

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

US TECH WORKERS ET AL.,)	
Complainant,)	
)	
)	
v.)	8 U.S.C. § 1324b Proceeding
)	OCAHO Case No. 2024B00045
)	
)	
W.W. GRAINGER, INC.,)	
Respondent.)	
)	

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

ORDER ON MOTION TO CONSOLIDATE

I. BACKGROUND

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, Inc., discriminated 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 a Consolidated Amended Complaint. Respondent opposed the motion, filing its opposition on May 23, 2024.

On July 18, 2024, the Court issued an Order Cancelling Prehearing Conference and Staying Discovery. US Tech Workers et al. v. W.W. Grainger, Inc., 19 OCAHO no. 1540a (2024). The Court found that because the Motion to Consolidate would impair its ability to set a case schedule and the Motion to Dismiss was potentially case dispositive, “it would serve judicial economy and efficiency to issue a stay of discovery pending adjudication of [the motions].” Id. at 2.

II. LAW & ANALYSIS – CONSOLIDATION

The undersigned recently issued an order in US Tech Workers et al. v. Fifth Third Bank, 19 OCAHO no. 1550a (2024), in which the Court denied Complainant’s Motion to Consolidate on the grounds that the complaints did not raise a common question of law or fact, and that even if they did, the traditional factors supporting consolidation of cases were not present in this case. The Court hereby adopts the same reasoning to DENY Complainant’s Motion to Consolidate in this case.

III. INVITATION TO PROVIDE ADDITIONAL BRIEFING ON MOTION TO DISMISS

In the undersigned’s recent order denying the motion to consolidate in US Tech Workers et al. v. Fifth Third Bank, the Court noted that it reserved for another day the question of whether a claim of advertising discrimination was cognizable under § 1324b, and whether the Complainant sufficiently pled such a claim to survive a motion to dismiss under 28 C.F.R. § 68.10. The undersigned noted that it did not have the benefit of briefing from the parties on this issue. The Court now invites the parties to provide additional briefing on these questions. Any submission must be provided to the Court by no later than three weeks from the date of the issuance of this Order. The Court further notes that, excepting the invitation for additional briefing, the stay of proceedings previously entered in this matter remains in effect.

SO ORDERED.

Dated and entered on December 30, 2024.

Honorable John A. Henderson
Administrative Law Judge