

UNITED STATES OF AMERICA  
 OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

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SECRETARY OF LABOR,

Complainant,

v.

TURNER CONSTRUCTION CO.,

Respondent.

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Docket No. 96-1550

ORDER

Motion by the Secretary for an extension of time until February 20, 1997 to file a complaint herein. This is the third extension requested. On November 4, 1996 the first extension was requested until December 19, 1996 so that the Secretary could "more fully analyze the issues in this matter". The motion was granted on November 22, 1996 with the admonition "NO FURTHER EXTENSIONS". Notwithstanding on December 18, 1996 along comes another of such requests from attorney Alan Kammerman that the time is needed apparently because he "was working on other matters requiring attention so that additional time will be needed to fully analyze the issues in this matter and prepare the complaint." This second request was granted to January 20, 1997 once again with the admonition "NO FURTHER EXTENSIONS". Lo and behold on January 17, 1997 Mr. Kammerman again comes seeking an extension with the usual excuse that "The motion is made to allow for further time for the Solicitors office to fully analyze the legal issues raised by this case. The Secretary still needs additional time to review the issues raised by this case." This is not an isolated incident. The attorneys in the New York Regional Office have participated in and continue to participate in utter disregard for orders of the Commission. I recently issued an order wherein it was indicated that the Secretary has to be prepared like any other litigant. Its budgetary or manpower problems cannot be allowed to dictate the Commissions trial progress. I have on numerous occasions going back to 1992 warned the Solicitor that failure to adhere to orders issued requiring timely filing of pleadings will result in summary dismissal of the citations without any further proceedings. See

Docket Nos. 96-0793, 94-0334, 92-2453, 92-2368, 92-808, 92-0248. Attorney Kammerman was specifically notified in the case of T.R. METALS, Docket no. 95-1140 where an order states, ``no further extensions" it must be adhered to and any such motions for extensions ``by him in the future will be summarily dismissed. Further, the citations will be vacated for deliberately failing to adhere to the undersigned's admonitions."Motion for extension denied.

The prompt administration of justice requires that all parties participating in the judicial process must adhere to the rules and regulations of the governing body. The Secretary is not exempt. The litany of excuses for not being prepared is constantly upgraded. This can no longer be countenanced.

The Secretary having previously been advised that failure to file pleadings in a timely manner will result in dismissal of its claim, and with the distinct proviso noted that there will be ``no further extensions" of time, and it appearing that the Secretary has blatantly and continuously failed to satisfy its obligation to adhere to the orders issued.

IT IS THEREFORE ORDERED THAT THE CITATION ISSUED ON SEPTEMBER 26, 1996 BE AND HEREBY IS VACATED AND SET ASIDE.

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IRVING SOMMER  
Chief Judge

DATED:  
Washington, D.C.