

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

July 21, 2025

RAVI SHARMA,)	
Complainant,)	
)	
v.)	8 U.S.C. § 1324b Proceeding
)	OCAHO Case No. 2022B00023
)	
NVIDIA CORP.,)	
Respondent.)	
_____)	

Appearances: Robert J. Barton, Esq., and Marie-Lise Baroutjian, Esq., for Complainant
Patrick Shen, Esq., K. Edward Raleigh, Esq., and Samantha Caesar, Esq.,
for Respondent

PRE-HEARING ORDER ONE¹

On November 21, 2024, the Court issued an Order Denying Summary Decision, which caused the case to advance to a pre-hearing phase. *Sharma v. NVIDIA Corp.*, 17 OCAHO no. 1450l (2024).² Following this decision, the parties participated in the Court’s Settlement Officer Program, and at the conclusion of their time in the Program, the case returned to active litigation.

On April 8, 2025, the Court issued a revised prehearing schedule.

¹ This is the first in what will likely be series of orders designed to assist the parties in efficiently preparing for the pending hearing.

² Citations to OCAHO precedents reprinted in bound Volumes 1 through 8 reflect the volume number and the case number of the particular decision, followed by the specific page in that volume where the decision begins; the pinpoint citations which follow are thus to the pages, seriatim, of the specific entire volume. Pinpoint citations to OCAHO precedents subsequent to Volume 8, where the decision has not yet been reprinted in a bound volume, 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 in the Westlaw database “FIMOCAHO,” or in the LexisNexis database “OCAHO,” or on the website at <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-decisions>.

On January 27, 2025, Complainant timely filed his original prehearing statement. On May 15, 2025, Complainant late-filed a new Prehearing Statement Pursuant to the April 8, 2025 Order.³

On June 2, 2025, Respondent timely filed its prehearing statement.

On May 12, 2025, the Court issued an Order Denying Complainant’s Motion for Production of Documents & Conversion to E-Filing Status. *Sharma v. NVIDIA Corp.*, 17 OCAHO no. 1450q (2025).

On June 30, 2025, Complainant filed a motion seeking subpoenas and requesting a ruling on other witness-related issues. This motion was opposed by Respondent.

On July 10, 2025, Respondent filed a “renewed” motion for summary decision.

On July 15, 2025, Complainant filed an unopposed motion seeking an extension of time to file a response to Respondent’s renewed motion for summary decision.

This Order will address the pending motions and provide additional guidance to the parties as they approach their July 28, 2025 motions deadline and begin preparation for the prehearing conference to be held in August.

I. COMPLAINANT’S REQUEST FOR SUBPOENAS IS DENIED

Complainant explains “[He] identified nineteen witnesses in his Prehearing Statement (including Complainant . . . and four witnesses also identified by [Respondent])⁴... [S]ubpoenas for their testimony at the [h]earing should be granted.” Mot. Approve Subpoenas 1. Each individual is described below, although they are listed here out of order as they are grouped based on proposed connection to the case.

A. GROUP ONE – Individuals Who Interviewed Candidates for Vacancy

³ The Court’s April 8, 2025 Notice & Order – Case Returns to Active Status & Revised Schedule set May 12, 2025 as the deadline for Complainant’s new Prehearing Statement. However, given the slight delay and lack of prejudice to Respondent, the Court ACCEPTS the filing.

⁴ Respondent’s prehearing statement identified four employees who will be made available to testify at the hearing. These individuals are:

- (1) Head of Global Recruiting Operations;
- (2) Senior Logic Design Engineer (interviewer and recommender of candidates);
- (3) Senior ASIC Engineer (interviewer and recommender of candidates); and
- (4) Hiring Manager

Resp’t’s Preh’r’g State. 5; *id.* at Appendix C.

1. “Financial Planning and Analysis Manager and/or Senior Architect [M.A.]”⁵ – According to Complainant, this individual “interviewed [Complainant] or the three nonimmigrant candidates offered the FGPA position... and was ‘involved in the consideration and evaluation [of all four].” Mot. Approve Subpoenas 5-6. Complainant cites proposed exhibits which may separately provide the facts of which this witness has knowledge. *Id.* at 6.
2. “Principal ASIC Engineer [P.G.]” – According to Complainant, this individual “interviewed [Complainant] or the three nonimmigrant candidates offered the FGPA position... and was ‘involved in the consideration and evaluation [of all four].” Mot. Approve Subpoenas 6. Complainant cites proposed exhibits which may separately provide the facts of which this witness has knowledge. *Id.* at 6-7.
3. “Principal ASIC Engineer [S.K.]” – According to Complainant, this individual “interviewed [Complainant] or the three nonimmigrant candidates offered the FGPA position... and was ‘involved in the consideration and evaluation [of all four].” Mot. Approve Subpoenas 8. Complainant cites proposed exhibits which may separately provide the facts of which this witness has knowledge. *Id.*
4. “Senior Staff ASIC Hardware Engineer [T.I.]” – According to Complainant, this individual “interviewed [Complainant] or the three nonimmigrant candidates offered the FGPA position... and was ‘involved in the consideration and evaluation [of all four].” Mot. Approve Subpoenas 7-8. Complainant cites proposed exhibits which may separately provide the facts of which this witness has knowledge. *Id.* at 8.
5. “Senior Director of Hardware Engineering [N.P.]” – According to Complainant, this individual “interviewed [Complainant] or the three nonimmigrant candidates offered the FGPA position... and was ‘involved in the consideration and evaluation [of all four].” Mot Approve Subpoenas 9. Complainant cites proposed exhibits which may separately provide the facts of which this witness has knowledge. *Id.* at 9-10.

B. GROUP TWO – Individual Who Conduct Recruiting for Respondent

6. “Director of Staffing [J.H.]” – According to Complainant, this individual is “on several emails about the recruiting and hiring process [for the position at issue].” Mot. Approve Subpoenas 7. Complainant cites proposed exhibits which may separately provide the facts of which this witness has knowledge. *Id.*
7. “Senior Staffing Manager [D.N.]” – According to Complainant, this individual is “on several emails about the recruiting and hiring process [at Respondent business].” Mot. Approve Subpoenas 9. Complainant cites proposed exhibits which may separately provide the facts of which this witness has knowledge. *Id.*
8. “Recruiting Coordinator [J.U.]” – According to Complainant, this individual “was involved with recruitment and hiring process for the position [at issue].” Mot. Approve

⁵ Initials in this list refer to the individual’s initials, as identified in the motion.

Subpoenas 11. Complainant cites proposed exhibits which may separately provide the facts of which this witness has knowledge. *Id.*

C. GROUP 3 – Selectees for Vacancy at Issue

9. “Selectee C1894295 [non-U.S. citizen]” – According to Complainant, this individual could testify about “qualifications, the hiring process, and... salary and benefits.” Mot. Approve Subpoenas 8-9. Complainant notes her resume, and emails about her interview process will be offered as Complainant Exhibits at hearing. *Id.* at 9.
10. “Selectee C1767827 [non-U.S. citizen]” – According to Complainant, this individual could testify about “qualifications, hiring process, and... salary and benefits.” Mot. Approve Subpoenas 10.
11. “Selectee C1201612 [U.S. citizen]” – According to Complainant, this individual could testify about “hiring process, and... salary and benefits.” Mot. Approve Subpoenas 10.
12. “Selectee C1900479 [U.S. citizen]” – According to Complainant, this individual could testify about “hiring process, and... salary and benefits.” Mot. Approve Subpoenas 10.

D. GROUP 4 – An Engineer Employee at Respondent Business

13. “Senior Logic Design Engineer, FGPA [uninvolved in vacancy at issue] [Y.H.]”

According to Complainant, this individual is a “Senior Logic Design Engineer, FGPA at [Respondent business]” who was hired in the same timeframe as Complainant’s application and non-selection. Mot. Approve Subpoenas 7. It does not appear this individual has any connection to the vacancy at issue in this case.

For its part, Respondent opposes issuance of subpoenas, noting it already intends to make available at hearing the four individuals referenced in Complainant’s filing, each of whom has knowledge of either the hiring process in general, or the hiring process for the vacancy at issue (the technical interviews and evaluation and the decision on candidates).

At this time, the Court will DENY Complainant’s Motion for the requested subpoenas.

Under OCAHO’s Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2024), the Court’s Administrative Law Judges “upon his or her own initiative or upon request. . . . may issue subpoenas as authorized by statute . . . requir[ing] attendance and testimony of witnesses and production of” documents or tangible items. 28 C.F.R. § 68.25(a).⁶

If any person fails “to comply with an order to testify or a subpoena issued under [28 C.F.R. § 68.25], the Administrative law Judge may . . . apply through appropriate counsel to the appropriate

⁶ OCAHO Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2024). The rules are also available through OCAHO’s webpage on the United States Department of Justice’s website. See <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-regulations>.

district court of the United States for an order requiring compliance with the order of subpoena.” 28 C.F.R. § 68.25(e).⁷

Here, Complainant gave notice to the opposing, as he served his motion and copies of subpoena forms. *See* 28 C.F.R. § 68.25(b). He also met the procedural requirements. *See* 28 C.F.R. § 68.25(b).

The moving party “has the burden to establish relevancy.” *Zajradhara v. HDH Co.*, 16 OCAHO no. 147b, at 3. But relevance is the floor, not the ceiling. The Court has previously declined to issue subpoenas requested by a § 1324b complainant where the requested testimony “[was] not sufficiently narrow,” despite potentially being relevant. *Zajradhara v. Algeric Gen. Servs., LLC*, 16 OCAHO no. 1432g, 4 (2023).

Indeed, the Court must be cautious in its approach when it issues subpoenas. Issuance of a subpoena is, in essence, the Court leveraging its statutory authority to compel attendance and participation in a particular matter. An opposed subpoena request requires more.

Here, the Complainant has failed to explain with requisite thoroughness and specificity why these individuals uniquely possess information that is not already in the record, and/or not already contained in a proposed exhibit, and/or unavailable via cross-examination of the individuals Respondent has already indicated it will produce at hearing.

In denying the request as presented, parties should both be mindful of the dynamic landscape at hearing. It is possible further record development at hearing will unearth new information or facts which may make it prudent to revisit this issue – but if that is what transpires at hearing, parties and the Court will be on solid factual footing to make such a determination at that time.

Separately, Respondent should also be mindful of how the absence of these individuals may play into on-the-record discussions about the admissibility of exhibits (i.e., If certain individuals are not available at hearing, the Court will consider that datapoint in the context of any potential foundation-related arguments made against Complainant exhibits.).

II. NOTICE AND CLARIFICATION ON WITNESS CONTACT INFORMATION

Complainant requests, via its Motion, contact information for “all witnesses so that Complainant can subpoena these witnesses and have the ability to contact witnesses who are not within the subpoena power.” Mot. Approve Subpoenas 11.

The Court now provides clarity for the parties of the language and intent of the instructions in the “Proposed Witness List” section of the April 8, 2025 Order.

⁷ Respondent seems to intimate subpoenas from OCAHO are not “independently” enforceable. Opp’n Mot. Approve Subpoenas 1 n.1. However, the regulations make clear the mechanism by which a subpoena issued in this forum is enforced.

First, parties were to identify their proposed witnesses. From the prehearing statement and the motions practice, it appears as though Respondent intends to call four employees.

The Court did require parties to provide contact information for witnesses; however, Respondent, in its Opposition filing, has indicated potential privacy-related concerns based on Complainant's past behavior. Opp'n Mot. Approve Subpoenas 7. In requiring parties to provide contact information, the Court's intent was not as expansive as Complainant articulated. Rather, the intent of the instruction was to improve and maximize hearing efficiency related to witnesses who would be testifying at hearing. The Court takes Respondent's privacy concerns under advisement and provides the following guidance.

Respondent will not be required to share contact information, but it is strongly encouraged to make each witness telephonically available at a mutually agreed time for a brief interview. Similarly, if Complainant has provided proposed witnesses (to include Complainant himself), Complainant's counsel will be encouraged to provide the same access. Such a limited interview is not intended to be a mulligan for depositions not taken, rather the limited interview would serve to cut down extraneous questioning at hearing (or possibly reveal factual stipulations). If parties declines to offer a witness for participation in a limited prehearing interview, they can anticipate opposing counsel being afforded more leeway in examination of such a witness at hearing.

III. RENEWED MOTION FOR SUMMARY DECISION DENIED

On July 10, 2025, Respondent filed a Renewed Motion for Summary Decision. In considering whether to adjudicate this motion on its merits, the Court has concluded that it would be unfair to do so. Consistent with the Court's approach to discovery and other issues in the processing of this case, it must hold parties to one meaningful attempt at prehearing phases of litigation. Because the Court will not adjudicate the Renewed Motion for Summary Decision, Complainant's July 15, 2025 Unopposed Motion for Extension of Time to File Response to Respondent's Renewed Motion for Summary Decision is DENIED as MOOT.

IV. BIFURCATION OF HEARING

Based on the prehearing statements provided by the parties, the Court will bifurcate the proceedings. The upcoming hearing will only consider the issue of liability. If liability is established, the Court will set an additional hearing date to take evidence on damages.

SO ORDERED.

Dated and entered on July 21, 2025.

Honorable Andrea R. Carroll-Tipton
Administrative Law Judge