



Issue Date: 22 January 2021

CASE NO.: 2020-WPC-00005

In the Matter of:

MO GORASHI,
Complainant,

vs.

HAIN CELESTIAL GROUP, INC.,
Respondent.

ORDER OF DISMISSAL

This is a claim under the employee-protection provision of the Federal Water Pollution Control Act, 33 U.S.C. section 1367 (the “Act”) and its associated regulations at 29 C.F.R. Part 24. It is currently set for video hearing on March 16, 2021, with a video pre-hearing conference on February 23, 2021.

On September 2, 2020, I issued a Notice of Hearing and Pre-Hearing Order setting this case for video hearing on January 5, 2021, with a video pre-hearing conference set for December 18, 2020. On September 23, 2020, the Complainant, Mo Gorashi, a self-represented litigant, requested by letter a continuance of the hearing until April 26, 2021. On September 24, 2020, Respondent filed opposition to the requested continuance. On September 29, 2020, Mr. Gorashi filed a formal motion “for an order continuing the trial, heretofore set for January 2021, reopening discovery until 30 days prior to the new trial date and referring this matter back to the case management program for trial setting.” In that motion, he argued his readiness for the hearing would depend on “how quickly I am able to find an attorney, or else prepare to represent myself.”

On October 2, 2020, I held a telephonic status conference. Mr. Gorashi appeared as his own representative, while Attorney Karen Tynan appeared for the Respondent. In that conference, I advised Mr. Gorashi to retain counsel, and reviewed the obligations of a self-represented litigant to observe deadlines and due dates. By this reference, I incorporate the transcript of the telephonic hearing into this order. In particular, I pointed out to him

I want you to understand that I may even dismiss your case if you miss deadlines. In fact, I'll share a little tidbit with you. The number one cause for attorney malpractice claims is that the lawyer has missed a deadline. Deadlines are a big deal to lawyers, they write them down on the calendar, they pay close attention to them. And the [worst] thing you can do is blow a deadline. If you need more time, you need to request a continuance. If you don't request a continuance and you let the time run, you're going to be in a place where you don't want to be.

Do you understand what I'm telling you?

MR. GORASHI: Yes.

(Transcript, 16:14 - 17:1). I stayed further proceedings in the case for thirty days to allow Mr. Gorashi time to find counsel, and I ordered the parties to complete their initial disclosures under 29 C.F.R. section 18.50, subsection (c)(1), within two weeks of the expiration of the stay. I confirmed the stay and associated deadlines in a written Order issued October 14, 2020, and also continued the hearing to its presently-set date.

On or about December 4, 2020, Respondent filed a Motion to Compel, alleging Mr. Gorashi had not made his initial disclosures pursuant to my October 14, 2020, order, and had not responded in any way to interrogatories, requests for production, and requests for admissions served upon him on September 23, 2020. Mr. Gorashi filed no opposition to the Motion. By Order issued December 22, 2020, I ordered Mr. Gorashi to complete his initial disclosures, and to serve his responses to the outstanding discovery, on or before January 8, 2021. I further ordered the parties to appear at a telephonic status conference on January 11, 2021, at 10:00 a.m. Pacific time.

On January 11, 2021, Attorney James L. Shea appeared for Respondent. Mr. Gorashi did not appear. Mr. Shea reported Mr. Gorashi had not made his initial disclosures, nor provided responses to the outstanding discovery, as required in my December 22, 2020, Order. Mr. Gorashi had reportedly not communicated with opposing counsel in any way to explain his failure to do so or to request additional time. Accordingly, on January 12, 2021, I issued an Order directing Mr. Gorashi to show cause, no later than January 21, 2021, why I should not dismiss the claim for his failure to appear at the January 11, 2021, telephonic status conference:

If you do not establish good cause for your failure to appear at the January 11, 2021, telephonic status conference, I will dismiss this claim under 29 C.F.R. section 18.21, subsection (c), without any further hearing.

Mr. Gorashi has filed no response to the Order to Show Cause, has not requested an extension of time to respond, nor communicated with me in any way.

Accordingly, under 29 C.F.R. section 18.21, subsection (c), I now dismiss this claim for the Complainant's failure to appear as ordered.

SO ORDERED.

CHRISTOPHER LARSEN
Administrative Law Judge

NOTICE OF APPEAL RIGHTS: This Decision and Order will become the final order of the Secretary of Labor unless a written petition for review is filed with the Administrative Review Board ("the Board") within 10 business days of the date of this decision.

The date of the postmark, facsimile transmittal, or e-filing will be considered to be the date of filing. If the petition is filed in person, by hand-delivery or other means, the petition is considered filed upon receipt. The petition for review must specifically identify the findings, conclusions or orders to which exception is taken. Any exception not specifically urged ordinarily will be deemed to have been waived by the parties.

At the same time that you file your petition with the Board, you must serve a copy of the petition on (1) all parties, (2) the Chief Administrative Law Judge, U.S. Dept. of Labor, Office of Administrative Law Judges, (3) the Assistant Secretary, Occupational Safety and Health Administration, and (4) the Associate Solicitor, Division of Fair Labor Standards.

If a timely petition for review is not filed, or the Board denies review, this Decision and Order will become the final order of the Secretary of Labor. *See* 29 C.F.R. §§ 24.109(e) and 24.110.

IMPORTANT NOTICE ABOUT FILING APPEALS:

The Notice of Appeal Rights has changed because **the Board has implemented a new eFile/eServe system ("EFS") which is available at <https://efile.dol.gov/>**. If you use the Board's prior website link, dol-appeals.entellitrak.com ("EFSR"), you will be directed to the new system. Information regarding registration for access to the new EFS, as well as user guides, video tutorials, and answers to FAQs are found at <https://efile.dol.gov/support/>.

Filing Your Appeal Online

Registration with EFS is a two-step process. First, all users, including those who are registered users of the current EFSR system, will need to create an account at login.gov (if they do not have one already). Second, users who have not previously registered with the EFSR system will then have to create a profile with EFS using their login.gov username and password. Existing EFSR system users will not have to create a new EFS profile. All users can learn how to file an appeal to the Board using EFS by consulting the written guide at <https://efile.dol.gov/system/files/2020-11/file-new-appeal-arb.pdf> and the video tutorial at <https://efile.dol.gov/support/boards/new-appeal-arb>.

Establishing an EFS account under the new system should take less than an hour, but you will need additional time to review the user guides and training materials. If you experience difficulty establishing your account, you can find contact information for login.gov and EFS at <https://efile.dol.gov/contact>.

If you file your appeal online, no paper copies need be filed. You are still responsible for serving the notice of appeal on the other parties to the case.

Filing Your Appeal by Mail

You may, in the alternative, including the period when EFSR and EFS are not available, file your appeal using regular mail to this address:

U.S. Department of Labor
Administrative Review Board
ATTN: Office of the Clerk of the Appellate Boards (OCAB)
200 Constitution Ave. NW
Washington, DC 20210-0001

Access to EFS for Non-Appealing Parties

If you are a party other than the party that is appealing, you may request access to the appeal by obtaining a login.gov account and creating an EFS profile. Written directions and a video tutorial on how to request access to an appeal are located at:
<https://efile.dol.gov/support/boards/request-access-an-appeal>

After An Appeal Is Filed

After an appeal is filed, all inquiries and correspondence should be directed to the Board.

Service by the Board

Registered users of EFS will be e-served with Board-issued documents via EFS; they will not be served by regular mail. If you file your appeal by regular mail, you will be served with Board-issued documents by regular mail; however, you may opt into e-service by establishing an EFS

account, even if you initially filed your appeal by regular mail. At this time, EFS will not electronically serve other parties. You are still responsible for serving the notice of appeal on the other parties to the case.