

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. § 1324B Proceeding
v.)	
)	OCAHO Case No. 2023B00082
SPACE EXPLORATION TECHNOLOGIES)	
CORP., d/b/a SPACEX,)	
)	
Respondent.)	
)	

Appearances: Jennifer Deines, Esq., Lisa Sandoval, Esq., Allena Martin, Esq.,
Laura E. Varela-Addeo, Esq., and Stephen Dixon, Esq.,
for Complainant

Charles F. Connolly, Esq., James E. Tysse, Esq.,
Mariya Y. Hutson, Esq., and Miranda A. Dore, Esq., for Respondent

ORDER CONFIRMING DISMISSAL

I. PROCEDURAL BACKGROUND

On August 24, 2023, the United States of America, United States Department of Justice, Immigrant and Employee Rights Section filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) against Respondent, Space Exploration Technologies Corp., doing business as SpaceX. The complaint alleges that Respondent violated the unfair immigration-related employment practices provision of the Immigration and Nationality Act, as amended, 8 U.S.C. § 1324b.

On September 11, 2023, OCAHO served Respondent with the complaint and a Notice of Case Assignment for Complaint Alleging Unfair Immigration-Related Employment Practices. OCAHO's Chief Administrative Hearing Officer directed

Respondent to file an answer within thirty days of receipt of the complaint, being October 11, 2023. Notice Case Assign. 3 (citing 28 C.F.R. §§ 68.3(b), 68.9).¹

On September 25, 2023, Respondent filed an Opposed Expedited Motion to Stay Proceedings, seeking a stay of this matter until thirty days after receipt of a final judgment in a federal court action it commenced on September 15, 2023.² Expedited Mot. Stay Proceedings 6. Also on September 25, 2023, Complainant filed a Notice of Intent to Oppose Respondent's Expedited Motion to Stay Proceedings.

On September 27, 2023, the Court issued an Order on Electronic Filing, authorizing the parties to participate in OCAHO's Electronic Filing Pilot Program through which they could file electronically in this case.

On September 28, 2023, the parties filed a Joint Motion to Extend Response Deadlines through which Respondent sought thirty more days to file an answer to the complaint and Complainant sought additional time to reply to the answer and respond to any dispositive motions. Joint Mot. Extend Resp. Deadlines 1–2.

On September 29, 2023, Complainant filed the United States' Opposition to Respondent's Expedited Motion to Stay Proceedings. On October 2, 2023, Respondent filed a Motion for Leave to File Reply to the United States' Opposition to Expedited Motion to Stay Proceedings. It attached as Exhibit A to its motion Respondent SpaceX's Reply in Support of Opposed Expedited Motion to Stay Proceedings.

On October 10, 2023, the Court issued an Order on Joint Motion to Extend Response Deadlines and Electronic Filing. *United States v. Space Expl. Techs. Corp.*, 18 OCAHO no. 1499, 9 (2023).³ The Court granted the parties' Joint Motion

¹ OCAHO's Rules of Practice and Procedure for Administrative Hearings, being the provisions contained in 28 C.F.R. pt. 68 (2025), generally govern these proceedings and are available on OCAHO's homepage on the United States Department of Justice's website. See <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-regulations>.

² *Space Expl. Techs. Corp. v. Bell*, No. 1:23-cv-00137, Dkt. No. 1 (S.D. Tex. Sept. 15, 2023) (LEXIS CourtLink).

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 after Volume 8, where the decision has not yet been

to Extend and gave Respondent through November 10, 2023, to file its answer to the complaint. *Id.* The Court directed Complainant to file its reply to Respondent's answer no later than thirty days from the date of the answer's filing. *Id.*

On October 12, 2023, Complainant filed the United States' Notice of Interim Final Rule and Response to SpaceX's Motion for Leave to File a Reply to the United States' Opposition to the Expedited Motion to Stay Proceedings. Complainant represented that it did not oppose Respondent's Motion for Leave to File Reply. Complainant's Notice Interim Final Rule & Resp. Mot. Leave to File Reply 1. Complainant also gave notice of an interim rule published by the United States Department of Justice on October 12, 2023, providing that the Attorney General of the United States may review the final orders of OCAHO Administrative Law Judges in cases arising under 8 U.S.C. § 1324b. *Id.* (citing <https://www.govinfo.gov/content/pkg/FR-2023-10-12/pdf/2023-22206.pdf>); *see also* Office of the Chief Administrative Hearing Officer, Review Procedures, 88 Fed. Reg. 70586 (Oct. 12, 2023) (to be codified at 28 C.F.R. pt. 68).

On October 20, 2023, the Court issued an Order on Respondent's Motion for Leave to File a Reply to the United States' Opposition to Expedited Motion to Stay Proceedings. *United States v. Space Expl. Techs. Corp.*, 18 OCAHO no. 1499a, 5 (2023). The Court granted Respondent's Motion for Leave to File Reply and found that the reply, which Respondent had attached to its motion, would be considered filed as of the date of the Order. *Id.*

On November 9, 2023, Respondent filed Space Exploration Technologies Corporation's Notice of Order Granting Preliminary Injunction, notifying the Court that on November 8, 2023, the United States District Court judge presiding over *Space Expl. Techs. Corp. v. Bell*, No. 1:23-cv-00137, in the Southern District of Texas, Brownsville Division, had issued an order staying these proceedings.⁴

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," the LexisNexis database "OCAHO," or on the United States Department of Justice's website at <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-decisions>.

⁴ On February 21, 2025, the United States District Court judge issued an order lifting the preliminary injunction in this case "for 30 days from the date of this Order for the limited purpose of allowing the Department of Justice's Civil Rights Division to file a notice of dismissal with prejudice and for the Office of the Chief Administrative Hearing Officer to process the notice." *Space Expl. Techs. Corp. v. Bell*, No. 1:23-cv-00137, Dkt. No. 50 (S.D. Tex. Feb. 21, 2025) (LEXIS, CourtLink).

On February 21, 2025, Complainant filed a Notice of Appearance for Jennifer Deines, the Acting Deputy Special Counsel of the Immigrant and Employee Rights Section of the United States Department of Justice's Civil Rights Division.⁵ Also, on February 21, 2025, Complainant filed a Notice of Dismissal with Prejudice.

II. NOTICE OF DISMISSAL WITH PREJUDICE

Complainant, the United States of America, has filed a Notice of Dismissal with Prejudice pursuant to Federal Rule of Civil Procedure Rule 41(a)(1). In its filing, Complainant states that it “hereby voluntarily dismisses with prejudice” this case. Notice of Dismissal 1. It represents that “Respondent does not oppose dismissal and will suffer no legal prejudice as a result of the dismissal, as the United States is dismissing its case with prejudice.” *Id.* at 2 n.1.

OCAHO's Rules of Practice and Procedure for Administrative Hearings provide for dismissals under various circumstances, including (1) where “the Administrative Law Judge determines that the complainant has failed to state a claim upon which relief can be granted” (28 C.F.R. § 68.10(b)); (2) where the parties have reached a settlement agreement and agree to dismissal of the action (*id.* § 68.14(a)(2)); (3) where a party abandons a complaint or a request for hearing it filed (*id.* § 68.37(b)); and (4) through a final order post-hearing after “the Administrative Law Judge determines that a person or entity named in the complaint has not engaged in and is not engaging in an unfair immigration-related employment practice” (*id.* § 68.52(d)(5)). Although OCAHO's Rules do not address a complainant's voluntary dismissal of a complaint, the Court may use the Federal Rules of Civil Procedure as a general guideline. *Id.* § 68.1 (providing 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.”).

Federal Rule of Civil Procedure 41 provides two avenues for voluntary dismissal of a case. Rule 41(a)(1)(A) states that a plaintiff may dismiss an action

⁵ OCAHO's Rules of Practice and Procedure for Administrative Hearings require each attorney to file a notice of appearance. *See* 28 C.F.R. § 68.33(f). The Notice of Appearance filed by Acting Deputy Special Counsel Jennifer Deines comports with OCAHO's Rules as it is signed and identifies “the name of the case or controversy, the case number if assigned, and the party on whose behalf the appearance is made.” *Id.* It also is accompanied by “a certification indicating that such notice was served on all parties of record.” *Id.*

without a court order by filing “(i) a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment; or (ii) a stipulation of dismissal signed by all parties who have appeared.” Rule 41(a)(2) states that “an action may be dismissed at the plaintiff’s request only by court order, on terms that the court considers proper.” Here, Complainant references Federal Rule of Civil Procedure 41(a)(1)(A)(i). Notice of Dismissal 1. Complainant’s Notice of Dismissal with Prejudice is procedurally valid given the stage of these proceedings in which Respondent has not served Complainant with either an answer or a motion for summary judgment. *See* Fed. R. Civ. P. 41(a)(1)(A)(i); *see also, e.g., Exxon Corp. v. Md. Cas. Co.*, 599 F.2d 659, 661 (5th Cir. 1979) (“A unilateral motion to dismiss an action is permissible only before the defendant has filed an answer or a motion for summary judgment.”).⁶ Complainant also has specified that it is dismissing this action with prejudice. *See* Fed. R. Civ. P. 41(a)(1)(B) (providing that the dismissal is without prejudice unless the notice or stipulation states otherwise).

Because Federal Rule of Civil Procedure 41(a)(1)(A)(i) is applicable and Complainant’s notice conforms with it, the dismissal with prejudice is self-effectuating. *See Horne v. Town of Hampstead*, 6 OCAHO no. 884, 673, 676 (1996) (“Once filed . . . , a notice of dismissal pursuant to Fed. R. Civ. P. 41(a)(1)(i), is self-executory.”). For clarity of the record in this matter and to conform with local norms in the relevant federal circuit,⁷ the Court issues this Order confirming that, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i), this case is DISMISSED with prejudice.

SO ORDERED.

Dated and entered on February 24, 2025.

Honorable Carol A. Bell
Administrative Law Judge

⁶ The Court consults case law from the United States Court of Appeals for the Fifth Circuit as it is the “appropriate circuit for review.” 28 C.F.R. § 68.56.

⁷ *See, e.g., A.P. Moller-Maersk A/S, Trading v. Safewater Lines (I) PVT, Ltd.*, 322 F.R.D. 255, 260 (S.D. Tex. Aug. 23, 2017) (explaining that “in this district a court usually issues an order granting a motion for voluntary dismissal [pursuant to Rule 41(a)(1)(A)(i)].”).