

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. 2024A00027
)	
A&D MAINTENANCE LEASING AND)	
REPAIRS, INC.,)	
Respondent.)	
)	

Appearances: John Poppe, Esq., for Complainant
Saul Zabell, Esq., for Respondent

ORDER GRANTING COMPLAINANT’S MOTION TO DISMISS

I. PROCEDURAL HISTORY

This case arises under the employer sanctions provisions of the Immigration and Nationality Act, as amended, 8 U.S.C. § 1324a. On December 27, 2023, Complainant, the United States Department of Homeland Security, Immigration and Customs Enforcement (DHS), filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO), alleging that Respondent, A&D Maintenance Leasing and Repairs, Inc., violated 8 U.S.C. § 1324a(a)(1)(B).

On December 25, 2024, Complainant filed a copy of the parties’ executed Settlement Agreement. On January 2, 2025, Complainant filed its Motion to Dismiss.

II. LEGAL STANDARDS

OCAHO’s regulations provide for two avenues of dismissal: (1) the parties submit to the Administrative Law Judge (ALJ) a settlement agreement containing consent findings, along with a proposed order; or (2) the parties notify the ALJ that they “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 a settlement agreement.” 28 C.F.R. §§ 68.14(a)(1)–(2).¹

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

III. DISCUSSION

Here, while Complainant's Motion to Dismiss indicates that "the parties have reached a settlement agreement" and requests "that this case be dismissed," it is signed only by Complainant's counsel. Mot. Dismiss 2. As a result, the Court will treat Complainant's motion as a motion for voluntary dismissal.

"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. Because OCAHO's Rules are silent as to voluntary dismissals, this Court has looked to Federal Rule of Civil Procedure 41(a) for guidance." US Tech Workers v. Telnix, LLC, 20 OCAHO no. 1616, 2 (2024) (internal citations omitted); 28 C.F.R. § 68.1 ("The 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 Procedures Act, or by any other applicable statute, executive order, or regulation"). Rule 41(a)(2) provides, "An action may be dismissed at the plaintiff's request only by court order, on terms that the court considers proper."

OCAHO caselaw has "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. v. Amazon Web Servs., Inc., 14 OCAHO no. 1381p, 2 (2024) (internal citation and quotes omitted). "'Legal prejudice' is prejudice to some legal interest, some legal claim, or some legal argument." United States v. La Parisienne Bakery, LLC, 15 OCAHO no. 1390a, 3 (2021).

Under the present circumstances, the Court finds voluntary dismissal to be appropriate. The motion states the parties have mutually settled their dispute, and the Court is in possession of a copy of the settlement agreement, which indicates no legal prejudice to Respondent. Finally, because the settlement agreement indicates that Respondent agrees to withdraw its request for a hearing before OCAHO, the Court finds that dismissal with prejudice is warranted. Accordingly, Complainant's Motion to Dismiss is GRANTED, and the case is DISMISSED WITH PREJUDICE.

SO ORDERED.

Dated and entered on January 3, 2025.

Honorable John A. Henderson
Administrative Law Judge