

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

June 25, 2024

US TECH WORKERS, ET AL.,)	
Complainant,)	
)	
)	8 U.S.C. § 1324a Proceeding
v.)	OCAHO Case No. 2024B00067
)	
)	
BMO BANK.,)	
Respondent.)	
_____)	

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

ORDER DENYING MOTION TO STAY

I. PROCEDURAL HISTORY

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 filed a complaint alleging Respondent, BMO Bank, 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 a Consolidated Amended Complaint.

On May 15, 2024, the Court issued its Order Setting Prehearing Conference and Motion Deadline.

On June 7, 2024, Respondent filed its Opposition to Complainant’s Motion to Consolidate.

On June 17, 2024, Respondent filed a Motion to Dismiss and a Motion to Stay Proceedings.

II. LAW AND ANALYSIS

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 unrelated cases where the Court had previously issued stays in light of in light of *United States v. Arthrex*, 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)).¹ However, these references have been overcome by regulatory events (any many of those cases have since been resolved), notably:

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); *Sinha v. Infosys Ltd.*, 14 OCAHO no. 1373d, 2 (2024); *Zajradhara v. E-Supply Enters.*, 16 OCAHO no. 1438h, 2 (2023).

For this reason, Respondent’s motion is DENIED.

¹ 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>.

SO ORDERED.

Dated and entered on June 25, 2024.

Honorable Andrea R. Carroll-Tipton
Administrative Law Judge