

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. 2024B00041
)	
)	
CALAMOS INVESTMENTS,)	
Respondent.)	
)	

Appearances: John M. Miano, Esq. for the Complainant
Eric S. Bord, Esq., Thomas H. Severson, Esq., and Hannah Fisher, Esq., for
Respondent

ORDER GRANTING STAY OF SUPPLEMENTAL BRIEFING
DEADLINE, AND MOTION TO WITHDRAW AND SUBSTITUTE COUNSEL

I. BACKGROUND

This case arises under the antidiscrimination provisions of the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324b. Complainant US Tech Workers filed its Complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) on February 9, 2024, alleging that Respondent Calamos Investments discriminated on the basis of citizenship status in violation of 8 U.S.C. § 1324b(a)(1). Respondent filed its Answer on April 29, 2024; it filed its Motion to Dismiss on the same day.

On February 2, 2025, Complainants filed a Motion for Leave to File an Amended Complaint, with a First Amended Complaint attached.

On February 19, 2025, the parties filed a Joint Notice of Respondent's Lack of Opposition to Complainant's Motion for Leave to Amend and Request to Stay Supplemental Briefing Deadline. The motion requests that the supplemental brief deadline be stayed, proposing different deadlines depending on whether the Court grants Complainants' Motion for Leave to Amend. *Id.* at 2.

Also on February 19, 2025, Respondent separately filed an Unopposed Motion for Withdrawal of Eric L. Mackie and Substitution of Thomas H. Severson as Counsel, noting that

Mr. Mackie “is no longer an attorney” with the firm and that Mr. Severson “is available to assist in Calamos’ representation in this matter, along with remaining counsel of record” Mot. Withdrawal 1. Complainant has no objection. *Id.* at 2. Mr. Severson also filed his electronic filing registration form.

Because the original supplemental briefing deadline was imminent, at the undersigned’s direction, Court staff emailed the parties on February 19, 2025 to indicate that the requested stay of the supplemental briefing deadline would be granted, with an order recording the grant forthcoming.

II. REQUEST TO STAY SUPPLEMENTAL BRIEFING DEADLINE GRANTED

Under OCAHO’s Rules of Practice and Procedures, 28 C.F.R. pt. 68 (2024),¹ the presiding Administrative Law Judge (ALJ) may exercise “all appropriate powers necessary to conduct fair and impartial hearings” 28 C.F.R. § 68.28(a). “This includes the authority to ‘regulate’ and, thus, stay proceedings.” *US Tech Workers v. Ulta Inc.*, 20 OCAHO no. 1595a, 1 (2024) (citing *United States v. Black Belt Sec. & Investigations*, 17 OCAHO no. 1456b, 2 (2023)).² When considering whether to issue a stay, the Court “must weigh competing interests and maintain[] an even balance,” keeping in mind that a stay “should not be granted absent a clear bar to moving ahead.” *Heath v. ConsultAdd*, 15 OCAHO no. 1395b, 2 (2022) (quoting first *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936), then *Monda v. Staryhab, Inc.*, 8 OCAHO no. 1002, 86, 91 (1998)).

As previously indicated to the parties, the Court find a stay of the supplemental briefing appropriate.³ The Joint Notice was signed by both parties, indicating that Complainant has no objection to the stay. Moreover, the Court finds good cause to issue the stay. A decision on the Motion to Amend may have a collateral impact on the briefing for the Motion to Dismiss.

The supplemental briefing deadline is therefore STAYED pending adjudication of Complainants’ Motion for Leave to Amend. The Court will set new briefing deadlines as appropriate when it adjudicates the Motion for Leave to Amend.

¹ OCAHO Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2024). The rules are also available through OCAHO’s webpage on the United States Department of Justice’s website. See <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-regulations>.

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>.

³ The Court notes that Complainants filed a Supplemental Brief on Respondent’s Motion to Dismiss on February 20, 2025. Complainants need not re-submit the supplemental brief, though they are free to file an Amended Supplemental Brief when Respondent files its supplemental briefing, if so desired.

III. MOTION FOR WITHDRAWAL AND SUBSTITUTION GRANTED

OCAHO's Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2024), provide that "[w]ithdrawal or substitution of an attorney or representative may be permitted by the Administrative Law Judge upon written motion." 28 C.F.R. § 68.33(g). Respondent has satisfied the regulatory requirement to withdraw Eric L. Mackie and substitute Thomas Severson as counsel.

The Motion to Withdraw and Substitute Counsel is GRANTED. Mr. Severson will be served with all Court orders electronically.

SO ORDERED.

Dated and entered on April 4, 2025.

Honorable John A. Henderson
Administrative Law Judge