

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

US TECH WORKERS ET AL.,)	
Complainant,)	
)	
)	8 U.S.C. § 1324b Proceeding
v.)	OCAHO Case No. 2024B00039
)	
AVANT, LLC,)	
Respondent.)	
)	

Appearances: John M. Miano, JD for Complainant
Sean M. McCrory, Esq., Monica S. Rodriguez, Esq., for Respondent

ORDER GRANTING EXTENSION OF TIME
TO FILE OPPOSITION TO MOTION TO CONSOLIDATE

This case arises under the antidiscrimination provisions of the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324b. Complainant, US Tech Workers, filed a Complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) on February 9, 2024, alleging that Respondent, Avant, LLC, discriminated on the basis of citizenship status in violation of 8 U.S.C. § 1324b(a)(1). Respondent filed its Answer and Affirmative Defenses on April 26, 2024.

On May 13, 2024, Complainant filed a Motion to Consolidate and for Leave to File a Consolidated Amended Complaint.

On May 21, 2024, the Court issued an Order Scheduling Prehearing Conference and General Litigation Order. The Court set a date for an initial prehearing conference on July 22, 2024 and ordered the parties to file initial prehearing statements with the Court by June 11, 2024. Gen. Lit. Order 1-2. The Court further ordered that oppositions to a motions must be filed within 14 calendar days after receiving the motion, and all replies shall be filed seven days thereafter. Id. at 5.

On May 23, 2024, Respondent filed Respondent Avant’s Unopposed Motion for Extension of Time File Opposition to Complainant’s Motion to Consolidate. Respondent requests an extension of the deadline to respond to the Motion to Consolidate to June 5, 2024, citing the need “to adequately investigate and evaluate Complainant’s Motion,” and the original

deadline falling on a federal holiday. Mot. Extension Opp. Consolidation 1. Respondent explains that the extension request “is not sought for purposes of delay or any other improper reason” and that Complainant was consulted and did not oppose the extension. *Id.* at 2.

“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.” *United States v. Space Exploration Techs.*, 18 OCAHO no. 1499, 5 (2023) (citing *United States v. Exim*, 3 OCAHO no. 591, 1925, 1929 (1993); *United States v. Four Star Knitting, Inc.*, 5 OCAHO no. 815, 711, 714 (1995))¹; *see also Talebinejad v. Mass. Inst. Tech.*, 17 OCAHO no. 1464, 2 (2022) (citing *Tingling v. City of Richmond*, 13 OCAHO no. 1324c, 2 (2021)). “Good cause is 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.” *Tingling v. City of Richmond*, 13 OCAHO no. 1324c, 2 (2021).

When considering whether a party has demonstrated good cause for an extension, the Court considers “whether the moving party acted in good faith, the length of the delay and its effects, and whether the delay will prejudice the non-moving party.” *Id.* at 3 (citations omitted). For example, the Court has previously found good cause for an extension of a reply deadline where the moving party “filed its motion in advance of the original deadline, and proffered that its request is due to preplanned travel and needing more time to respond to [a] voluminous filing.” *United States v. Walmart Inc. (Bethlehem)*, 17 OCAHO no. 1475c, 2 (2023).

Here, the Court finds that Respondent has shown good cause for an extension of the deadline for the opposition to the Motion to Consolidate. Like in *Walmart*, Respondent filed its motion in advance of the original deadline and seeks an extension to better respond to a complex filing. Mot. Extension Opp. Consolidation 1. Given that the proposed consolidation is a novel issue for the Court, both the parties and the Court will benefit from additional briefing. Respondent also indicates that the request is not for an improper purpose, and that Complainant was consulted and did not object to the extension. *Id.* at 2. The Court finds that Complainant will therefore not be prejudiced.

Respondent’s Motion for Extension of Time is GRANTED. Respondent’s opposition to Complainant’s Motion to Consolidate is now due on June 5, 2024. The Court also adjusts Complainant’s reply deadline to 14 calendars days after receiving Respondent’s opposition to the

¹ 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>.

Motion to Consolidate.

The Court reminds the parties that the other deadlines set in the General Litigation Order remain unchanged.

SO ORDERED

Dated and entered June 13, 2024.

John A. Henderson
Administrative Law Judge