

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. 2024B00045
)	
W.W. GRAINGER, INC.,)	
Respondent.)	
)	

Appearances: John M. Miano, JD, for Complainant
Leon Fresco, Esq., Phillip M. Schreiber, Esq., and Susan M. Imerman, Esq. for
Respondent

ORDER CANCELLING PREHEARING
CONFERENCE AND STAYING DISCOVERY

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, W.W. Grainger, discriminated against it on the basis of citizenship status in violation of 8 U.S.C. § 1324b(a)(1). After receiving an extension, Respondent filed its Answer on April 26, 2024.

The same day, Respondent also filed its Motion to Dismiss and Incorporated Memorandum of Law. Complainant responded to the motion on May 20, 2024.

On May 13, 2024, Complainant filed a Motion to Consolidate and for Leave to File its Consolidated Amended Complaint. Respondent opposed the motion, filing its opposition on May 23, 2024.

On May 21, 2024, the Court issued an Order Scheduling Prehearing Conference and General Litigation Order, setting an initial telephonic prehearing conference for July 2, 2024.

II. ORDER CANCELLING PREHEARING CONFERENCE AND ISSUING A STAY OF DISCOVERY

The Court finds it would be prudent to cancel the prehearing conference initially set for July 2, 2024 pending resolution of Complainant's Motion to Consolidate and Respondent's Motion to Dismiss.¹

The Court also finds that it would serve judicial economy and efficiency to issue a stay of discovery pending adjudication of the Motion to Consolidation, as the motion poses a bar to the Court's ability to set an appropriate case schedule at a prehearing conference.

Moreover, Respondent's Motion to Dismiss is potentially case dispositive. This Court has previously found good cause to stay proceedings pending adjudication of a case dispositive motion. *See, e.g., Talebinejad v. Mass. Inst. Tech.*, 17 OCAHO no. 1464c, 3 (2023) (“[T]he pendency of the Motion to Dismiss constitutes good cause to stay proceedings, including discovery, until the Court issues a ruling on the pending Motion to Dismiss.”); *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))²; 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

¹ Given the delays inherent in a mailed order, as a courtesy to the parties the Court staff advised the parties in late June 2024 via email of this order vacating the prehearing conference. To the extent that the parties would like to speed the process by which they receive orders from the Court and file motions with the Court, the undersigned encourages the parties to register for the e-filing program by utilizing the forms sent to them at the beginning of this litigation. The forms are also available at the U.S. Department of Justice's website, at: <https://www.justice.gov/sites/default/files/pages/attachments//2015/11/30/registration-form-and-certification.pdf>

² 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>.

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)).

Accordingly, discovery is STAYED pending adjudication of Complainant's Consolidation Motion and Respondent's Motion to Dismiss. The prehearing conference previously set in this matter is cancelled.

SO ORDERED.

Dated and entered July 18, 2024.

John A. Henderson
Administrative Law Judge