

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

US TECH WORKERS ET AL.,	)	
Complainant,	)	
	)	
v.	)	8 U.S.C. § 1324b Proceeding
	)	OCAHO Case No. 2024B00045
	)	
W.W. GRAINGER, INC.	)	
Respondent.	)	
	)	

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Appearances: John M. Miano, JD, for Complainant<sup>1</sup>  
Leon Fresco, Esq. Phillip M. Schreiber, Esq. and Susan M. Imerman, Esq. for Respondent

ORDER GRANTING MOTION FOR EXTENSION OF TIME

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, W.W. Grainger, discriminated against it on the basis of citizenship status in violation of 8 U.S.C. § 1324b(a)(1).

On February 21, 2024, the Chief Administrative Hearing Officer sent by certified U.S. mail a copy of the Complaint and a Notice of Case Assignment for Complaint Alleging Unfair Immigration-Related Employment Practices (NOCA) to the address identified for Respondent on the complaint. The United States Postal Service website’s tracking information indicates that the complaint and NOCA were delivered to Respondent on February 26, 2024. Accordingly, Respondent’s answer is due no later than March 27, 2024. See 28 C.F.R. § 68.3(b), 68.9(a).<sup>2</sup>

On March 25, 2024, Respondent filed a Notice of Appearance for three attorneys, and a Consent Motion for Extension of Time. In its Consent Motion for Extension of Time, Respondent requests a 30-day extension of the answer deadline until April 26, 2024.<sup>3</sup>

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<sup>1</sup> The Complaint lists John M. Miano, JD as the “attorney or authorized representative” for Complainant. To the extent that Mr. Miano is an attorney seeking to represent the Complainant in this matter, he must file a notice of appearance in compliance with the requirements of 28 C.F.R. § 68.33(f).

<sup>2</sup> See OCAHO Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2022).

<sup>3</sup> In its Motion, Respondent confirms that it received the Complaint on February 26, 2024, and asserts that the Answer is therefore due on March 28, 2024, seemingly because Respondent received the Complaint in the evening

Respondent notes that Respondent's counsel was only recently engaged, and that Complainant consented to Respondent's extension request via email. Mot. Extension 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))<sup>4</sup>; *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)).

Here, Respondent asks for an extension of time to file an answer because counsel was recently retained. Respondent further states that Complainant was consulted regarding the request and has no objections. The Court has previously found good cause for extension of the answer deadline where counsel was recently retained. *See e.g.* Ackermann v. Mindlance, Inc., 17 OCAHO no. 1462, 1-2 (2022); Lowden, Jr., v. Ann Arbor Elec. JATC Training Ctr., 18 OCAHO no. 1490, 2 (2023). Additionally, Respondent has indicated that Complainant was informed of and consented to the extension request. Given the short length of the extension, the fact that the case is in its early stages, and the fact that Complainant is seemingly unopposed to the extension, the Court finds that an extension would not prejudice Complainant. The Court therefore finds that Respondent has shown good cause for an extension of the Answer deadline.

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on February 26, 2024. According to 28 C.F.R. § 68.3(b), “[s]ervice of complaint and notice of hearing is complete upon receipt by addressee.” Additionally, a respondent must file an answer “[w]ithin thirty (30) days after the service of a complaint.” 28 C.F.R. § 68.9(a). If the last day of a filing period is a Saturday, Sunday, or federal holiday, the deadline will be the following business day. 28 C.F.R. 68.8(a). OCAHO's regulations, however, have no similar provision for rolling over the answer deadline to the next business day when the complaint is received by Respondent after business hours. Accordingly, the original Answer deadline is March 27, 2024.

<sup>4</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 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>.

The Court GRANTS Respondent's motion for extension of time to file the answer. Respondent's answer is due no later than April 26, 2024.

SO ORDERED

Dated and entered March 27, 2024

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John A. Henderson  
Administrative Law Judge