

US TECH WORKERS ET AL.,
Complainant,

v.

VIVID SEAT, A.K.A. VIVIDSEATS, LLC,
Respondent.

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8 U.S.C. § 1324b Proceeding
OCAHO Case No. 2024B00075

ORDER GRANTING RESPONDENT LEAVE TO FILE REPLY

On December 3, 2024, the Court issued an order finding that the Complainant had not stated a claim upon which relief can be granted but granted Complainant leave to amend the Complaint and deferred issuing a final order on the Motion to Dismiss pending any amendments. *US Tech Workers et al. v. Vivid Seat, a.k.a. VividSeats, LLC*, 20 OCAHO no. 1593b (2024).¹

¹ Citations to OCAHO precedents after volume eight, where the decision has not yet been reprinted in a bound volume, include the volume and case number of the particular decision. Pinpoint citations to OCAHO precedents are to pages within the original issuances; the beginning page number of an unbound case will always be 1 and is accordingly omitted from the citation. Published decisions may be accessed through the Westlaw database “FIM OCAHO,” the LexisNexis database “OCAHO,” and on the United States Department of Justice’s website: <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-decisions>.

On the same day, Complainant filed a Motion for Leave to File an Amended Complaint and on December 24, 2024, Respondent filed an Answer and Affirmative and Other Defenses to Complainants' First Amended Complaint. Complainant sought to Recaption the First Amended Complaint on March 17, 2025.

Respondent filed a second Motion to Dismiss on June 12, 2025. Complainant filed a response on June 16, 2025.

This order addresses the "Consented-To Motion for Extension to Reply Memorandum in Support of Respondent's Motion to Dismiss" filed by Respondent on June 26, 2025. According to Respondent, "Complainants cited to a Statement of Interest filed by [Department of Justice's Immigrant and Employee Rights Section] in a comparable U.S. Tech Workers case, addressing the novel issue of advertising discrimination." Mot. Extension 1. Respondent asked for an extension of the reply deadline to July 10, 2025, to review the filing and "assess its relevance and potential impact" *Id.* Complainant consents to the extension. *Id.* at 2.

OCAHO's Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2024), set a default ten day reply deadline to "file a response in support of, or in opposition, to [a] motion," but "[u]nless the Administrative Law Judge provides otherwise, no reply to a response, counter-response to a reply, or any further responsive document shall be filed." 28 C.F.R. § 68.11(b).

The choice to permit a reply or sur-reply is discretionary. *US Tech Workers et al. v. Relativity*, 20 OCAHO no. 1579, 2 (2024) (citing *Space Expl. Techs. Corp.*, 18 OCAHO no. 1499a, 4 (2023)). OCAHO judges have considered whether permitting a reply would develop the case record or address novel issues or arguments. *Id.* at 3 (citing *Sharma v. NVIDIA Corp.*, 17 OCAHO no. 1450j, 3 (2023)).

Here, Respondent is requesting an extension to file a reply to Complainant's response. The Court construes Respondent's Motion for Extension as a motion for leave to file a reply. Respondents did not have the benefit of the cited source when it filed its motion to dismiss. Further, the issue of advertising discrimination has rarely been addressed by this Court. Additional briefing from Respondent on the issue would be to the benefit of both the parties and the Court. Complainant also consents to Respondent submitting such a filing.

Respondent is granted leave to file a reply in support of its second motion to dismiss. The Court finds Respondent's requested deadline reasonable under the circumstances. Respondent's reply in support of its second Motion to Dismiss is due on July 10, 2025

SO ORDERED.

Dated and entered on June 30, 2025.

Honorable Jean C. King
Chief Administrative Law Judge