

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 19 March 2019

CASE NO.: 2008-LCA-00011

OWCP NO.: 14-83451

In the Matter of:

DONGSHENG HUANG,
Prosecuting Party,

v.

ULTIMO SOFTWARE SOLUTIONS,
Respondent.

ORDER DENYING RECONSIDERATION

This order relates to an enforcement action by the Administrator of the Wage and Hour Division of the Department of Labor (“Department”) with respect to a labor condition application filed by the Respondent, Ultimo Software Solutions, Inc., (“Ultimo”), to obtain an H-1B visa for the Prosecuting Party, Dongsheng Huang. Mr. Huang sought renewal of the original Decision and Order (“D&O”) in the case issued on December 17, 2008, because he believed it was about to expire and become unenforceable. On February 13, 2019, I issued an Order Denying Motion to Renew Judgment, explaining that ALJ decisions in this case are not considered final judgments to which state and federal rules about expiration of judgment apply.

On March 4, 2019, Mr. Huang filed a Motion to Reconsider and a Motion for Leave to Amend Motion to Renew Judgment including an Amended Motion. The Motion to Reconsider raises state and federal rules and cites to state statutes that are relevant to renewal of judgment. The core of the argument on reconsideration is simply that I am wrong, and reasserts his contention that the D&O is a judgment subject to expiration. Contrary to Mr. Huang’s suggestion, my decision is not based on the fact that the D&O was not labeled a “Judgment.” As previously explained, the decision of an administrative tribunal does not have the same legal status as the decision of a state or federal court. *See* 29 C.F.R. § 18.95 (providing that if no review procedure is provided in the statute or regulation conferring jurisdiction, an ALJ decision “becomes the Secretary’s final administrative decision”). I have considered the arguments and authorities presented in the motion to reconsider, and my conclusion has not changed. If Mr. Huang disagrees, his recourse is to file an appeal of my ruling.

The Motion to Reconsider is denied. The Motion for Leave to Amend Motion to Renew Judgment is also denied because it would be futile when no judgment exists for me to renew.

SO ORDERED.

RICHARD M. CLARK
Administrative Law Judge

NOTICE OF APPEAL RIGHTS: Any interested party desiring review of this Decision and Order may file a petition for review with the Administrative Review Board (Board) pursuant to 20 C.F.R. § 655.845.

The Board's address is: Administrative Review Board, U.S. Department of Labor, Suite S-5220, 200 Constitution Avenue, NW, Washington DC 20210, for traditional paper filing. Alternatively, the Board offers an Electronic File and Service Request (EFSR) system. The EFSR for electronic filing (eFile) permits the submission of forms and documents to the Board through the Internet instead of using postal mail and fax. The EFSR portal allows parties to file new appeals electronically, receive electronic service of Board issuances, file briefs and motions electronically, and check the status of existing appeals via a web-based interface accessible 24 hours every day. No paper copies need be filed.

An e-Filer must register as a user, by filing an online registration form. To register, the e-Filer must have a valid e-mail address. The Board must validate the e-Filer before he or she may file any e-Filed document. After the Board has accepted an e-Filing, it is handled just as it would be had it been filed in a more traditional manner. e-Filers will also have access to electronic service (eService), which is simply a way to receive documents, issued by the Board, through the Internet instead of mailing paper notices/documents.

Information regarding registration for access to the EFSR system, as well as a step by step user guide and FAQs can be found at: <https://dol-appeals.entellitrak.com>. If you have any questions or comments, please contact: Boards-EFSR-Help@dol.gov

If filing paper copies, you must file an original and four copies of the petition for review with the Board, together with one copy of this decision. If you e-File your petition only one copy need be uploaded.

If no petition for review is filed, this Decision and Order becomes the final order of the Secretary of Labor. See 20 C.F.R. § 655.840(a). If a petition for review is timely filed, this Decision and Order shall be inoperative unless and until the Board issues an order affirming it, or, unless and until 30 calendar days have passed after the Board's receipt of the petition and the Board has not issued notice to the parties that it will review this Decision and Order.