

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

July 19, 2021

UNITED STATES OF AMERICA,)	
)	
Complainant,)	
)	8 U.S.C. § 1324b Proceeding
v.)	
)	OCAHO Case No. 2021B00007
FACEBOOK, INC.,)	
)	
Respondent.)	

ORDER REJECTING STIPULATED PROTECTIVE ORDER

I. INTRODUCTION AND FACTUAL BACKGROUND

This case arises under the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324b. On June 21, 2021, the Office of the Chief Administrative Hearing Officer (OCAHO) issued an Order on Discovery & Scheduling Conference for this case, in which it ordered the parties to file a joint discovery plan with the Court. The Order directed the parties to include, among other things, proposals regarding whether the Court should impose limitations on discovery.

On June 29, 2021, the parties filed a Proposed Stipulated Protective Order “to prevent dissemination and unnecessary disclosure of... information and tangible things which are believed to be confidential and proprietary by the holder thereof” to the public. Proposed Stip. Protective Order at 1.

The parties did not file any motion in support of the Proposed Stipulated Protective Order.

II. LAW AND ANALYSIS

Parties in OCAHO proceedings may obtain discovery regarding any relevant, non-privileged matter unless otherwise limited by order of the Administrative Law Judge (ALJ). 28 C.F.R. § 68.18(a). Only upon motion and for good cause shown may the ALJ “make any order that

justice requires to protect a party or person from annoyance, harassment, embarrassment, oppression, or undue burden or expense” 28 C.F.R. § 68.18(c).

Here, the parties did not file a motion to establish good cause necessitating execution of the Proposed Stipulated Protective Order. Rather, the Proposed Stipulated Protective Order simply states “[d]isclosure and discovery activity in this action may involve production of confidential, proprietary, and/or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted.” Proposed Stip. Protective Order at 2. This language is insufficiently vague and cannot form a basis to determine the parties have demonstrated requisite good cause.

Ultimately, because the parties failed to file a motion in support of their request, and likewise failed to establish good cause, their joint filing is both procedurally and substantively defective and must be REJECTED.

The Court does note that “blanket protective orders have been widely approved in complex or multi-district litigation in the interests of expediting the judicial process” *McCaffrey v. LSI Logic Corp.*, 6 OCAHO no. 883, 663, 664 (1996).

Should the parties renew this request by way of filing a motion accompanying a jointly proposed stipulated protective order, the parties must ensure the proposed stipulated protective order is consistent with OCAHO rules and case law and that the motion sufficiently outlines the good cause necessitating execution of such an order by the Court. *See* 28 C.F.R. § 68.18(c); *see also, generally, United States v. Agripac, Inc.*, 8 OCAHO no. 1017, 268 (1998).

Based on the foregoing, the Proposed Stipulated Protective Order is REJECTED without prejudice.

ENTERED:

Honorable Andrea R. Carroll-Tipton
Administrative Law Judge

DATE: July 19, 2021