

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. 2024B00041
	)	
CALAMOS INVESTMENTS,	)	
Respondent.	)	
	)	

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Appearances: John M. Miano, Esq. for the Complainant  
Eric S. Bord, Esq., Eric L. Mackie, Esq., and Hannah Fisher, 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, Calamos Investments, discriminated on the basis of citizenship status, in violation of 8 U.S.C. § 1324b(a)(1). Respondent filed its Answer on April 29, 2024; it filed its Motion to Dismiss on the same day.

On May 13, 2024, Complainant filed a Motion to Consolidate and for Leave to File a Consolidated Amended Complaint, seeking leave to consolidate this matter with roughly 40 other cases pending before this Court. Complainant filed a response to Respondent’s Motion to Dismiss on May 14, 2024. Respondent filed a Reply Brief in Support of its Motion to Dismiss Complaint for Failure to State a Claim or, in the Alternative, Motion to Stay on June 7, 2024.

After receiving an extension, Respondent filed its Motion in Opposition to Complainant’s Motion to Consolidate and for Leave to File a Consolidated Amended Complaint on June 18, 2024.

On July 17, 2024, the Court issued an Order Cancelling Prehearing Conference and Issuing a Stay of Discovery. US Tech Workers et al. v. Calamos Investments, 19 OCAHO no. 1538b (2024). The Court ordered a stay of discovery pending adjudication of the Motion to Consolidate and Motion to Dismiss, as the former “poses a bar to the Court’s ability to set an appropriate case schedule,” while the latter “is potentially case dispositive.” 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 January 30, 2025.

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Honorable John A. Henderson  
Administrative Law Judge