

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. 2024B00048
	)	
WALGREENS,	)	
Respondent.	)	
	)	

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Appearances: John M. Miano, Esq., for Complainant  
Eric S. Bord, Esq. and Eric L. Mackie, Esq., for Respondent

ORDER ON MOTION FOR EXTENSION  
OF TIME AND ORDER STAYING PROCEEDINGS

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 a Complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) on February 9, 2024, alleging that Respondent, Walgreens, discriminated against it on the basis of citizenship status in violation of 8 U.S.C. § 1324b(a)(1). Respondent filed an answer to the Complaint and a Motion to Dismiss on April 29, 2024.

On May 2, 2024, the Court issued an Order Setting Prehearing Conference and General Litigation Order. The Court set a date for an initial telephonic prehearing conference on June 5, 2024 at 2:00pm Eastern Time, and ordered the parties to file initial prehearing statements with the Court by May 23, 2024. Gen. Lit. Order 1–2. The Court further ordered that oppositions to non-dispositive motions must be filed within 14 calendar days after receiving the motion, and all replies shall be filed seven days thereafter. *Id.* at 5.

On May 13, 2024, Complainant filed a Motion to Consolidate and for Leave to File a Consolidated Amended Complaint. Complainant filed a response to Respondent’s Motion to Dismiss on May 14, 2024.

On May 24, 2024, Respondent filed Respondent Walgreen Company’s Motion for Extension of Time. Respondent requests that the Court extend pending deadlines in the case due to professional commitments, holiday travel, and a scheduled medical procedure. Mot. Extension 2. Respondent writes that it contacted Complainant’s counsel on May 23, 2024, and Complainant’s counsel had no objection to the proposed extension of pending case deadlines. Id.

## II. MOTION FOR EXTENSION

“OCAHO’s Rule of Practice and Procedure for Administrative Hearings do not provide specific standards for granting extensions, but the standard routinely applied is good cause.” United States v. Space Expl. Techs., 18 OCAHO no. 1499, 5 (2023) (citing United States v. Exim, 3 OCAHO no. 591, 1925, 1929 (1993); and then citing United States v. Four Star Knitting, Inc., 5 OCAHO no. 815, 711, 714 (1995)); *see also* Talebinejad v. Mass. Inst. Tech., 17 OCAHO no. 1464, 2 (2022) (citing Tingling v. City of Richmond, 13 OCAHO no. 1324c, 2 (2021)).<sup>1</sup>

The Court finds that Respondent has shown good cause for an extension of the pending deadlines in this case. This Court has found good cause to stay case deadlines in light of competing commitments and medical concerns. *See, e.g.*, Zajradhara v. LBC Mabuhay (Saipan) Inc., 16 OCAHO no. 1423b, 2–3 (2022) (collecting cases). Moreover, the Court does not find that an extension of case deadlines would prejudice the Complainant, given that Complainant has assented to the extensions. *See, e.g.*, Space Expl. Techs., 18 OCAHO no. 1499, at 7 (finding that an extension of 30 days was “not so great as to impact substantially these proceeding,” and noting that it was the “first requested extension of time from either party and the request is agreed”).

Respondent’s Motion for Extension of Time is GRANTED, and the pending case deadlines are adjusted as follows<sup>2</sup>:

<sup>1</sup> 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>.

<sup>2</sup> Given the significant delays in receiving and transmitting court filings by mail, the Court’s offices, as a courtesy to the parties, communicated the granting of this motion by email in early June. The Court encourages the parties, to the extent they would like to speed the process by which they are heard by the Court and receive the Court’s orders, to register for the OCAHO e-filing program by completing the form sent to them at the beginning of this litigation and available on the Court’s website at <https://www.justice.gov/eoir/ocaho-filing>.

- Deadline for Reply in Support of Motion to Dismiss: June 6, 2024
- Deadline for Prehearing Statements: June 13, 2024
- Deadline for Respondent’s Response to Complainant’s Motion to Consolidate: June 18, 2024
- Deadline for Reply in Support of Motion to Consolidate: July 2, 2024

Given this revised case schedule, the Court VACATES the prehearing conference previously set for June 5, 2024.

### III. STAY OF PROCEEDINGS

Presently pending before the Court is Complainant’s Motion to Consolidate and for Leave to File a Consolidated Amended Complaint and Respondent’s Motion to Dismiss. The Court finds that it would be in the interest of efficiency and judicial economy to stay proceedings pending the resolution of these motions.

“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) (citing Hsieh v. PMC-Sierra, Inc., 9 OCAHO no. 1091, 5 (2003)); 28 C.F.R. § 68.28(a).<sup>3</sup> 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)).

The pending Motion to Consolidate may impact discovery and the appropriate case schedule in this matter, and the pending Motion to Dismiss (which argues failure to state a claim) would be case-dispositive if granted. As such, the Court finds that holding a prehearing conference to set a case schedule in advance of ruling on the motions would not be the most efficient use of the Court or the parties’ time. See 28 C.F.R. §§ 68.5(a), 68.13(a)(2)(viii) (explaining that the Court notifies the parties of a prehearing conference following receipt of the answer, which may be used to set a case schedule); US Tech Workers et al. v. Fifth Third Bank,

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<sup>3</sup> OCAHO Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2023).

19 OCAHO no. 1550, 3 (2024) (finding stay of answer deadline would be in the interest of judicial economy pending resolution of potentially case-dispositive motion to dismiss).

Aside from the briefing schedule detailed above, proceedings are otherwise STAYED in this matter pending resolution of Respondent’s Motion to Dismiss and Complainant’s Motion to Consolidate.<sup>4</sup>

SO ORDERED.

Dated and entered on June 25, 2024.

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John A. Henderson  
Administrative Law Judge

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<sup>4</sup> The Court notes that Respondent also requests a stay of proceedings due to “ongoing litigation in the federal courts rais[ing] questions about this Court’s authority to order [dismissal of the Complaint].” Mot. Dismiss 9–12. The Court does not reach this request at this time.