

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

January 30, 2024

JOSEPH J. FERRERO,)	
Complainant,)	
)	
v.)	8 U.S.C. § 1324b Proceeding
)	OCAHO Case No. 2024B00014
)	
DATABRICKS,)	
Respondent.)	
)	

Appearances:¹ Joseph J. Ferrero (Complainant) may appear on his own behalf
 Tiara R. Quintana, Esq., Justine A. Vandermel, Esq., and Daniel J.
 McCoy, Esq., on behalf of Respondent

ORDER GRANTING IN PART & DENYING IN PART JOINT MOTION TO STAY
PROCEEDINGS AND FOR CONTINUANCE OF PREHEARING CONFERENCE

This case arises under the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324b. On November 7, 2023, Complainant, Joseph J. Ferrero, filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO). Complainant alleges that Respondent, Databricks, discriminated against him on behalf of his citizenship status and retaliated against him in violation of 8 U.S.C. § 1324b(a)(1) and (a)(5). Respondent filed an answer on December 27, 2023.

On January 3, 2024, the Court issued an order scheduling an initial prehearing conference pursuant to 28 C.F.R. § 68.5(a) for January 25, 2024.

On January 23, 2024, the parties filed a Joint Motion to Stay Proceedings and for Continuance of Prehearing Conference. The parties state they are in settlement discussions, and they request a continuance (for the prehearing conference) and a stay of proceedings. Joint Mot. to Stay 1. As

¹ In its January 3, 2024 order, the Court noted it had not yet received a notice of appearance from any counsel for either party in this matter, and further explained counsel may not appear on behalf of their clients until they file a notice of appearance in accordance with the requirements of 28 C.F.R. § 68.33(f). Respondent's counsel filed notices of appearance. Complainant's counsel signed the parties' Joint Motion, but has yet to file a notice of appearance.

to the stay, parties argue the “potential for the parties to settle this matter independently” constitutes good cause. *Id.* (citing *Tingling v. City of Richmond*, 13 OCAHO no. 1324c, 2 (2021), and then citing *United States v. Ron’s Temp. Help Servs.*, 18 OCAHO no. 1496, 2 (2023)).

“OCAHO’s rules provide for motions for continuance to postpone a scheduled proceeding.” *United States v. Fasakin*, 14 OCAHO no. 1375e, 2 (2022) (citing *Heath v. Rang Techs.*, 16 OCAHO no. 1420, 1 (2022) (citing 28 C.F.R. § 68.27)). “When a request for a continuance is filed fewer than 14 days of the scheduled proceeding, the filing party must demonstrate good cause and telephonically inform the judge and all parties of the request.” *Id.* (citing 28 C.F.R. § 68.27). “Continuances shall only be granted in cases where the requester has a prior judicial commitment or can demonstrate undue hardship, or a showing of other good cause.” *Id.* (citing 28 C.F.R. § 68.27(a)).

Here, because parties inform the Court they may be able to resolve this matter without the Court’s assistance, the Court finds the requisite good cause to continue the prehearing conference date.² *See, e.g., United States v. Grove Hotel, LLC*, 18 OCAHO no. 1497, 2 (2023) (“Given the parties’ avowed interest in settlement and ‘OCAHO policy favoring settlement of civil cases over litigation,’ *United States v. Koy Chinese & Sushi Rest.*, 16 OCAHO no. 1416e, 9 (2023) (CAHO Order), the Court finds that there is sufficient good cause to support a continuance of the status conference.”). The Court will hold the telephonic prehearing conference on the parties’ proposed date - Monday, February 26, 2024 at 10:00am PST/1:00pm EST. Parties may join the conference via the OpenVoice Platform, by dialing 1-888-585-9008, using the conference room number 387-478-579 and security code 202414.

A stay is appropriate where there is a “clear bar to moving ahead.” *See Monda v. Staryhab, Inc.*, 8 OCAHO no. 1002, 86, 91 (1998); *see also Heath v. I-Services, Inc.*, 15 OCAHO no. 1413a, 2 (2022) (“The power to stay proceedings is incidental to a court’s inherent power to ‘control the disposition of the cases on its docket with economy of time and effort for itself, for counsel, and for litigants. How this can best be done calls for the exercise of judgment, which must weigh competing interests and maintain an even balance.’” (internal citations omitted)).

Here, the reason articulated by the parties—they are engaged in settlement discussions—is not sufficient cause to stay proceedings at this time. The Court has not yet held an initial prehearing conference, and this case presently has no deadlines. The case may progress concurrent with parties’ settlement discussions. Therefore, the parties’ request for a stay of proceedings is denied.

SO ORDERED.

Dated and entered on January 30, 2024.

Honorable Andrea R. Carroll-Tipton
Administrative Law Judge

² Consistent with the regulatory requirement, parties also informed the Court telephonically on January 10, 2024. *See* 28 C.F.R. § 68.27.