

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

May 4, 2022

ROBERT PAUL HEATH,)	
Complainant,)	
)	
v.)	8 U.S.C. § 1324b Proceeding
)	OCAHO Case No. 2022B00010
)	
NIHA TECHNOLOGIES, INC.)	
Respondent.)	
_____)	

Appearances: Robert Heath, pro se Complainant
Anantha Paruthipattu, Esq., for Respondent

ORDER ISSUING STAY OF PROCEEDINGS

This case arises under the antidiscrimination provisions of the Immigration and Nationality Act, as amended, 8 U.S.C. § 1324b. On December 13, 2021, Complainant, Robert Heath, filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO). Complainant alleges that Respondent, Niha Technologies, Inc., discriminated against him based on citizenship status and national origin, and engaged in unfair documentary practices, in violation of § 1324b. On January 18, 2022, Respondent filed an answer. On January 28, 2022, the Court issued an Order for Prehearing Statements. On March 18, 2022, Complainant filed his prehearing statement. On March 31, 2022, Respondent filed its prehearing statement.

Complainant called the Court on April 8 and April 18, 2022. 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. § 68.36.¹ Given the circumstances and out of an abundance of caution, the Court is providing notice to the parties of the communication.² The Court provides Respondent fourteen (14) days, from the date of this

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

² The Court understands Complainant’s phone calls as communication of a scheduling issue. See 28 C.F.R. § 68.36(a). To the extent that Complainant’s phone calls could be considered ex parte communication, this Order satisfies the ALJ’s obligation to disclose it to the parties and

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, it appears to the Court that Complainant's emergency could affect advancement of this litigation.

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 given the circumstances. Pursuant to the Court's January 28, 2022, Order, the ALJ instructed the parties to provide three proposed prehearing conference dates. Complainant's emergency may impede scheduling the prehearing conference, along with the parties' efforts on discovery. Having found potential prejudice to the parties, the Court issues a sixty (60) day stay of proceedings.

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).

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, the parties shall provide a status report that includes three agreed upon potential prehearing conference dates.

SO ORDERED.

Dated May 4, 2022.

Jean C. King
Chief Administrative Law Judge