

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

July 9, 2024

US TECH WORKERS, ET AL.,)	
Complainant,)	
)	
v.)	8 U.S.C. § 1324b Proceeding
)	OCAHO Case No. 2024B00083
)	
COHESIONIB, INC.,)	
Respondent.)	
_____)	

Appearances: John M. Miano, Esq., for Complainant
Leon Rodriguez, Esq., Dawn M. Lurie, Esq., and Edward North, Esq. for Respondent

ORDER DENYING MOTION TO STAY

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

On March 19, 2024, Complainant, US Tech Workers, et al., filed a complaint alleging that Respondent, CohesionIB, Inc.,¹ violated 8 U.S.C. § 1324b(a)(1)(B). On May 7, 2024, Respondent filed its Answer to Complaint.

On May 13, 2024, Complainant filed a Motion to Consolidate and for Leave to File an Amended Consolidated Complaint. Respondent opposed this motion on May 28, 2024.

On May 15, 2024, the Court set a date for an initial prehearing conference for September 12, 2024 at 10:00 am PST/1:00pm EST, and directed that parties shall submit case dispositive motions not requiring discovery on or before July 1, 2024.

¹ The Complaint identified the Respondent as “Cohesion,” but Respondent is “CohesionIB, Inc.” The case caption has been updated accordingly.

Respondent filed a Motion to Dismiss and a Motion to Stay Proceedings on July 1, 2024. In its Motion to Stay Proceedings, Respondent requests “to stay proceedings in [the case] until such time as this court gains the constitutional authority to issue final orders on dispositive motions.” Mot. Stay 3. Respondent cites to an unrelated case in which the Court issued a stay of proceedings due to the Supreme Court’s decision in *United States v. Arthrex, Inc.*, 141 S. Ct. 1970 (2021). *Id.* at 4-5 (citing, inter alia, *Symplice v. New York City Health & Hospitals Corp.*, 18 OCAHO no. 1493 (2023)).² In the alternative, Respondent requests a stay of proceedings in service of “judicial economy and efficiency” pending adjudication of the Motion to Consolidate and Motion to Dismiss.

First, as to Respondent’s argument regarding *Arthrex, Inc.*, the Court is not inclined to issue a stay of proceedings on this ground. As the Court has previously explained:

On October 12, 2023, the Department of Justice published an interim final rule providing for review by the Attorney General of OCAHO Administrative Law Judge (ALJ) final orders in cases arising under 8 U.S.C. § 1324b. *See* Office of the Chief Administrative Hearing Officer, Review Procedures, 88 Fed. Reg. 70586 (Oct. 12, 2023) (codified at 28 C.F.R. pt. 68). The regulation resolved the issue identified in *A.S. v. Amazon Web Servs., Inc.* that led to the stay. As a result of this change to the regulation, this Court may proceed to a final case disposition in this matter.

Symplice v. New York City Health & Hospitals Corp., 18 OCAHO no. 1493a, 2 (2024); *see also* *Zajradhara v. HDH Co., Ltd.*, 16 OCAHO no. 1417d, 2 (2023) (same); *Sinha v. Infosys Ltd.*, 14 OCAHO no. 1373d, 2 (2024) (same); *Zajradhara v. E-Supply Enters.*, 16 OCAHO no. 1438h, 2 (2023) (same).

As to Respondent’s arguments regarding judicial economy and efficiency, an ALJ may issue a stay for these reasons, but 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

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>.

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)).

In deciding not to stay the case, the Court considered the following: the Court has before it a dispositive motion from Respondent (with pending response deadline for Complainant); parties are not yet in discovery; and the initial telephonic prehearing conference is scheduled in September. In sum, there are no clear bars to moving ahead and it is unclear what problem a stay would solve.

For these reasons, Respondent’s Motion to Stay Proceedings is DENIED.

SO ORDERED.

Dated and entered on July 9, 2024.

Honorable Andrea R. Carroll-Tipton
Administrative Law Judge