

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. 2024B00046
	)	
ILLINOIS TOOL WORKS, INC.,	)	
Respondent.	)	
	)	

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

AMENDED ORDER ON MOTION TO CONSOLIDATE

On December 30, 2024, the Court issued an Order on Motion to Consolidate in this matter. This Order serves to amend that order inasmuch as it failed to account for the Respondent's recently filed Motion to Dismiss and the Complainant's Response. Because a motion to dismiss is currently pending in this case, the stay will remain in place and the Court now requests that the parties submit additional briefing to aid the Court in resolving the motion.

I. BACKGROUND

This case arises under the antidiscrimination provisions of the Immigration and Nationality Act, 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, against Respondent, Illinois Tool Works, Inc. Complainant alleges that Respondent discriminated on basis of citizenship status in hiring, in violation of 8 U.S.C. § 1324b(a)(1). On April 2, 2024, Respondent filed an Answer and Affirmative Defenses.

On May 13, 2024, Complainant filed a Motion to Consolidate and for Leave to File a Consolidated Amended Complaint (Consolidation Motion). Following an extension of time, Respondent filed its Response to Complainant's Consolidation Motion on June 5, 2024.

On June 25, 2024, the Court issued an Order Issuing Stay of Proceedings. US Tech Workers et al. v. Ill. Tool Works, Inc., 20 OCAHO no. 1590 (2024). The Court found that “[g]iven

the pendency of the Motion to Consolidate, the Court finds that it would serve judicial economy and efficiency to issue a stay of proceeding pending adjudication of the motion.” Id. at 1.

On December 5, 2024, Respondent filed its Motion to Dismiss Complainant’s Complaint. The same day, Complainant filed its Response to Motion to Dismiss.

## 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 January 3, 2025.

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Honorable John A. Henderson  
Administrative Law Judge