

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

IRFAN JAVAID,)	
Complainant,)	
)	
v.)	8 U.S.C. § 1324b Proceeding
)	OCAHO Case No. 2023B00067
)	
FURTHER, LLC, D/B/A)	
FURTHER ENTERPRISE SOLUTIONS,)	
Respondent.)	
)	

Appearances: Irfan Javaid, pro se Complainant
David Lacki, Esq., for Respondent

ORDER SUMMARIZING STATUS CONFERENCE

I. BACKGROUND

This case arises under the antidiscrimination provisions of the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324b. On June 7, 2023, Complainant Irfan Javaid filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) asserting claims of discrimination and retaliation arising under 8 U.S.C. § 1324b against Respondent Further LLC. Respondent filed an answer on August 1, 2023.

On March 26, 2024, the Court conducted a telephonic status conference, in which Sam Erkonen, Esq. attended on behalf of Complainant and David Lacki, Esq. attended on behalf of Respondent. Mr. Javaid was not present; Mr. Erkonen represented that he was Complainant’s counsel. The Court directed Mr. Erkonen to promptly file a notice of appearance. Based on the parties’ requests, the Court amended the case schedule and re-opened discovery. *See* Order Amending Scheduling Order.

Mr. Erkonen did not file a notice of appearance. In a subsequent communication with Respondent and the Court staff, Mr. Javaid indicated that he had not authorized his counsel to agree to reopening discovery.

To clarify Complainant's representation and the case schedule, the Court held a status conference on May 2, 2024. Mr. Javaid attended on his own behalf and Mr. Lacki attended on behalf of Respondent.

II. COMPLAINT'S REPRESENTATION

Mr. Javaid advised that he reengaged Mr. Erkonen as counsel in January 2024, and ended Mr. Erkonen's representation in mid-to-late April 2024. Mr. Lacki advised that he had email communications regarding this litigation with Mr. Javaid and Mr. Erkonen during the same timeframe.

The Court concluded that Mr. Erkonen was Mr. Javaid's counsel at the time of the March 26, 2024 prehearing conference and that Mr. Javaid had vested in Mr. Erkonen the ability to bind him as a client, including but not limited to implicitly authorizing Mr. Erkonen to make an oral motion to amend the scheduling order. *See, generally*, Restatement (Third) of Agency, § 1.01 (Am. Law Inst. 2006) ("Agency is a fiduciary relationship ... that the agent shall act on the principal's behalf"); Pioneer Inv. Svcs. Co. v. Brunswick Associates Ltd., P'ship, 507 U.S. 380, 396 (1993) ("In other contexts, we have held that clients must be held accountable for the acts and omissions of their attorneys."); Link v. Wabash R.R. Co., 370 U.S. 626, 633 (1962) ("Petitioner voluntarily chose this attorney as his representative in the action, and he cannot now avoid the consequences of the acts or omissions of this freely selected agent."); Aurora Loan Servs., Inc. v. Craddieth, 442 F.3d 1018, 1028 (7th Cir. 2006) ("In civil matters, the action of one's lawyer binds one, and if the action was a species of professional malpractice, the client's remedy lies against the lawyer[.]"). The Court invited Mr. Javaid to file a motion if he disagreed with this conclusion, or if there were other matters relevant to his representation that he would like to raise before the Court.

The Court further explained that if Mr. Javaid retains future counsel, that counsel will not be able to file any documents on his behalf or make any representations before this Court until counsel submits a compliant notice of appearance. Mr. Lacki stated that if Mr. Javaid retains counsel, he would wait until that counsel submits a notice of appearance to the Court before communicating with the counsel rather than Mr. Javaid directly, to avoid future confusion.

II. CASE SCHEDULE, DISCOVERY, AND SETTLEMENT OFFICER PROGRAM

The Court informed the parties that, based upon their representations, it would retain the current case schedule. The Court directed the parties to consult with one another and submit a motion (jointly or otherwise) if either party wishes to revisit the scheduling order.

The reopened discovery period ended on April 29, 2024. Mr. Javid and Mr. Lacki confirmed that they have had discussions regarding outstanding discovery requests. The Court encouraged the parties to continue their discussions.

The Court also again explained that the Court offers a Settlement Officer Program, to which the parties may request a referral.¹ As Complainant was pro se, the Court described the program at length in compliance with the SOP program regulations. Policy Memorandum 20-16, Section I.C.2 (August 3, 2020); *see also* OCAHO Practice Manual, Chapter 4.7(a)(4)(B). Complainant expressed interest in participating. Mr. Lacki stated that he would need to confer with his client before deciding about their interest in participating. The Court encouraged the parties to request a referral in a timely manner if they conclude that it would be beneficial to them to enter the program.

SO ORDERED.

Dated and entered on May 20, 2024.

John A Henderson
Administrative Law Judge

¹ <https://www.justice.gov/eoir/page/file/1300746/dl>.