

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. 2024B00043
)	
DEERE & COMPANY,)	
Respondent.)	
)	

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, Deere & Company, discriminated on the basis of citizenship status in violation of 8 U.S.C. § 1324b(a)(1). Respondent filed its Answer to Complaint and a Motion to Dismiss on April 29, 2024.

On May 13, 2024, Complainant filed a Motion to Consolidate and for Leave to File a Consolidated Amended Complaint. Complainant filed a response to Respondent’s Motion to Dismiss on May 14, 2024. On June 7, 2024, Respondent filed its Reply Brief in Support of its Motion to Dismiss.

On June 18, 2024, after the Court granted an extension of time, Respondent filed its Opposition to Complainant’s Motion to Consolidate.

On July 17, 2024, the Court issued an Order Vacating Prehearing Conference and Issuing Stay of Discovery. US Tech Workers et al. v. Deere & Co., 19 OCAHO no. 1539b (2024). The Court found that “it would serve judicial economy and efficiency to issue a stay of discovery pending adjudication of [the Consolidation Motion and Motion to Dismiss].” 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.

Honorable John A. Henderson
Administrative Law Judge