

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

VALENTIN AGUILERA VILLANUEVA,)	
Complainant,)	
)	
)	
v.)	8 U.S.C. § 1324b Proceeding
)	OCAHO Case No. 2025B00019
)	
PEPBOYS-MANNY, MOE & JACK, LLC,)	
Respondent.)	
)	

Appearances: Kevin F. O'Connor, Esq., for Complainant
Jose Calves, Esq., for Respondent

ORDER OF DISMISSAL

I. PROCEDURAL HISTORY

This case arises under the antidiscrimination provisions of the Immigration and Nationality Act, as amended, 8 U.S.C. § 1324b. On November 22, 2024, Complainant, Valentin Aguilera Villanueva, filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) against Respondent, Pepboys-Manny, Moe & Jack, LLC. The complaint alleges Respondent discriminated against him on the basis of his citizenship status and requested more documents than required to complete the employment eligibility verification, both in violation of 8 U.S.C. §§ 1324b(a)(1)(B) and (a)(6). To date, the Respondent has not filed an answer.

On March 20, 2025, Complainant filed a Notice of Voluntary Dismissal. Complainant seeks dismissal of the complaint with prejudice pursuant to Rule 41(a)(1)(A)(i). Not. Dismissal 1.

II. DISCUSSION

OCAHO's rules do not contemplate a complainant's motion to voluntarily dismiss the complaint. Nevertheless, "[t]he Federal Rules of Civil Procedure may be used as a general guideline in any situation not provided for or controlled by [OCAHO's] rules." 28 C.F.R. § 68.1. Relevant to this case, Federal Rule of Civil Procedure 41(a)(1)(A)(i) provides that "the plaintiff may dismiss an action 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." Here, Complainant notifies the

court that this matter will be dismissed with prejudice pursuant to Rule 41(a)(1)(A)(i); the notice was submitted before Respondent filed either an answer or a motion for summary judgment. Therefore, “because Rule 41(a)(1)(A)(i) is applicable and Complainant’s notice conforms with it, the dismissal with prejudice is self-effectuating.” United States v. Space Expl. Techs. Corp., 18 OCAHO no. 1499b, 5 (2025); *see also In re Bath & Kitchen Fixtures Antitrust Litig.*, 535 F.3d 161, 165 (3d Cir. 2008) (“[Rule 41(a)(1)(A)(i)’s] effect is automatic: the defendant does not file a response, and no order of the district court is needed to end the action.”). For clarity of the record in this matter, however, the Court issues this order confirming that, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i), the case is DISMISSED with prejudice.

SO ORDERED.

Dated and entered on March 26, 2025.

Honorable John A. Henderson
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.