taking other action deemed appropriate, inclusive of a referral to the federal district court having jurisdiction where the Administrative Law Judge is sitting, pursuant to 28 C.F.R. §§ 68.25, 68.28.

The other party may respond to the noncompliant party's submission within seven days after the deadline for the noncompliant party's submission.

SO ORDERED.

Dated and entered on May 20, 2026.

Honorable John A. Henderson
Administrative Law Judge