

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

WILLIAM MATTHEW KONITZER,	)	
	)	
Complainant,	)	
	)	8 U.S.C. § 1324b Proceeding
v.	)	
	)	OCAHO Case No. 2024B00025
MIRANTIS, INC.,	)	
	)	
Respondent.	)	
_____	)	

Appearances: William Matthew Konitzer, pro se Complainant  
K. Edward Raleigh, Esq., for Respondent

FINAL ORDER OF DISMISSAL

I. PROCEDURAL HISTORY

On December 12, 2023, Complainant, William Matthew Konitzer, filed a complaint against Respondent, Mirantis, Inc., with the Office of the Chief Administrative Hearing Officer (OCAHO). Complainant alleges that Respondent discriminated against him based on citizenship status, in violation of the antidiscrimination provisions of the Immigration and Nationality Act (INA), as amended by the Immigration Reform and Control Act of 1986, 8 U.S.C. § 1324b. Compl. § 6. Complainant attached to his complaint (a) the letter dated September 12, 2023, from the Immigrant and Employee Rights Section (IER) of the United States Department of Justice's Civil Rights Division informing him of his right to file a complaint with OCAHO and (b) the IER Charge dated May 15, 2023. *Id.* Exs. A–B.

On January 11, 2024, the Chief Administrative Hearing Officer (CAHO) sent by United States Postal Service (USPS) certified mail a Notice of Case Assignment for Complaint Alleging Unfair Immigration-Related Employment Practices, the complaint, the IER letter, and the IER Charge (together, the Complaint package), to two addresses for Respondent listed in the complaint. While one copy of the

Complaint package was returned to the Court as undeliverable, the USPS tracking website indicated that the Complaint package mailed to Respondent's other address was delivered on January 17, 2024. Under OCAHO's Rules of Practice and Procedure for Administrative Hearings, Respondent's answer was due no later than February 16, 2024, being thirty days after service of the complaint. *See* 28 C.F.R. § 68.9(a).<sup>1</sup>

On February 1, 2024, Respondent filed Respondent's Answer to Complaint and Respondent's Motion to Dismiss. On February 7, 2024, Respondent's counsel filed a Notice of Appearance pursuant to 28 C.F.R. § 68.33(f). Complainant filed a response to Respondent's Motion to Dismiss on February 14, 2024. *See* 28 C.F.R. §§ 68.11(b), 68.8(c)(2).

By letter dated February 13, 2024, OCAHO staff invited the parties to participate in OCAHO's Electronic Filing Pilot Program.<sup>2</sup> Both parties filed their completed registration and certification forms, and on February 29, 2024, the Court issued an Order on Electronic Filing, permitting the parties to send and receive filings with the Court electronically.

On July 9, 2024, Complainant electronically filed a signed letter.<sup>3</sup> Complainant wrote that he was "writing to formally withdraw the charge I filed against [Respondent]" after "reaching a settlement agreement." Complainant's Letter 1. Given this settlement agreement, Complainant wrote that he had "decided

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<sup>1</sup> OCAHO's Rules of Practice and Procedure for Administrative Hearings, being the provisions contained in 28 C.F.R. part 68 (2024), are available on the United States Department of Justice's website. *See* <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-regulations>.

<sup>2</sup> OCAHO's Electronic Filing Pilot Program is described in detail in the Federal Register. *See* 79 Fed. Reg. 31,143 (May 30, 2014).

<sup>3</sup> Complainant did not comply with OCAHO's Rules of Practice and Procedure for Administrative Hearings and OCAHO's Practice Manual, given that his letter did not contain a case caption with a title or a signed certificate of service. *See* OCAHO Practice Manual, Chapters 3.2(c), 3.3(a) (Mar. 13, 2023); 28 C.F.R. §§ 68.6(a), 68.7(a). The Court exercised its discretion and accepted the filing despite these deficiencies, considering Complainant's pro se status, the posture of the case, and the fact that Respondent's counsel was served with the filing via Complainant's email.

to withdraw and dismiss with prejudice all claims associated with this charge” and asked the Court to consider his letter as a request to withdraw his charge. *Id.*

On July 11, 2024, the parties filed by mail a Joint Stipulation Dismissing Complaint, Request for a Hearing, and Proceeding. The parties wrote that, after “[e]xtensive negotiations and discussions,” they had reached a “mutually satisfactory resolution” of the issues raised in the complaint. Joint Stip. Dismissing Compl., Req. Hr’g, & Proceeding ¶ 2. The parties explained that they had “executed a Confidential Settlement Agreement and Release” and now seek to dismiss this case and the “claims brought by Complainant against Respondent in this action.” *Id.* ¶¶ 1, 3. Complainant and Respondent’s counsel jointly signed the filing. *Id.* at 2. The parties did not attach a copy of their settlement agreement and asserted that the approval of the Administrative Law Judge (ALJ) was “not required because no statute or regulation requires it.” *Id.* at ¶ 4 (citing 29 C.F.R. § 18.71(a)).

## II. LEGAL STANDARDS AND DISCUSSION

OCAHO’s Rules of Practice and Procedure for Administrative Hearings provide two avenues for parties seeking to conclude a case after entering into a settlement agreement. 28 C.F.R. § 68.14(a)(1) provides that when parties have entered into a settlement agreement, they shall “[s]ubmit to the presiding Administrative Law Judge: (i) The agreement containing consent findings; and (ii) A proposed decision and order . . . .” Alternatively, pursuant to 28 C.F.R. § 68.14(a)(2), parties may “[n]otify the [ALJ] 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 [ALJ], who may require the filing of the settlement agreement.” *Id.* § 68.14(a)(2).

Before the Court are Complainant’s July 9, 2024, letter and the parties’ Joint Stipulation Dismissing Complaint, Request for a Hearing, and Proceeding. In his letter, Complainant represents that he has reached a settlement agreement with Respondent, and he expresses a desire to “dismiss with prejudice all claims associated with this charge.” Complainant’s Letter 1. Through their Joint Stipulation Dismissing Complaint, Request for a Hearing, and Proceeding, the parties state that they have executed a settlement agreement and request that the Court dismiss the complaint and these proceedings. Joint Stip. Dismissing Compl., Req. Hr’g, & Proceeding ¶¶ 1–3. Although the body of the parties’ Joint Stipulation Dismissing Complaint, Request for a Hearing, and Proceeding does not specify whether the parties seek dismissal with or without prejudice, an attached proposed order entitled

“Order Dismissing Complaint and Proceeding” reflects the parties’ intention that the Court dismiss this matter with prejudice. *Id.* Ex. A (“this proceeding is DISMISSED WITH PREJUDICE”).

Given the parties’ representations in their filings, the Court construes Complainant’s letter as a notification of settlement and the parties’ Joint Stipulation Dismissing Complaint, Request for a Hearing, and Proceeding as a joint motion to dismiss with prejudice pursuant to 28 C.F.R. § 68.14(a)(2). The Court finds that the parties’ joint motion satisfies OCAHO’s Rules of Practice and Procedure for Administrative Hearings because it notifies the Court that “the parties have reached a full settlement and have agreed to dismissal of the action.” 28 C.F.R. § 68.14(a)(2).

The parties did not attach a copy of their settlement agreement to their joint motion. Indeed, they assert that this Court’s approval is “not required because no statute or regulation requires it.” Joint Stip. Dismissing Compl., Req. Hr’g, & Proceeding ¶ 4. The parties cite 29 C.F.R. § 18.71 for this proposition, however, that regulation applies to proceedings before the Office of Administrative Law Judges within the United States Department of Labor. In contrast, this forum’s governing regulations, namely, OCAHO’s Rules of Practice and Procedure for Administrative Hearings,<sup>4</sup> provide that dismissal of an action is “subject to the approval” of an ALJ who “may require the filing of the settlement agreement.” 28 C.F.R. § 68.14(a)(2); *see United States v. Torres Mexican Food, Inc.*, 4 OCAHO no. 596, 88, 89 (1994) (noting that an ALJ “is not precluded from” reviewing the settlement agreement, but that 28 C.F.R. § 68.14(a)(2) “does not require [this] review”).<sup>5</sup>

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<sup>4</sup> At the beginning of this case, the CAHO explained to the parties that these proceedings would be governed by OCAHO’s Rules of Practice and Procedure for Administrative Hearings and applicable case law and provided the parties with links to both OCAHO’s Rules and OCAHO’s Practice Manual. *See* Notice Case Assign. ¶ 2. The OCAHO Practice Manual, which is part of the Executive Office for Immigration Review’s Policy Manual, provides an outline of the procedures and rules applicable to cases before OCAHO. It is available on the United States Department of Justice’s website. *See* <https://www.justice.gov/eoir/reference-materials/ocaho>.

<sup>5</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 after Volume 8, where the decision has not yet been reprinted in a bound volume, are to pages within the original issuances; the beginning page

Although it is within the Court’s discretion to require the parties to file their settlement agreement for its review before ruling on the joint motion to dismiss, the Court declines to do so in this matter. In reaching this decision, the Court has considered Complainant’s signed notification of settlement seeking to dismiss with prejudice the complaint he filed, *see* Complainant’s Letter 1, and the parties’ representations in their jointly signed motion to dismiss that they engaged in “[e]xtensive negotiations and discussions . . . to ensure a fair and equitable agreement” and that both parties view the settlement agreement as a “mutually satisfactory resolution” of all claims underlying the complaint in this matter. Joint Stip. Dismissing Compl., Req. Hr’g, & Proceeding ¶ 4. The Court also bases its determination on the nature of these proceedings and its review of the record in this case, including, but not limited to, the complaint, the answer, Respondent’s Motion to Dismiss, and Complainant’s Response to Respondent’s Motion to Dismiss. The record in this case reflects that, although Complainant has been proceeding pro se, both parties have understood their rights and responsibilities in this forum and have actively participated in these proceedings. *See, e.g., United States v. El Camino, LLC*, 18 OCAHO no. 1479d, 2 (2023) (declining to require the filing of a settlement agreement where, inter alia, the parties had actively participated in the case); *United States v. Dilligas Corp.*, 19 OCAHO no. 1526, 3 (2024) (declining to require the filing of the settlement agreement “[a]fter considering the nature of [the] proceedings and the record before the Court”).

The Court finds that dismissal with prejudice is appropriate here where the parties jointly seek it after executing a full settlement agreement to resolve the allegations raised in the complaint. *See, e.g., United States v. Muniz Concrete & Contracting, Inc.*, 19 OCAHO no. 1535d, 6–7 (2024) (granting dismissal with prejudice given the parties’ joint request and entry into a full settlement agreement); *United States v. Chilitto Pikin LLC*, 18 OCAHO no. 1486c, 4 (2024) (finding dismissal with prejudice appropriate where the parties jointly sought it after reaching a full settlement) (citation omitted); *United States v. Eco Brite Linens, LLC*, 18 OCAHO no. 1485c, 1–2 (2024) (dismissing case with prejudice where the parties jointly requested dismissal with prejudice and represented through counsel that they had signed a

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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 at <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-decisions>.

settlement agreement). Dismissal with prejudice will bring finality to this litigation and the allegations of discrimination based on citizenship status under the INA that Complainant has raised against Respondent in the complaint.

Given the Court's findings that the parties have sought dismissal in conformity with 28 C.F.R. § 68.14(a)(2), that the parties' settlement agreement need not be filed, and that dismissal with prejudice is appropriate, the Court now grants the parties' Joint Stipulation Dismissing Complaint, Request for a Hearing, and Proceeding, which the Court has construed as a joint motion to dismiss with prejudice pursuant to 28 C.F.R. § 68.14(a)(2), and dismisses this case with prejudice.

### III. ORDERS

IT IS SO ORDERED that, having satisfied the requirements of 28 C.F.R. § 68.14(a)(2), the Joint Stipulation Dismissing Complaint, Request for a Hearing, and Proceeding, filed by Complainant, William Matthew Konitzer, and Respondent, Mirantis, Inc., is GRANTED; and

IT IS FURTHER ORDERED that this case is DISMISSED WITH PREJUDICE.

SO ORDERED.

Dated and entered on September 5, 2024.

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Honorable Carol A. Bell  
Administrative Law Judge

### Appeal Information

This order shall become the final agency order unless modified, vacated, or remanded by the Attorney General. Provisions governing the Attorney General's review of this order are set forth at 28 C.F.R. pt. 68. Within sixty days of the entry of an Administrative Law Judge's final 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.

Any person aggrieved by the final order has sixty days from the date of entry of the final order to petition for review in the United States Court of Appeals for the circuit in which the violation is alleged to have occurred or in which the employer resides or transacts business. *See* 8 U.S.C. § 1324b(i)(1); 28 C.F.R. § 68.57. A petition for review must conform to the requirements of Rule 15 of the Federal Rules of Appellate Procedure.