

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

US TECH WORKERS ET AL.,	)	
Complainant,	)	
	)	
	)	8 U.S.C. § 1324b Proceeding
v.	)	OCAHO Case No. 2024B00044
	)	
	)	
DISCOVER FINANCIAL SERVICES,	)	
Respondent.	)	
	)	

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Appearances: John M. Miano, Esq., for Complainant  
Sean M. McCrory, Esq., and Monica S. Rodriguez, Esq., for Respondent

ORDER SUMMARIZING PREHEARING  
CONFERENCE AND ISSUING STAY OF PROCEEDINGS

I. BACKGROUND

This case arises under the antidiscrimination provisions of the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324b.

On May 1, 2024, the Court issued an Order Setting Prehearing Conference and General Litigation Order, setting an initial prehearing conference for June 4, 2024.

On May 13, 2024, Complainant filed Complainant’s Motion to Consolidate and for Leave to File a Consolidated Amended Complaint (Motion to Consolidate). Respondent filed a Response to Complainant’s Motion to Consolidate on May 28, 2024.

Both parties filed initial prehearing statements on May 22, 2024.

II. PREHEARING CONFERENCE

The Court held an initial telephonic prehearing conference pursuant to 28 C.F.R. § 68.13.<sup>1</sup> Attorney John Miano appeared on behalf of Complainants, and Shawn McCrory and Monica Rodriguez appeared on behalf of Respondent.

The Court asked for the positions of the parties on a stay of proceedings in lieu of setting a case schedule in this matter, pending disposition of Complainant’s Motion to Consolidate. Both parties agreed to a stay of proceedings. The Court granted the stay, informing the parties that a written order would be forthcoming.

The Court also inquired as to the parties’ interest in a referral to OCAHO’s Settlement Officer Program. Both parties stated that a referral at this time would be premature.

### III. STAY OF PROCEEDINGS

Currently pending before the Court is Complainant’s Motion to Consolidate. The Court finds that it would serve judicial economy and efficiency to issue a stay of proceeding pending adjudication of this motion. “The OCAHO Rules vest the Administrative Law Judge (ALJ) with all appropriate powers necessary to regulate the proceedings.” Heath v. Amazee Glob. Ventures, Inc., 16 OCAHO no. 1433, 2 (2022)<sup>2</sup> (citing Hsieh v. PMC-Sierra, Inc., 9 OCAHO no. 1091, 5 (2003)); 28 C.F.R. § 68.28(a). This includes the power to issue stays of proceedings. United States v. Black Belt Sec. & Investigations, 17 OCAHO no. 1456b, 2 (2023) (citing Hsieh, 9 OCAHO no. 1091, at 5). The issuance of a stay “calls for the exercise of judgment, which must weigh competing interests and maintains an even balance,” and “should not be granted absent a clear bar to moving ahead.” See Heath v. ConsultAdd, 15 OCAHO no. 1395b, 2 (2022) (quoting Landis v. N. Am. Co., 299 U.S. 248, 254 (1936), and then quoting Monda v. Staryhab, Inc., 8 OCAHO no. 1002, 86, 91 (1998)).

Here, the Court finds that it would be prudent to issue a stay of proceedings in lieu of setting a case schedule, as the pendency of the Motion to Consolidate presents a bar to the Court’s ability to set an appropriate case schedule in this matter.

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<sup>1</sup> OCAHO Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2023).

<sup>2</sup> Citations to OCAHO precedents in bound volumes one through eight include the volume and case number of the particular decision followed by the specific page in the bound volume where the decision begins; the pinpoint citations which follow are to the pages, seriatim, of the specific entire volume. Pinpoint citations to OCAHO precedents after volume eight, 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 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>.

Therefore, it is ORDERED that proceedings are STAYED pending resolution of Complainant's Motion to Consolidate and for Leave to File a Consolidated Amended Complaint.

SO ORDERED.

Dated and entered June 25, 2024.

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John A. Henderson  
Administrative Law Judge