

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

April 14, 2022

ROBERT PAUL HEATH,)	
Complainant,)	
)	
v.)	8 U.S.C. § 1324b Proceeding
)	OCAHO Case No. 2022B00012
)	
EUCLID INNOVATIONS,)	
Respondent.)	
_____)	

ORDER ISSUING STAY OF PROCEEDINGS

This case arises under the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324b. Complainant, Robert Heath, filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) on December 28, 2021. Complainant alleges that Respondent, Euclid Innovations, discriminated against him based on citizenship status and national origin, and engaged in unfair documentary practices, in violation of § 1324b.

On March 30, 2022, the Court issued an Order of Inquiry. Through the Order, the Court asked Respondent to advise the Court as to whether he has or can find a functional U.S.-based mailing address for Respondent. *See* 28 C.F.R. § 68.3.¹ The Order set forth a twenty-one (21) day window for Complainant to respond.

On April 8, 2022, Complainant called the Court. Complainant informed an OCAHO staff member that he has experienced an emergency. It is unclear whether Complainant gave notice to all other parties in this matter as required by 28 C.F.R. § 68.36. Given the circumstances and out of an abundance of caution, the Court is providing notice to the parties of the communication.²

¹ OCAHO Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2022).

² The Court understands Complainant’s phone call as communication of a scheduling issue. *See* 28 C.F.R. § 68.36(a). To the extent that Complainant’s phone call could be considered an *ex parte* communication, this Order satisfies the ALJ’s obligation to disclose it to the parties and provide an opportunity for response. *See Tingling v. City of Richmond*, 13 OCAHO no. 1324b, 2–3 (2021); *see also* § 68.36(a); 5 U.S.C. § 557(d)(1).

The Court provides Respondent fourteen (14) days, from the date of this Order, to submit a response, if any, it deems appropriate. *See Tingling v. City of Richmond*, 13 OCAHO no. 1324b, 3 (2021).

While Complainant did not address this case specifically, nor request a modification of any deadlines, it appears that Complainant will not be able to timely comply with the Court's March 30, 2022 Order.

The OCAHO Rules vest the Administrative Law Judge (ALJ) with all appropriate powers necessary to regulate the proceeding. *See Hsieh v. PMC-Sierra, Inc.*, 9 OCAHO no. 1091, 5 (citing 28 C.F.R. § 68.28).³ The power to stay a proceeding is incidental to a court's inherent power to "control the disposition of the cases on its docket with economy of time and effort for itself, for counsel, and for litigants. How this can best be done calls for the exercise of judgment, which must weigh competing interests and maintain an even balance." *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936) (citations omitted); *see also Monda v. Staryhab, Inc.*, 8 OCAHO no. 1002, 86, 91 (1998) (citations omitted) ("A stay of proceedings should not be granted absent a clear bar to moving ahead."). In exercise of its judgment, the Court may issue a stay of proceedings sua sponte. *See, e.g., A.S. v. Amazon Web Servs., Inc.*, 14 OCAHO no. 1381o, 2-3 (2022); *Jablonski v. Robert Half Legal*, 12 OCAHO no. 1272, 3 (2016).

The Court determines that a sixty (60) day stay of proceedings is appropriate in light of the circumstances. Pursuant to the Order of Inquiry, Complainant's response would need to be filed by April 20, 2022, and it appears Complainant may be unable to meet this deadline due to his emergency. Since neither the complaint nor the NOCA have yet to be served on Respondent, the Court finds that Respondent is unlikely to suffer prejudice as a result of a 60-day stay of proceedings. Moreover, due to Complainant's recent emergency, it appears to the Court that Complainant would suffer prejudice if the Court did not issue a 60-day stay of proceedings. Thus, having found that neither party will suffer prejudice, the Court issues a 60-day stay of proceedings.

³ 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 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 "FIM-OCAHO," or in the LexisNexis database "OCAHO," or on the website at <http://www.justice.gov/eoir/OcahoMain/ocahosibpage.htm#PubDecOrders>.

As soon as possible, and no later than sixty (60) days from the date of this Order, Complainant shall provide the Court with a written status report in this case, OCAHO Case No. 2022B00012. The status report shall state whether Complainant has or can find a functional U.S.-based mailing address for Euclid Innovations.

SO ORDERED.

Dated and entered on April 14, 2022.

Honorable Jean C. King
Chief Administrative Law Judge