

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

US TECH WORKERS ET AL.,	)	
Complainant,	)	
	)	
	)	8 U.S.C. § 1324b Proceeding
v.	)	OCAHO Case No. 2024B00039
	)	
AVANT, LLC,	)	
Respondent.	)	
	)	

---

Appearances: John M. Miano, Esq. for Complainant  
Sean M. McCrory, Esq., Monica S. Rodriguez, Esq., for Respondent

ORDER ISSUING STAY OF DISCOVERY  
AND CANCELLING PREHEARING CONFERENCE

I. PROCEDURAL HISTORY

This case arises under the antidiscrimination provisions of the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324b. Complainant, US Tech Workers, filed a Complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) on February 9, 2024, alleging that Respondent, Avant, LLC, discriminated on the basis of citizenship status in violation of 8 U.S.C. § 1324b(a)(1). Respondent filed its Answer and Affirmative Defenses on April 26, 2024.

On May 13, 2024, Complainant filed a Motion to Consolidate and for Leave to File a Consolidated Amended Complaint.

On May 21, 2024, the Court issued an Order Scheduling Prehearing Conference and General Litigation Order. In the order, the undersigned scheduled an initial prehearing conference for July 22, 2024. Gen. Lit. Order 1-2.

On May 23, 2024, Respondent filed Respondent Avant's Unopposed Motion for Extension of Time File Opposition to Complainant's Motion to Consolidate. On May 31, 2024, Respondent filed its Opposition to Complainant's Motion to Consolidate. On June 13, 2024, the Court confirmed that Respondent had received an extension to file its opposition. US Tech Workers et al. v. Avant, LLC, 19 OCAHO no. 1537a, 2 (2024).

## II. ORDER CANCELLING PREHEARING CONFERENCE AND STAYING DISCOVERY

The Court finds that it would be prudent to vacate the prior order setting a prehearing conference in this matter and issue a stay of discovery pending resolution of Complainant's Motion to Consolidate.

The pending motion to consolidate, would, if granted, combine the case presently before the Court with more than 40 other cases pending in this forum. These cases are in various states of development, and under the circumstances the Court believes it would be wiser to resolve the motion to consolidate before providing the parties with a scheduling and discovery order which might be subject to change dependent on the disposition of that motion. *See, e.g., US Tech Workers v. Fifth Third Bank*, 19 OCAHO no. 1550, 3 (2024) (finding stay of proceedings would be in interest of judicial economy given pendency of motion to dismiss).

"The OCAHO Rules vest the Administrative Law Judge (ALJ) with all appropriate powers necessary to regulate the proceedings." *Heath v. Amaze Glob. Ventures, Inc.*, 16 OCAHO no. 1433, 2 (2022) (citing *Hsieh v. PMC-Sierra, Inc.*, 9 OCAHO no. 1091, 5 (2003))<sup>1</sup>; 28 C.F.R. § 68.28(a). This includes the power to issue stays of proceedings. *United States v. Black Belt Sec. & Investigations*, 17 OCAHO no. 1456b, 2 (2023) (citing *Hsieh*, 9 OCAHO no. 1091, at 5). The issuance of a stay "calls for the exercise of judgment, which must weigh competing interests and maintains an even balance," and "should not be granted absent a clear bar to moving ahead." *See Heath v. ConsultAdd*, 15 OCAHO no. 1395b, 2 (2022) (quoting *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936), and then quoting *Monda v. Staryhab, Inc.*, 8 OCAHO no. 1002, 86, 91 (1998)).

Therefore, discovery is STAYED pending adjudication of Complainant's Consolidation Motion. The prehearing conference scheduled for July 22, 2024 is cancelled.

Finally, the Court notes that although it has received Respondent's e-filing forms, it has not received Complainant's registration form. In order for this case to become an e-filing case, which would provide for a speedier process of the Court receiving submissions from the parties and transmitting its orders to the parties, both parties must consent to the e-filing program. Should the Complainant wish to enter the program, it must complete the registration form which

---

<sup>1</sup> 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 been 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 "FIMOCAHO," or in the LexisNexis database "OCAHO," or on the website at <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-decisions>.

it may access by accessing the U.S. Department of Justice's website, at:  
<https://www.justice.gov/eoir/ocaho-filing>.

SO ORDERED.

Dated and entered July 18, 2024.

---

John A. Henderson  
Administrative Law Judge