

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

CRISTINA VARELA CABALLERO,	)	
	)	
Complainant,	)	
	)	8 U.S.C. § 1324b Proceeding
v.	)	
	)	OCAHO Case No. 2024B00127
MACY'S, INC.,	)	
	)	
Respondent.	)	
_____	)	

Appearances: Cristina Varela Caballero, pro se for Complainant  
Amy L. Peck, Esq., Sarah J. Millsap, Esq., and David A. Calles Smith,  
Esq., for Respondent

FINAL ORDER OF DISMISSAL

I. PROCEDURAL HISTORY

This case arises under the Immigration and Nationality Act, as amended by the Immigration Reform and Control Act of 1986, 8 U.S.C. § 1324b. Complainant, Cristina Varela Caballero, filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) on August 28, 2024, against Respondent, Macy's, Inc., alleging that it violated Section 274B of the Immigration and Nationality Act, as amended by the Immigration Reform and Control Act of 1986, 8 U.S.C. § 1324b. Compl. §§ 6–10.

On October 22, 2024, the Chief Administrative Hearing Officer mailed Respondent the complaint and a Notice of Case Assignment for Complaint Alleging Unfair Immigration-Related Employment Practices (NOCA). The United States Postal Service certified mail tracking tool indicated that the complaint and NOCA were delivered on October 28, 2024, to the front desk, reception area, or mail room of the law firm in Omaha, Nebraska, which Complainant identified as representing Respondent. See Compl. § 5. Another copy of the complaint and NOCA were delivered on November 1, 2024, to Respondent's front desk, reception area, or mail room in Houston, Texas, being the address to which Complainant requested service.

*Id.* § 4. Under OCAHO’s Rules of Practice and Procedure for Administrative Hearings,<sup>1</sup> which generally govern these proceedings, Respondent’s answer was due within thirty days, by November 27, 2024. *See* 28 C.F.R. § 68.9(a).

On November 22, 2024, Respondent filed: (a) Notices of Appearances as Counsel for Respondent, (b) Respondent’s Motion to Stay Proceedings, (c) Respondent’s Motion to Consolidate, and (d) Respondent’s Motion to Refer Cases to Settlement Officer Program.

On November 25, 2024, the Court issued an Order on Respondent’s Filings, through which it explained to Complainant that she had until December 2, 2024, “to file any responses to Respondent’s Motion to Stay Proceedings, Respondent’s Motion to Refer Cases to Settlement Officer Program, and Respondent’s Motion to Consolidate.” *Caballero v. Macy’s, Inc.*, 21 OCAHO no. 1620, 4 (2024).<sup>2</sup>

On December 4, 2024, Respondent filed its Answer and Defenses.

On December 6, 2024, Complainant filed: (a) Complainant’s Motion to Dismiss Respondent Answer and Defense, (b) Complainant’s Answer to the Motion to Dismiss Case, (c) a filing entitled “Explaining a Mistake,” and (d) a registration form for OCAHO’s Electronic Filing Pilot Program.

On December 31, 2024, Respondent filed an Unopposed Motion to Stay in which it represented that the parties were engaged in settlement negotiations to resolve this case and another pending case, namely, OCAHO case number 2024B00033, which Complainant filed on January 10, 2024, against Respondent.

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

<sup>2</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 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>.

On March 14, 2025, the parties filed a Joint Motion to Dismiss with Prejudice. In the motion, the parties represented that they “have reached a full settlement of all claims and have agreed to dismissal of all actions.” Joint Mot. Dismiss 1. The parties further stated that they “have come to a mutually agreement settlement” and move the Court to dismiss this case and OCAHO case number 2024B00033 with prejudice. *Id.*

## II. DISCUSSION AND ANALYSIS

Pending before the Court is the parties’ Joint Motion to Dismiss with Prejudice. The caption of the Joint Motion to Dismiss with Prejudice indicates that the parties intended to file their motion in both the present action and OCAHO case number 2024B00033. This Order concerns only the dismissal of OCAHO case number 2024B00127. For the reasons set forth herein, the Court grants the parties’ joint motion and approves dismissal of this case.

Under OCAHO’s Rules of Practice and Procedure for Administrative Hearings, there are two avenues for leaving the forum when the parties have entered into a settlement agreement. *See* 28 C.F.R. § 68.14. The parties either may submit consent findings or a filing seeking dismissal. *Id.* § 68.14(a). Here, the parties have chosen to proceed pursuant to 28 C.F.R. § 68.14(a)(2) by filing a Joint Motion to Dismiss with Prejudice. OCAHO’s regulation requires the parties to notify the Administrative Law Judge (ALJ) that they “have reached a full settlement and have agreed to dismissal of the action.” *Id.* § 68.14(a)(2). The presiding ALJ may require the parties to file their settlement agreement and must approve dismissal of the action. *Id.*

The Court has reviewed the parties’ Joint Motion to Dismiss with Prejudice and finds that the parties have complied with the requirements of 28 C.F.R. § 68.14(a)(2). In their joint motion, the parties state that they “have reached a full settlement of all claims and have agreed to dismissal of all claims.” Joint Mot. Dismiss 1. They describe the settlement as being “mutually agreeable” and represent that “[n]either party will be prejudiced by a dismissal[.]” *Id.* The parties ask the Court to enter an ordering dismissing this case “with prejudice pursuant to 28 C.F.R. § 68.14.” *Id.* Complainant and counsel for Respondent signed the motion. *Id.*

The parties did not attach their settlement agreement to their Joint Motion to Dismiss with Prejudice or otherwise file it with the Court. As explained above, the Court may exercise its discretion pursuant to 28 C.F.R. § 68.14(a)(2) and require the parties to file their settlement agreement before it rules on their Joint Motion to Dismiss with Prejudice. *See, e.g., United States v. Torres Mexican Food, Inc.*, 4 OCAHO no. 596, 88, 89 (1994) (explaining that 28 C.F.R. § 68.14(a)(2) neither requires ALJs to review parties’ settlement agreements nor precludes them from doing so).

In this case, the Court will not require the filing of the parties' settlement agreement given the nature of these proceedings and the record before the Court. In reaching this decision, the Court has considered that, although Complainant has been proceeding pro se, her filings reflect that she understands her rights and responsibilities in this forum, and she has been able to articulate her position on the issues in this matter. Complainant has actively participated in these proceedings, including through her filings and communications with OCAHO, and as reflected in Respondent's filings, her discussions with opposing counsel. OCAHO ALJs have declined to require the filing of settlement agreements in similar cases arising under 8 U.S.C. § 1324b in which the complainants proceeded pro se. *See, e.g., Konitzer v. Mirantis, Inc.*, 20 OCAHO no. 1608, 5 (2024) (declining to require the filing of a settlement agreement where the parties, including a pro se complainant, "understood their rights and responsibilities in this forum and had actively participated in these proceedings"); *see also Graham v. Ameriflight*, 18 OCAHO no. 1482, 1 n.1 (2023) (dismissing case brought by pro se complainant without requiring the filing of the parties' settlement agreement); *Violante v. The Giant Food Co. LLC*, 17 OCAHO no. 1458, 1 (2022) (accord); *Parra Guerrero v. Hiremadskills, Inc.*, 18 OCAHO no. 1481a, 1 (2023) (accord); *Jackai v. Frito-Lay, Inc.*, 1 OCAHO no. 188, 1232, 1233 (1990) (accord). There also are no facts or circumstances before the Court (or deadlines imposed in this case) that would suggest that Complainant's entry into a settlement agreement with Respondent—after more than two months of negotiations—was anything other than "knowing and voluntary, notwithstanding [her] pro se status." *Aityahia v. Sabena Airline Training Ctr., Inc.*, 9 OCAHO no. 1122, 7 (2006) (finding that an oral settlement agreement was binding and dismissing case where the pro se complainant was fluent in English, the complaint's narrative and e-mails were "intelligent and well-written[.]" and there was "no hint of any element of fraud, duress, coercion, mutual mistake, [or] unconscionability").

The parties jointly move the Court for a dismissal with prejudice. Joint Mot. Dismiss 1. The Court finds that dismissal with prejudice is appropriate here where the parties jointly seek it after entering into a full settlement agreement to resolve the allegations raised in the complaint. *See, e.g., Ewoma Ehere v. HawaiiUSA Fed. Credit Union*, 17 OCAHO no. 1471e, 2 (2023) (dismissing case with prejudice where the parties represented that they had executed a settlement agreement which resolved the case and jointly requested dismissal with prejudice); *Konitzer*, 20 OCAHO no. 1608, at 5–6 (accord). Dismissal with prejudice will bring finality to this litigation and the allegations that Complainant has raised against Respondent. This finality is fitting given that these proceedings have been pending for over seven months during which the parties have actively engaged in simultaneous settlement negotiations to resolve both this case and their separate OCAHO litigation involving similar allegations of violations of 8 U.S.C. § 1324b. *See Caballero v. Macy's, Inc.*, 21 OCAHO no. 1620a (2025) (dismissing case with prejudice where the parties jointly sought dismissal with prejudice after entering into a settlement agreement).

Given the Court's findings that the parties have sought dismissal in conformity with 28 C.F.R. § 68.14(a)(2) and that dismissal with prejudice is appropriate, the Court now grants the parties' Joint Motion to Dismiss with Prejudice. The Court denies as moot Complainant's Motion to Dismiss Respondent Answer and Defense, Respondent's Motion to Stay Proceedings, Respondent's Motion to Consolidate, Respondent's Motion to Refer Cases to Settlement Officer Program, and Respondent's Unopposed Motion to Stay. The Court now dismisses this case with prejudice.

### III. ORDERS

Upon consideration of the Joint Motion to Dismiss with Prejudice filed by Complainant, Cristina Varela Caballero, and Respondent, Macy's, Inc.,

IT IS SO ORDERED that the parties' Joint Motion to Dismiss with Prejudice is GRANTED;

IT IS FURTHER ORDERED that Complainant's Motion to Dismiss Respondent Answer and Defense, Respondent's Motion to Stay Proceedings, Respondent's Motion to Consolidate, Respondent's Motion to Refer Cases to Settlement Officer Program, and Respondent's Unopposed Motion to Stay are DENIED as moot; and

IT IS FURTHER ORDERED that, pursuant to 28 C.F.R. § 68.14(a)(2), this case, namely OCAHO Case No. 2024B00127, is DISMISSED with prejudice.

SO ORDERED.

Dated and entered on April 8, 2025.

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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.