

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

January 13, 2025

RAVI SHARMA,)	
Complainant,)	
)	8 U.S.C. § 1324b Proceeding
v.)	OCAHO Case No. 2022B00023
)	
NVIDIA CORP.,)	
Respondent.)	
_____)	

Appearances: Ravi Sharma, pro se Complainant
Patrick Shen, Esq., K. Edward Raleigh, Esq., and Samantha Caesar, Esq.,
for Respondent

ORDER PROVIDING CLARIFICATION & DENYING COMPLAINANT REQUESTS

On December 3, 2024, the Court issued a Prehearing Scheduling Order in which it provided deadlines by which parties were to complete various tasks in preparation for a hearing in summer 2025. *Sharma v. NVIDIA Corp.*, 17 OCAHO no. 1450m (2024).¹

On December 11, 2024, Complainant filed a matter entitled “Complainant[’s] . . . Motion to Request the Following Respondent’s Employees To Be Present At The Hearing, to Provide The Following Documents To The Complainant, And To Clarify Certain Points in the Court’s November 21, 2024 Order.” The filing appears to be both a notice and a motion. (To the extent the filing makes certain requests of the Court, those requests are denied for reasons further explained below.)

On December 23, 2024, Respondent filed an Opposition (Respondent’s Opposition... November 21, 2024 Order) to the requests made by Complainant, and proposed Complainant be redirected to the Prehearing Scheduling Order.

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

On January 2, 2024, Complainant filed “Complainant[‘s] . . . Motion for Leave of Court to File Reply to Respondent’s Opposition to Complainant’s Motion, Dated December 5, 2024.” In his filing, Complainant “seeks leave of Court to reply to Respondent’s opposition” and states that the opposition “is untimely and should be denied.” Mot. Leave File 1. Complainant attached his reply, in which he further argues that he “served his Motion to Request” on December 5, 2024 and “Respondent’s opposition . . . was served on December 19, 2024, fourteen days (14) after [Complainant’s] motion was served” rather than the ten days required by 28 C.F.R. § 68.11(b). Reply Opp. 1. He argues “[a]cceptance of the late filing would prejudice Complainant because it would impact Complainant’s ability to gather evidence for the hearing.” *Id.* Complainant also notes he was “not aware of Court’s Prehearing Scheduling Order,” when he filed his motion (based on the amount of time it takes to mail orders and motions). *Id.* at 2.

While nothing in the Reply (or Respondent’s January 13, 2025 opposition to it) changes the analysis, the Court will GRANT the motion seeking leave to file the Reply and will consider its contents (along with considering Respondent’s opposition to it).² After considering the contents of the Reply, the Court decided it would consider Respondent’s December 23, 2024 submission.³

Before summarizing Complainant’s filing, and explaining why, to the extent he is filing a motion it is denied, the Court first provides the Prehearing Schedule previously provided to the parties:

January 6, 2025	Parties shall submit First Joint Statement informing the Court as to any stipulations of fact they desire entered into the record, and their interest in participating in the Settlement Officer Program (and, if interested, parties may move the Court to enter the program through this First Joint Statement). ⁴
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January 27, 2025	Complainant’s Prehearing Statement due
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² On January 13, 2025, Respondent filed an Opposition to Complainant’s Motion for Leave. The Court also accepted and considered this filing, permitting all parties an opportunity to be heard.

³ Respondent’s opposition was mailed on December 18, 2024 (sent via FedEx overnight), but not received by the Court on December 23, 2024. Had it been delivered overnight, it would have been timely (as it was due December 20, 2024). While technically untimely, the delay is insignificant and certainly does not prejudice the Complainant as he claims.

Because this matter is headed to hearing, and both parties have highlighted temporal limitations with use of the mail relative to the speed at which this case is now progressing, both parties are now permitted to e-file any future submissions.

E-filing instructions are available from Court staff should either party require them. All e-filed matters must also be served electronically and via the mail on opposing party and must be accompanied by a Certificate of Service attesting to service.

⁴ To date, the Court has not received a First Joint Statement from the parties.

February 17, 2025	Respondent's Prehearing Statement due
March 3, 2025	Parties must exchange all proposed exhibits by this date and resolve any outstanding witness access issues by this date
March 24, 2025	Parties must file any motions pertaining to exclusion of proposed witnesses or exhibits by this date
Week of May 12	Prehearing Conference to be scheduled
June – July 2025	Hearing in Bay Area, CA

In addition to the deadlines provided above, the Court also provided guidance as to the required content of prehearing statements. The prehearing statements are the appropriate place to:

1. Be heard on “Findings of Fact” section from the November 21, 2024 Order Denying Summary Decision. In the November 21, 2024 Order, the Court made a series of factual findings based on the record as it was submitted by the parties. In the prehearing statement, parties can provide their position on whether any of these factual findings should be revisited at the hearing.
2. Provide a Proposed Exhibit List. Parties were instructed not to attach any proposed exhibits referenced in the statement, but rather ensure exhibits are described with sufficient specificity so opposing party understands the nature and origin of a proposed exhibit.
3. Provide a Proposed Witness List. Each party shall identify by name and title any individual they intend to call as a witness in this case. The witness list shall also include information on whether this witness shall provide evidence related to liability, damages, or both, and the approximate amount of time for direct examination. Parties shall ensure they have provided contact information for any witness to opposing party on or before submission of the prehearing statement. It is the expectation of the Court that parties shall have reasonable access to witnesses before the hearing to ensure an efficient and orderly hearing.
4. Inform the Court of Any Other Matters.

Against this backdrop, Complainant first “requests the Court order the following Respondent employees to be present at the hearing: [lists individuals] ... [requests] H-1B petitions [and supplements, to include Labor Conditions Applications for two individuals selected for the position at issue].” Mot. Request 1-2. As Respondent noted, these issues are addressed in the scheduling order. Although Complainant’s explanation that he received the Court’s Order on December 10, 2024 explains why Complainant filed his motion, the schedule outline in the Order still controls.

Complainant is encouraged to identify any witnesses he intends to call in order to meet his burden, and should confer with Respondent to the extent there is any duplication. As to documents, Complainant should identify any proposed exhibits in his prehearing statement, not in a motion.

Because Complainant is pro se, he is also encouraged to review the Court's "Topical Index," as it addresses hearings, witnesses, exhibits, subpoenas, etc.⁵

Complainant next requests "the Court provide the Court's record on a USB flash drive." Mot. Request 3. The Court is not inclined indulge Complainant's exact request; however, the Court will provide the Case Index as an attachment to this Order, which identifies all filings and orders in this case by title, and identifies the date filed or issued. Complainant should have a copy of all matters he filed, and all matters served by Respondent on him. Complainant should also already have a copy of all Court orders in this case. Precedential orders from this case are also available on OCAHO's website.⁶ If Complainant, after careful review of the Case Index, is unable to locate a specific filing, the Court may be amenable to providing him a copy of such a filing as a courtesy.

Finally, the Complainant takes issue with some of the facts identified in the November 21, 2024 Order. Complainant is once more directed to the Prehearing Scheduling Order where he was directed to provide that information in his prehearing statement. To the extent he has attached additional documents related to his concerns, these documents will not be considered, as the Court is mindful of its duty to create a clear record.

For these reasons, to the extent Complainant's filing is a motion, it is DENIED. To the extent it was an attempt to seek clarification, such clarification is contained within this Order. Parties should endeavor to remain on schedule as outlined above.

SO ORDERED.

Dated and entered on January 13, 2025.

Honorable Andrea R. Carroll-Tipton
Administrative Law Judge

⁵ The parties may find the Court's Topical Index on the Department of Justice's website at: <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-decisions>.

⁶ The precedential orders in this case are collected in Volume 17 of OCAHO's published orders: <https://www.justice.gov/eoir/listing-volume-17-decisions>. The precedential orders for this case are 17 OCAHO no. 1450 (2022) through 17 OCAHO no. 1450m (2024), at the time of this order.