

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

December 9, 2024

US TECH WORKERS ET AL.,	)	
Complainant,	)	
	)	
v.	)	8 U.S.C. § 1324b Proceeding
	)	OCAHO Case No. 2024B00104
	)	
CHIME FINANCIAL, INC.,	)	
Respondent.	)	
	)	

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

ORDER SUMMARIZING PREHEARING CONFERENCE  
AND ISSUING STAY OF DISCOVERY

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 April 23, 2024. Complainant alleges that Respondent, Chime Financial, Inc., discriminated on the basis of citizenship, in violation of 8 U.S.C. § 1324b. Respondent filed its Answer and Affirmative Defenses on July 30, 2024.

On December 5, 2024, the Court held a prehearing conference. John Miano attended on behalf of Complainant. Stephen Smalley and Vanessa Garrido attended on behalf of Respondent.

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

1. **Procedural history:** The presiding ALJ noted that a Motion to File an Amended Complaint and Respondent's Response, as well as Respondent's Motion to Dismiss and Complainant's Response are pending.
2. **Settlement:** Complainant's attorney indicated that Complainant would be amenable to settlement and to a referral to the Settlement Officer Program. Respondent stated that currently Respondent is not in a position to engage in settlement discussions, particularly given the Motion to Dismiss and Response in Opposition to Motion for Leave to File Amended Complaint.

3. **Clarifications:** Complainant clarified that it is not attempting to add a respondent (Chicago H-1B Connect) in its proposed amended complaint.
4. **Discovery:** Respondent stated that discovery should not proceed until the pending motions are adjudicated and moved to stay discovery pending resolution of the motions. Complainant stated that it is open to whatever approach would be most efficient. The ALJ determined that discovery should not proceed at this time. The Court STAYS discovery pending resolution of Complainant's Motion for Leave to File an Amended Complaint and Respondent's Motion to Dismiss.
5. **Choice of law:** Complainant sought clarification about the choice of law in the case. The ALJ noted that choice of law is determined by looking at which United States Circuit Court of Appeals would review the case, which means the circuit in which the violation is alleged to have occurred or where the employer resides or transacts business. *See* 28 C.F.R. § 68.57. The ALJ noted that the Court has been consulting United States Circuit Court of Appeals for the Seventh Circuit case law because the Respondent is located in Illinois, but that it is possible that the locus of the events might be considered to be elsewhere. Respondent stated that its position is that Seventh Circuit case law was appropriate because Respondent is resident and operating in Illinois, over which the Seventh Circuit has jurisdiction. The ALJ said that the issue of choice of law would be addressed in the next forthcoming substantive order.
6. **Direct evidence:** Complainant raised that he believes this case involves direct, rather than indirect evidence of discrimination, noting that the standards of evidence are different when direct evidence can be used to establish a case of discrimination. Complainant stated that this might affect the possibility of settlement, as well as what case law is relevant. Respondent stated that its Motion to Dismiss would stand on its own regardless of which standard of evidence is involved, that Complainant has failed to state a claim for discrimination under a direct or indirect evidence standard.

SO ORDERED.

Dated and entered on December 9, 2024.

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Honorable Jean C. King  
Chief Administrative Law Judge