

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

UNITED STATES OF AMERICA,	)	
Complainant,	)	
	)	
	)	8 U.S.C. § 1324a Proceeding
v.	)	OCAHO Case No. 2023A00081
	)	
RON’S TEMPORARY HELP SERVICES, INC.,	)	
D/B/A RON’S STAFFING SERVICES,	)	
Respondent.	)	
	)	

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Appearances: Matthew Brunkhorst, Esq., and Jill J. Bhalakia, Esq., for Complainant  
Eileen Momblanco, Esq., for Respondent

### FINAL ORDER OF DISMISSAL

This case arises under the employer sanction provisions of the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324a. On August 11, 2023, Complainant, the United States Department of Homeland Security, Immigration and Customs Enforcement (ICE) filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) against Respondent, Ron’s Temporary Help Services, Inc., d/b/a Ron’s Staffing Services. Complainant alleges that Respondent failed to ensure proper completion of Forms I-9, or, in the alternative, failed to prepare Forms I-9, in violation of § 1324a(a)(1)(B).

On September 12, 2023, the parties submitted a Joint Motion to Stay Proceedings, citing their desire to engage in settlement discussions. The Court issued a stay until January 2, 2024, referred the case to the Settlement Officer Program for mediation, then granted an extension to the referral.

Upon return from the Settlement Officer Program, the parties filed a Notice of Settlement and Joint Motion to Dismiss on July 12, 2024. The Notice indicates that the parties “have reached a full settlement of this case and are in agreement to dismiss this action,” pursuant to 28 C.F.R. § 68.14(a)(2). Notice 1. The parties did not attach their agreement and did not indicate whether they request dismissal with or without prejudice.

When parties have entered into a settlement agreement, they “shall . . . [n]otify the Administrative Law Judge that the parties have reached a full settlement and have agreed to dismissal of the action. Dismissal of the action shall be subject to the approval of the

Administrative Law Judge, who may require the filing of the settlement agreement.” 28 C.F.R. § 68.14(a)(2).

The Court finds that the parties’ Notice of Settlement complies with the requirements of 28 C.F.R. § 68.14(a)(2). The Court declines to require the filing of the settlement agreement as both parties are represented and were actively engaged in the case.

However, the Court must determine whether to grant dismissal with or without prejudice. The Notice of Settlement does not indicate the parties’ preference on the issue. “The courts have previously held that when the parties fail to indicate whether they seek dismissal with or without prejudice, the matter is left to the sound discretion of the trial court.” United States v. Chinese Back Rub, 17 OCAHO no. 1452, 2 (2022) (citing Tingling v. City of Richmond, VA, 13 OCAHO no. 1324e, 2 (2021)).<sup>1</sup> While a “dismissal with prejudice would allow a complainant to refile a complaint as if it had never been filed . . . a dismissal with prejudice has ‘both res judicata and collateral estoppel consequences.’” United States v. RGV Best Burger, Inc., 18 OCAHO no. 1492, 3 (2023) (quoting 9 Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 2367 (4th ed. 2023)). “In evaluating the nature of the dismissal, the courts have sought guidance from the motion itself and from circumstantial evidence, including the parties’ conduct while in the forum, and any other statements or conduct indicative of their preference.” Chinese Back Rub, 17 OCAHO no. 1452 at 2.

Both the parties’ Notice of Settlement and their prior engagement in this forum indicate that dismissal with prejudice is appropriate. Although the Notice does not indicate the preference on dismissal with or without prejudice, it does indicate that the parties have “reached a full settlement.” Notice 1. Additionally, from the initiation of this case, the parties have indicated their intention to resolve this matter via settlement. Following the Complaint, the first submission was not an answer, but a Joint Motion to Stay Proceedings, in which the parties jointly indicated that they wished to discuss settlement before Respondent had to file an answer. Joint Mot. Stay 1. The parties subsequently jointly requested that the case be referred to the Settlement Officer Program and that Respondent’s answer deadline be stayed during the referral. Joint Mot. Refer 1-2.

Throughout the course of this case, the parties have only ever indicated that they both desire the case to be resolved without further litigation. Considering both the Notice of Settlement itself and the parties’ statements and conduct while in the forum, the Court concludes that the parties’ intention indicate that a dismissal with prejudice is appropriate. The Court will therefore order dismissal with prejudice.

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<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>.

Because the parties have jointly requested dismissal and complied with the regulatory requirements for dismissal pursuant to 28 C.F.R. § 68.14(a)(2), this case is DISMISSED WITH PREJUDICE.

SO ORDERED.

Dated and entered on July 31, 2024.

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John A. Henderson  
Administrative Law Judge

### Appeal Information

This order shall become the final agency order unless modified, vacated, or remanded by the Chief Administrative Hearing Officer (CAHO) or the Attorney General.

Provisions governing administrative reviews by the CAHO are set forth at 8 U.S.C. § 1324a(e)(7) and 28 C.F.R. pt. 68. Note in particular that a request for administrative review must be filed with the CAHO within ten (10) days of the date of this order, pursuant to 28 C.F.R. § 68.54(a)(1).

Provisions governing the Attorney General's review of this order, or any CAHO order modifying or vacating this order, are set forth at 8 U.S.C. § 1324a(e)(7) and 28 C.F.R. pt. 68. Within thirty (30) days of the entry of a final order by the CAHO, or within sixty (60) days of the entry of an Administrative Law Judge's final order if the CAHO does not modify or vacate such order, the Attorney General may direct the CAHO to refer any final order to the Attorney General for review, pursuant to 28 C.F.R. § 68.55.

A petition to review the final agency order may be filed in the United States Court of Appeals for the appropriate circuit within forty-five (45) days after the date of the final agency order pursuant to 8 U.S.C. § 1324a(e)(8) and 28 C.F.R. § 68.56.