

US TECH WORKERS ET AL., )  
Complainant, )  
 )  
v. ) 8 U.S.C. § 1324b Proceeding  
 ) OCAHO Case No. 2024B00079  
 )  
TELNYX, LLC, )  
Respondent. )  
 )

## ORDER GRANTING MOTION TO DISMISS

On September 30, 2024, the Court received Complainant’s Motion to Dismiss with Prejudice. The motion stated, in its entirety, that “[t]he parties participated in this Court’s alternate dispute resolution process and through that process have mutually resolved their dispute. Pursuant to 28 C.F.R. § 68.14, Complainants now voluntarily move to dismiss all claims against Respondent

<sup>1</sup> OCAHO Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2024).

Telnyx, LLC with prejudice.” Mot. Dismiss, 1. While the Motion was not jointly signed by the parties, the certificate of service indicates Respondent was served with a copy of the motion. *Id.* at 2.

## II. LEGAL STANDARDS

28 C.F.R. § 68.14(a) provides that where the parties have entered into a settlement agreement, they must either (1) submit to the ALJ a copy of the agreement along with a proposed decision and order, or (2) “[n]otify the Administrative Law Judge that the parties have reached a full settlement and have agreed to dismissal of the action.” Where parties pursue the latter course, dismissal of the action is “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). Thus, it appears that both pathways to dismissal under § 68.14(a) require a submission by, or at least on behalf of, both parties.

Where only one party to an action moves the Court for dismissal, this Court has frequently treated the motion as a motion for voluntary dismissal. *See, e.g., Zajradhara v. CL Corp.*, 16 OCAHO no. 1429a (2022)<sup>2</sup> (treating complainant’s motion to dismiss as motion for voluntary dismissal); *A.S. v. Amazon Web Servs., Inc.*, 14 OCAHO no. 1381p (2024) (treating complainant’s unopposed motion to withdraw complaint as motion for voluntary dismissal); *Sinha v. Infosys Ltd.*, 14 OCAHO no. 1373f (2024) (same). Because OCAHO’s Rules are silent as to voluntary dismissals, this Court has looked to Federal Rule of Civil Procedure 41(a) for guidance.<sup>3</sup> *See, e.g., Sinha*, 14 OCAHO no. 1373f, at 2.

FRCP 41(a) provides two avenues for voluntary dismissal. Under Rule 41(a)(1), a plaintiff may dismiss an action without a court order by filing a notice of dismissal before the opposing party files an answer or motion for summary judgment, or by filing a joint stipulation signed by all parties. Rule 41(a)(2) provides that, under all other circumstances, a plaintiff may request dismissal of a case by a court order, which may be granted “on terms that the court considers proper” and which will be without prejudice unless the order states otherwise.

Under OCAHO caselaw, “it has been consistently recognized that the Court should grant a motion for voluntary dismissal under Rule 41(a)(2) unless the opposing party will suffer some plain legal prejudice as a result.” *A.S.*, 14 OCAHO no. 1381p, at 2 (quoting *United States v. La Parisienne Bakery, LLC*, 15 OCAHO no. 1390a, 3 (2021)). “‘Legal prejudice’ is prejudice to some legal

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<sup>2</sup> 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 <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-decisions>.

<sup>3</sup> 28 C.F.R. § 68.1 provides that “[t]he Federal Rules of Civil Procedure may be used as a general guideline in any situation not provided for or controlled by these rules, by the Administrative Procedure Act, or by any other applicable statute, executive order, or regulation.”

interest, some legal claim, or some legal argument.” *La Parisienne Bakery, LLC*, 15 OCAHO no. 1390a, at 3.

### III. DISCUSSION

While Complainant indicates in his Motion to Dismiss with Prejudice that the parties seek settlement pursuant to 28 C.F.R. § 68.14, the motion was not a joint motion by or on behalf of both parties seeking the Court’s dismissal of the action. As such, the Court will treat Complainant’s motion as a motion for voluntary dismissal.

The Motion requests that the Court dismiss the case with prejudice because the parties have “mutually resolved their dispute.” Mot. Dismiss, 1. The Court finds voluntary dismissal pursuant to FRCP 41(a)(2) to be appropriate under the circumstances. Complainant represents that the case was resolved, and apparently no longer seeks to litigate the issues. Respondent has not responded to the motion. Given the early stage of the proceedings, the fact that the parties availed themselves of the services of a settlement officer, and the apparent settlement, the Court finds there is likely no prejudice to Respondent. Moreover, a dismissal with prejudice is warranted, as the Motion specifically requests such a dismissal. Therefore, Complainant’s Motion to Dismiss with Prejudice is GRANTED, and the case is DISMISSED WITH PREJUDICE.

SO ORDERED.

Dated and entered on October 15, 2024.

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Honorable Jean C. King  
Chief 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.