

ROBERT PAUL HEATH,)
Complainant,)
) 8 U.S.C. § 1324b Proceeding
v.)
) OCAHO Case No. 2021B00060
I-SERVICES, INC.,)
Respondent.)
)

ORDER ISSUING STAY OF PROCEEDINGS

This case arises under the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324b. Complainant, Robert Heath, filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) on September 22, 2021. Complainant alleges that Respondent, I-Services, Inc., discriminated against him based on citizenship status and national origin, and engaged in unfair documentary practices, in violation of § 1324b. On February 14, 2022, Respondent filed an answer and a response to the Court's December 3, 2021, Order to Show Cause. On February 22, 2022, the Court denied Complainant's Motion for Default Judgment, filed on February 16, 2022, and accepted Respondent's answer and good cause filing.

On February 22, 2022, the Court issued an Order for Prehearing Statements. On March 25, 2022, Complainant filed his Prehearing Statement.

Complainant called the Court on April 8 and April 18, 2022. Complainant informed an OCAHO staff member that he has experienced an emergency. It is unclear whether Complainant gave notice to all other parties in this matter as required by 28 C.F.R. § 68.36. Given the circumstances and

¹ The Court has accepted filings from Murali Ghanta. Ghanta represents that he is the President of I-Services, Inc. The OCAHO Rules, found at 28 C.F.R. pt. 68 (2022) which govern this proceeding, allow a partner or a general officer to appear on behalf of the company. *See* 28 C.F.R. § 68.33(c)(3)(iv). However, the company representative must file a notice of appearance. *See* § 68.33(f). The Court orders Ghanta to file a notice of appearance. The notice of appearance must include the case name, case number, the party on whose behalf the appearance is made, and a certificate of service. *Id.*; § 68.6(a).

out of an abundance of caution, the Court is providing notice to the parties of the communication.² The Court provides Respondent fourteen (14) days, from the date of this Order, to submit a response, if any, it deems appropriate. *See Tingling v. City of Richmond*, 13 OCAHO no. 1324b, 3 (2021).³

While Complainant did not address this case specifically, it appears to the Court that Complainant's emergency could affect the parties' ability to comply with the Court's February 22, 2022, Order for Prehearing Statements.

The OCAHO Rules vest the Administrative Law Judge (ALJ) with all appropriate powers necessary to regulate the proceeding. *See Hsieh v. PMC-Sierra, Inc.*, 9 OCAHO no. 1091, 5 (citing 28 C.F.R. § 68.28)). The power to stay proceedings⁴ is incidental to a court's inherent power to "control the disposition of the cases on its docket with economy of time and effort for itself, for counsel, and for litigants. How this can best be done calls for the exercise of judgment, which must weigh competing interests and maintain an even balance." *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936) (citations omitted); *see also Monda v. Staryhab, Inc.*, 8 OCAHO no. 1002, 86, 91 (1998) (citations omitted) ("A stay of proceedings should not be granted absent a clear bar to moving ahead."). In the exercise of its judgment, the Court may issue a stay of proceedings without a motion from either party. *See, e.g., A.S. v. Amazon Web Servs., Inc.*, 14 OCAHO no. 1381o, 2–3 (2022); *Jablonski v. Robert Half Legal*, 12 OCAHO no. 1272, 3 (2016).

The Court determines that a sixty (60) day stay of proceedings is appropriate given the circumstances. Pursuant to the Order for Prehearing Statements, Respondent was ordered to

² The Court understands Complainant's phone calls as communication of a scheduling issue. *See* 28 C.F.R. § 68.36(a). To the extent that Complainant's phone calls could be considered ex parte communication, this Order satisfies the ALJ's obligation to disclose it to the parties and provide an opportunity for response. *See Tingling v. City of Richmond*, 13 OCAHO no. 1324b, 2–3 (2021); *see also* § 68.36(a); 5 U.S.C. § 557(d)(1).

³ 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 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 "FIM-OCAHO," or in the LexisNexis database "OCAHO," or on the website at <http://www.justice.gov/eoir/OcahoMain/ocahosibpage.htm#PubDecOrders>.

⁴ A stay of proceedings is generally defined as "a ruling by a court to stop or suspend a proceeding . . . temporarily or indefinitely. A Court may later lift the stay and continue the proceeding." *Stay of Proceedings*, LEGAL INFO. INST., https://www.law.cornell.edu/wex/stay_of_proceedings (last visited May 4, 2022); *see also Stay*, BLACK'S LAW DICTIONARY (11th ed. 2019).

provide a prehearing statement,⁵ and the parties were ordered to jointly provide proposed prehearing conference dates. Complainant's emergency may impede Respondent's ability to contact Complainant in preparation of its prehearing statement, as well as the parties' ability to meet and confer on prehearing conference dates. Having found potential prejudice to Complainant and Respondent, the Court issues a sixty (60) day stay of proceedings.

In light of the stay, the Court extends the deadline for Respondent to file its prehearing statement. Respondent shall file its prehearing statement no later than sixty (60) days from the date of this Order. Following submission of Respondent's prehearing statement, the parties shall meet and confer, and provide the Court written notice of three agreed upon prehearing conference dates.

SO ORDERED.

Date: May 9, 2022

Jean C. King
Chief Administrative Law Judge

⁵ As of the date of this Order, the Court has not received Respondent's prehearing statement.