

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

July 31, 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. and Dawn M. Lurie, Esq., for Respondent

ORDER ON MOTION TO WITHDRAW AND MOTION FOR LEAVE TO REPLY

I. BACKGROUND

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 against Respondent, CohesionIB, Inc., alleging Respondent violated 8 U.S.C. § 1324b(a)(1)(B). On May 7, 2024, Respondent filed an Answer.

On July 1, 2024, Respondent filed a Motion to Dismiss and a Motion to Stay Proceedings. The Court denied the request for a stay on July 9, 2024. *US Tech Workers v. CohesionIB, Inc.*, 20 OCAHO no. 1594 (2024).¹ On July 11, 2024, Complainant filed a Response.

¹ 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>.

On July 24, 2024, Respondent filed a motion to withdraw one of its counsel. Respondent also filed a Motion for Leave to File a Reply Memorandum in Support of Respondent’s Motion to Dismiss and Opposition to Complainant’s Motion for Partial Summary Judgment.

II. MOTION TO WITHDRAW

Pursuant to 28 C.F.R. § 68.33(g), “[w]ithdrawal or substitution of an attorney or representative may be permitted by the Administrative Law Judge upon written motion,” and the “Administrative Law Judge shall enter an order granting or denying such motion for withdrawal or substitution.” Respondent has complied with the regulatory requirements, and withdrawal of one of the counsel will not impact case management. The Court GRANTS the Motion to Withdraw as Counsel (Mr. North). *See generally United States v. Facebook, Inc.*, 14 OCAHO no. 1386e, 3, 6 (2021).

III. MOTION FOR LEAVE TO FILE REPLY

“OCAHO’s Rules of Practice and Procedure for Administrative Hearings do not allow parties to file replies or sur-replies unless the Court provides otherwise.” *United States v. Space Expl. Techs. Corp.*, 18 OCAHO no. 1499a, 4 (2023) (citing 28 C.F.R. § 68.11(b)).² “A party must seek leave of Court before filing a reply . . . and the decision whether to allow a reply or sur-reply ‘is solely within the judge’s discretion.’” *Id.* (citing *Hsieh v. PMC-Sierra, Inc.*, 9 OCAHO no. 1093, 7 (2003), and then citing *Diaz v. Pac. Mar. Assoc.*, 9 OCAHO no. 1108, 3 (2004)).

Respondent requests leave to reply to Complainant’s Response to Respondent’s Motion to Dismiss, and attaches the proposed filing as Exhibit 1. Complainant has not opposed Respondent’s motion. By way of its Reply, Respondent seeks to provide additional argument for the Court’s consideration pertaining to matters raised in Complainant’s response.

The Court will exercise its discretion to accept Respondent’s Reply, as it would “further record development and provide an opportunity for parties to be heard on novel issues or argument.” *See Sharma v. NVIDIA Corp.*, 17 OCAHO 1450j, 3 (2023) (citing *Heath v. Ameritech Global*, 16 OCAHO 1435, 3 (2022)); *see also United States v. Walmart Inc. (Bethlehem)*, 17 OCAHO no. 1475d, 7 (2023) (accepting reply brief addressing which “portions of the response the Court should consider”).

SO ORDERED.

Dated and entered on July 31, 2024.

Honorable Andrea R. Carroll-Tipton
Administrative Law Judge

² OCAHO Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2023).