

**THE UNITED STATES COURT OF APPEALS FOR THE
FEDERAL CIRCUIT**

DIRECTOR OF THE OFFICE OF)
PERSONNEL MANAGEMENT,)

Petitioner,)

v.)

No. 2024-1774

RONALD L. MOULTON,)

and)

MERIT SYSTEMS PROTECTION)
BOARD)

Respondents.)

**PETITIONER’S UNOPPOSED MOTION
FOR AN EXTENSION OF TIME TO FILE REPLY BRIEF**

Pursuant to Rule 26(b) of the Rules of this Court, petitioner, the Director of the Office of Personnel Management (OPM), respectfully requests a 44-day enlargement of time, to and including December 6, 2024, within which to file a reply brief. Our brief is currently due on October 23, 2024. We have not previously requested an extension of time for this purpose. On October 16, 2024, respondent, Mr. Ronald Moulton, indicated through his attorney that he does not oppose this motion. On October 16, 2024, respondent, the Merit Systems Protection Board (MSPB), indicated through its attorney that it does not oppose this motion.

Good cause exists to grant the requested extension. On October 2, 2024, both Mr. Moulton and the MSPB filed their respective response briefs to our opening brief. Since then, counsel of record has been diligently working to prepare a reply and reply to the arguments presented both by Mr. Moulton and the MSPB. Because our reply must address two response briefs, additional time is needed to finish preparing the reply brief and to receive the necessary agency and supervisory review.

Further, additional time is needed because counsel of record is currently occupied with commitments in numerous other matters that will require the 44-day extension of time. Since Mr. Moulton and the MSPB filed their response briefs, undersigned counsel was occupied preparing a brief in support of the Department of Commerce's remand redetermination in *Assan Aluminyum ve Ticaret A.S. v. United States*, No. 21-246 (Ct. Int'l Trade), which was filed on October 7, 2024. Counsel also prepared a reply brief in support of a motion for judgment on the administrative record in *LaBonte v. United States*, No. 18-1784 (Fed. Cl.), which was filed on October 10, 2024. Counsel also prepared a motion to dismiss in *Miller v. United States*, No. 24-1242 (Fed. Cl.), which was filed on October 11, 2024. Counsel also prepared a response to a motion to show cause in *Webb v. Air Force*, No. 24-2109 (Fed. Cir.), which was filed on October 15, 2024. Finally, counsel prepared a cross-motion for judgment on the administrative record in

Bassen v. United States, No. 23-211 (Fed. Cl.), which was filed on October 15, 2024.

In addition, before filing a reply brief in this case, counsel will file a motion to dismiss in *Moyer v. United States*, No. 24-1105 (Fed. Cl.), which is due October 17, 2024. Counsel will also file a motion to dismiss in *Prysmian Cables and Systems USA, LLC v. United States*, No. 24-101 (Ct. Int'l Trade), which is due October 25, 2024. Counsel will file a cross-motion for judgment on the administrative record in *Valles-Prieto v. United States*, No. 20-589 (Fed. Cl.), which is due October 28, 2024. Counsel will also be filing briefs over the next 45 days in *ITegrity, Inc. v. United States*, No. 24-1662 (Fed. Cl.), a time-sensitive bid protest in which a briefing schedule has not yet been set.

The extension of time requested will enable us to better assist the Court in resolving the appeal by providing a thorough and thoughtful brief addressing the arguments made by Mr. Moulton and the MSPB. Accordingly, we respectfully request that the Court grant this unopposed motion for an extension of time of 44 days, to and including December 6, 2024, for us to file our reply brief in this matter.

Respectfully submitted,

BRIAN M. BOYNTON
Principal Deputy Assistant Attorney General

PATRICIA M. McCARTHY
Director

/s/ Elizabeth M. Hosford
ELIZABETH M. HOSFORD
Assistant Director

/s/ Kyle S. Beckrich
KYLE S. BECKRICH
Trial Attorney
Commercial Litigation Branch
Civil Division
United States Department of Justice
P.O. Box 480
Ben Franklin Station
Washington, DC 20044
Telephone: (202) 616-9322
Email: Kyle.Beckrich@usdoj.gov

October 16, 2024

Attorneys for Defendant

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DECLARATION OF KYLE S. BECKRICH

I, Kyle S. Beckrich, state the following:

1. I am an attorney with the Department of Justice, Civil Division, Commercial Litigation Branch. In that capacity, I am counsel of record for the respondent in *OPM v. Moulton*, Fed. Cir. No. 2024-1774.

2. Good cause exists to grant the extension of time requested by the petitioner. Since Mr. Moulton and the MSPB filed their response briefs, I have been occupied preparing a brief in support of the Department of Commerce’s remand redetermination in *Assan Aluminyum ve Ticaret A.S. v. United States*, No. 21-246 (Ct. Int’l Trade), which was filed on October 7, 2024. I have also prepared a reply brief in support of a motion for judgment on the administrative record in

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3. In addition, before filing a reply brief in this case, I will file a motion to dismiss in *Moyer v. United States*, No. 24-1105 (Fed. Cl.), which is due October 17, 2024. I will also file a motion to dismiss in *Prysmian Cables and Systems USA, LLC v. United States*, No. 24-101 (Ct. Int'l Trade), which is due October 25, 2024. I will also file a cross-motion for judgment on the administrative record in *Valles-Prieto v. United States*, No. 20-589 (Fed. Cl.), which is due October 28, 2024. I will also be filing briefs over the next 45 days in *ITegrity, Inc. v. United States*, No. 24-1662 (Fed. Cl.), a time-sensitive bid protest in which a briefing schedule has not yet been set.

4. The extension of time requested is also needed for adequate preparation and supervisory review of the petitioner's reply brief, particularly because the brief responds to two response briefs.

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

October 16, 2024

/s/ Kyle S. Beckrich
KYLE S. BECKRICH

CERTIFICATE OF COMPLIANCE

I certify that, pursuant to Fed. R. App. Procedure 32(g), this motion complies with the type-volume limitation. This motion was prepared using Microsoft Word, Times New Roman, 14-point font. In making this certification, I have relied upon the word count function of the Microsoft Word software application used to prepare this motion. According to the word count, this motion contains 556 words.

/s/ Kyle S. Beckrich
KYLE S. BECKRICH
Trial Attorney
October 16, 2024