

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

June 20, 2023

UNITED STATES OF AMERICA,)	
Complainant,)	
)	
v.)	8 U.S.C. § 1324a Proceeding
)	OCAHO Case No. 2023A00015
)	
WALMART INC. (BETHLEHEM),)	
Respondent.)	
_____)	

Appearances: Sirin Ozen Hallberg, Esq., for Complainant
Dan Brown, Esq. and K. Edward Raleigh, Esq., for Respondent

ORDER ON COMPLAINANT’S MOTION FOR EXTENSION
TO REPLY TO RESPONDENT’S MOTION TO DISMISS

This case arises under the employer sanctions provisions of the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324a. Complainant, the U.S. Department of Homeland Security, Immigration and Customs Enforcement, filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) on December 13, 2022, alleging Respondent, Walmart Inc. (Bethlehem), violated 8 U.S.C. § 1324a(a)(1)(B). On February 17, 2023, Respondent filed an answer and a motion to dismiss. On April 11, 2023, Complainant filed the First Amended Complaint Regarding Unlawful Employment Practices (FAC).

On April 20, 2023, this Court granted Respondent’s Motion for Extension of Time to Answer Complainant’s First Amended Complaint, permitting Respondent an additional thirty days after the original filing was due to file an amended answer. On June 9, 2023, Respondent filed its First Amended Answer and a motion to dismiss.

On June 14, 2023, Complainant filed an Unopposed Motion For Extension of Time to Reply to Respondent’s Motion to Dismiss. Complainant asserts that it would not be feasible to respond to Respondent’s motion to dismiss (with over 50 pages, and 20 related cases at issue) in the ten days allowed by 28 C.F.R. § 68.11(b).¹ Also, one of Complainant’s counsel plans to be out of the office

¹ OCAHO Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2023).

from June 30 to July 9, 2023. While the title of the motion indicates it is unopposed, there is no representation in the body of the motion regarding Respondent’s position on the request. Given the timeframes, the Court finds it prudent to issue a decision before Respondent’s time for response elapses.

“OCAHO rules do not provide specific standards for granting extensions, but the standard routinely applied is good cause.” *Tingling v. City of Richmond*, 13 OCAHO no. 1324c, 2 (2021) (citations omitted).² Good cause requires “a demonstration of good faith on the part of the party seeking an enlargement of time and some reasonable basis for noncompliance with the time specified in the rule.” *Id.* (citations omitted).

The Court finds that Complainant has demonstrated good cause for the requested extension of time. Complainant 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 the voluminous filing.

Accordingly, the Court will GRANT Complainant an extension of time.³ While Complainant seeks 45 days beyond the current due date, the Court will grant Complainant an extension of 32 days to file its response. Complainant shall submit its filing in response to Respondent’s motion to dismiss no later than July 21, 2023.

² 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 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 “FIM-OCAHO,” or in the LexisNexis database “OCAHO,” or on the website at <http://www.justice.gov/eoir/OcahoMain/ocahosibpage.htm#PubDecOrders>.

³ To the extent that Respondent did intend to oppose Complainant’s motion within its allotted time for response, Respondent may seek review of this Order. *See generally* 28 C.F.R. § 68.53.

SO ORDERED.

Dated and entered on June 20, 2023.

Honorable Jean C. King
Chief Administrative Law Judge