

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

July 02, 2024

US TECH WORKERS ET. AL.,	)	
Complainant,	)	
	)	
v.	)	8 U.S.C. § 1324b Proceeding
	)	OCAHO Case No. 2024B00069
	)	
PAYLOCITY,	)	
Respondent.	)	
	)	

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Appearances: John Miano, JD for Complainant  
Stephen H. Smalley, Esq., and Vanessa N. Garrido, Esq., for Respondent

ORDER SUMMARIZING PREHEARING CONFERENCE

This case arises under 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 March 19, 2024. Complainant alleges that Respondent, Paylocity, discriminated on the basis of citizenship, in violation of 8 U.S.C. § 1324b. Respondent filed its Answer and Affirmative Defenses on May 9, 2024.

On June 27, 2024, the Court held a telephonic prehearing conference pursuant to 28 C.F.R. § 68.13(a).<sup>1</sup> Attorney John Miano attended on behalf of Complainant, and Attorneys Stephen Smalley and Vanessa Garrido attended on behalf of Respondent.

The Administrative Law Judge (ALJ) and the parties discussed the following matters:

1. **E-Filing:** The ALJ noted that Respondent's attorneys had submitted e-filing forms, but the Court had not received one from Complainant's attorney. Mr. Miano indicated that he thought he had, but stated he would resubmit the form, and asked if he could do so by email. The Court agreed.

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<sup>1</sup> OCAHO Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2023).

2. **Settlement:** The ALJ briefly described OCAHO's Settlement Officer Program.<sup>2</sup> Mr. Smalley indicated that he had not received an initial settlement demand from Complainant, but nevertheless stated that Respondent was not interested in a referral to the Settlement Officer Program at this time. For the benefit of the Complainant, the Court explained the Settlement Officer Program is a no-cost program in which the presiding ALJ refers the case to a Settlement Officer for alternative resolution for 60 days, with a 30-day extension available. Negotiations during the Program are confidential. The Court reminds the parties that if they wish to participate in the Settlement Officer Program in the future, they must submit a written request.
3. **Motions:** The Court asked Respondent's counsel if Respondent intended to file a Motion to Dismiss. Respondent's counsel indicated that it likely would, but noted the pending Motion for Consolidation and For Leave to File an Amended Complaint. Mr. Smalley made an oral motion to stay proceedings pending the outcome of that motion with leave to file a motion to dismiss. Complainant's counsel indicated that he was not opposed and would defer to the Court's decision. The Court heard arguments briefly about the pending motion.
4. **Stay:** Respondent sought a stay of proceedings while the court adjudicates the Motion for Consolidation and Complainant was not opposed. The Court **GRANTS** the motion for a stay of proceedings with leave for Respondent to file a Motion to Dismiss, and, if such a motion is filed, for Complainant to file a Response.

SO ORDERED.

Dated and entered on July 02, 2024.

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Honorable Jean C. King  
Chief Administrative Law Judge

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<sup>2</sup> <https://www.justice.gov/eoir/reference-materials/ocaho/chapter-4/7>; see OCAHO Settlement Officer Program Policy Memorandum 20-16, available at <https://www.justice.gov/eoir/page/file/1300746/download>.