

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

MAHMOUD M. HAMMOUDAH,)	
Complainant,)	
)	
)	8 U.S.C. § 1324b Proceeding
v.)	OCAHO Case No. 98B00072
)	
RUSH-PRESBYTERIAN-)	MARVIN H. MORSE
ST LUKE'S MEDICAL)	Administrative Law Judge
CENTER,)	
Respondent.)	
)

ORDER

(March 2, 2000)

While this case is pending before me on motion by Respondent (Respondent or Rush) for summary decision, and on related pleadings by both parties, I issue this order to dispose of the most recent filing, *i.e.*, Respondent's Motion for Leave to File Supplemental Brief Concerning New Authority. Filed February 18, 2000, Respondent's motion transmits a February 17, 2000, Memorandum Opinion and Order granting summary judgment to Rush against Complainant in *Hammoudah v. Rush-Presbyterian-St. Luke's Medical Center*, Case No. 98 C 5050, United States District Court for the Northern District of Illinois.

Reciting that "Rush believes" that the district court action "has res judicata and/or fact collateral estoppel effect on the IRCA case" before me, Respondent softens its stance, suggesting instead that "at a minimum, the Federal Court's decision has significant precedential value here." Rush concludes by requesting "leave to file a short brief addressing the impact" of the district court action.

Although intuitively and in most cases I opt for inclusion, I will deny Respondent's motion. Had the district court ruled against Rush I would not suppose Respondent would have filed the same

motion here. It is not appropriate to clutter this already voluminous record with argumentation that is doomed to failure.

Respondent's "belief" implicitly ignores the legislative assignments of jurisdiction for classifications of workplace discrimination: (1) the parceling out of national origin jurisdiction in 8 U.S.C. §1324b as between the Equal Employment Opportunity Commission (EEOC) and the courts on the one hand and the Department of Justice (DOJ) with concomitant appellate court review on the other hand; and, (2) the exclusive legislative assignment of citizenship status discrimination jurisdiction to DOJ as distinct from the vesting in EEOC of age and religious discrimination. As components of a comprehensive regimen intended to prohibit discrimination in the workplace, a determination with respect to any one such cause of action cannot be understood to compel or necessarily implicate an identical result as to any other such case. The uniqueness of each such cause of action even where arising out of identical facts, as illustrated by the statutory bar against overlap between §1324b national origin claims and Title VII national origin claims, 8 U.S.C. §1324b(b)(2), was addressed early in §1324b jurisprudence, which also rejected the notion that §1324b citizenship status discrimination findings were dependent upon national origin discrimination determinations. *See e.g., Martinez v. Marcel Watch Corporation*, 1 OCAHO 143, at 1000–01, available in 1990 WL 512127, at *10 (1990); *Romo v. Todd Corporation*, 1 OCAHO 25, at 122–125, available in 1988 WL 409425 at *5–6 (1988), affirmed *sub. nom.*, *United States v. Todd Corp.*, 900 F.2d 164 (9th Cir. 1990).¹

Notwithstanding rejection of Respondent's suggestion that I am bound by the opinion and order of the district court, I recognize that it was Complainant who first filed in this docket selected pleadings from the other case. I also acknowledge Rule 15(d) of the Federal Rules of Civil Procedure effectively obliges the parties to advise the forum of significant events in related proceedings.

¹ Citations to OCAHO precedent refer to the volume and consecutive reprint number assigned to decisions and orders. Pinpoint citations to precedents in Volumes 1 and 2, ADMINISTRATIVE DECISIONS UNDER EMPLOYER SANCTIONS AND UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES LAWS OF THE UNITED STATES, and Volumes 3 through 7, ADMINISTRATIVE DECISIONS UNDER EMPLOYER SANCTIONS, UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES AND CIVIL PENALTY DOCUMENT FRAUD LAW OF THE UNITED STATES are to specific pages, seriatim of the specific entire volume. Pinpoint citations to OCAHO precedents subsequent to Volume VII are to pages within the original issuances.

I accept for informational filing only the copy of the Memorandum Opinion and Order dated February 17, 2000 in *Hammoudah v. Rush-Presbyterian-St. Luke's Medical Center*, Case No. 98 C 5050, United States District Court for the Northern District of Illinois. I deny the motion to file a brief which addresses the impact of that action, and I reject the suggestion that disposition by the district court of alleged national origin, age and religious discrimination has either *res judicata* or estoppel effect upon a citizenship status discrimination claim arising out of the same putative facts. 28 C.F.R. §68.9(e).

SO ORDERED.

Dated and entered this 2nd day of March, 2000.

Marvin H. Morse
Administrative Law Judge