

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

ASHUTOSH SHARMA,	)	
	)	
Complainant,	)	
	)	8 U.S.C. § 1324b Proceeding
v.	)	
	)	OCAHO Case No. 2025B00052
HEADSTRONG SERVICES LLC,	)	
	)	
Respondent.	)	
	)	

Appearances: Ashutosh Sharma, pro se Complainant
Kenton J. Villano, Esq., and Richard Sutton, Esq., for Respondent

FINAL ORDER OF DISMISSAL

I. PROCEDURAL HISTORY

This case arises under the anti-discrimination provisions of the Immigration and Nationality Act, as amended by the Immigration Reform and Control Act of 1986, 8 U.S.C. § 1324b. On July 15, 2025, Complainant, Ashutosh Sharma, filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) against Respondent, Headstrong Services LLC. Through the complaint, Complainant alleges that Respondent discriminated against him based on his citizenship status, in violation of 8 U.S.C. § 1324b(a)(1). Compl. § 6.

On July 17, 2025, using the United States Postal Service (USPS) certified mail, OCAHO's Deputy Chief Administrative Hearing Officer mailed Respondent the complaint and a Notice of Case Assignment for Complaint Alleging Unfair Immigration-Related Employment Practices (together, "the Complaint package"). According to the USPS website tracking information, the Complaint package was delivered to both addresses on July 21, 2025. Given that service of the complaint was perfected on July 21, 2025, Respondent's answer was due no later than August 20, 2025. *See* 28 C.F.R. §§ 68.3(b), 68.9(a).¹

¹ OCAHO's Rules of Practice and Procedure for Administrative Hearings, being the provisions contained in 28 C.F.R. part 68 (2025), generally govern these proceedings

On August 18, 2025, Mr. Kenton J. Villano filed a Notice of Appearance as counsel for Respondent. On that same date, Mr. Villano filed Respondent Headstrong Services LLC's Motion for Extension of Time to File Answer and/or Responsive Pleadings (Motion for Extension of Time). Through that motion, Respondent sought an additional thirty days to file its answer. Mot. Extension Time 3. On August 21, 2025, the Court granted the motion and gave Respondent through August 25, 2025, to file its answer to the complaint.

On August 25, 2025, Respondent filed Respondent Headstrong Services LLC's Answer to Complaint. Also, on August 25, 2025, Mr. Richard Sutton filed a Notice of Appearance.

On September 9, 2025, OCAHO invited the parties to register for OCAHO's Electronic Filing Pilot Program and provided the parties with the Attorney/Participant Registration Form and Certification for its Electronic Filing Pilot Program,

On September 22, 2025, Complainant and Mr. Kenton J. Villano submitted completed Attorney/Participant Registration Forms and Certifications to participate in OCAHO's Electronic Filing Pilot Program.

On September 25, 2025, the Court issued an Order on Notices of Appearance and Electronic Filing. Through that Order, the Court found that Mr. Villano and Mr. Sutton had entered their appearances on behalf of Respondent in this matter and enrolled the case in OCAHO's Electronic Filing Pilot Program. Sept. 25, 2025 Order Notices Appearance & Elec. Filing 3.

On November 17, 2025, Complainant filed Complainant's Rebuttal to Respondent's Answer and Motion for Adverse Inference, Leave [to Conduct Discovery]. On December 1, 2025, Respondent filed Respondent's Response to Complainant's Rebuttal to Respondent's Answer, Motion for Adverse Inference, Motion for Leave to Conduct Discovery, Proposed Findings of Fact, and Submitted "Timeline Exhibit."

Also, on December 1, 2025, Respondent filed Respondent's Notice of Correction to Answer. On December 2, 2025, Complainant filed Complainant's Brief Identifying Respondent's Material Misrepresentations, False Statements, and Bad-Faith Litigation Conduct. On December 2, 2025, Complainant filed a Motion for Sanctions and Adverse Inference Based on Respondent's Material Misrepresentations and

and 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>.

Bad-Faith Conduct. On December 15, 2025, Respondent filed Respondent's Response to Complainant's December 2nd Brief and Motion.

On January 7, 2026, Complainant filed a Motion for Withdrawal of Complaint with Prejudice. Complainant did not indicate Respondent's position on the motion. On January 15, 2026, OCAHO staff emailed the parties and explained that OCAHO's Rules of Practice and Procedure for Administrative Hearings, namely, 28 C.F.R. § 68.11(b), afforded Respondent ten days to file a response to the motion. In lieu of filing a response with the Court, Mr. Kenton J. Villano, counsel for Respondent, emailed OCAHO and Complainant on the evening of January 15, 2026, and stated, "Respondent has no objection to the motion submitted."

II. LEGAL STANDARDS AND DISCUSSION

Pending before the Court is Complainant's Motion for Withdrawal of Complaint with Prejudice. In his motion, Complainant represents that the parties have "reached a private, written settlement agreement resolving all matters raised in this proceeding."² Mot. Withdrawal Compl. 1. Complainant states that "[t]he settlement fully resolves Complainant's claims, and does not require any continuing action by OCAHO." *Id.* He explains that "[p]ursuant to OCAHO procedural rules, Complainant hereby voluntarily withdraws the Complaint with prejudice." *Id.* Complainant moves this Court "for leave to withdraw the . . . complaint with prejudice," *id.* at 1, and to "[d]ismiss the Complaint with prejudice[,] . . . and [c]lose the above-captioned matter in its entirety." *Id.* at 2. Complainant does not indicate Respondent's position on his motion.

1. Dismissal Pursuant to OCAHO's Rules

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)).

The Court looks first to OCAHO's Rules concerning dismissals upon settlement. 28 C.F.R. §§ 68.14(a), (a)(2), explain that "[w]here the parties . . . have

² Complainant did not file a copy of the parties' settlement agreement with the Court.

entered into a settlement agreement, they shall . . . [n]otify the Administrative Law Judge [ALJ] that the parties have reached a full settlement and have agreed to dismissal of the action.” Here, the parties have not made the requisite filings to leave this forum pursuant to 28 C.F.R. § 68.14(a)(2).³ While Complainant has represented that the parties have entered into a settlement agreement, *see* Mot. Withdrawal Compl. 1, and moved the Court for leave to withdraw or dismiss the complaint, *id.* at 1–2, Respondent did not join the motion, confirm that the parties have reached a full settlement, or state its agreement to dismissal pursuant to 28 C.F.R. §§ 68.14(a)(2). Rather, Complainant has unilaterally moved for a voluntary dismissal which Respondent, via email, notified the Court that it does not oppose.⁴ The Court therefore construes Complainant’s filing as an unopposed voluntary motion to dismiss. Because OCAHO’s Rules of Practice and Procedure for Administrative Hearings do not address a complainant’s voluntary motion to dismiss a complaint, the Court consults the Federal Rules of Civil Procedure which 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.” 28 C.F.R. § 68.1.

2. Dismissal Pursuant to Federal Rule of Civil Procedure 41

Federal Rule of Civil Procedure 41 provides two avenues for voluntary dismissal of an action. First, Rule 41(a)(1) provides that a 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; or (ii) a stipulation of dismissal signed by all parties who have appeared.” Second, 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 has no right to dismiss his complaint without a court order because an answer has been served and neither party has stipulated to a dismissal. The Court therefore analyzes Complainant’s motion under Federal Rule of Civil Procedure 41(a)(2) which requires it to decide: (a) whether to permit the dismissal, (b) whether the dismissal should be with or without prejudice, and (c) what terms and conditions, if any, should be imposed. *See, e.g., United States v. Oriental Garden*, 20 OCAHO no. 1611, 8–11 (2024) (applying Fed. R. Civ. P. 41(a)(2) to the

³ The parties also have not sought to exit this forum by submitting an agreement containing consent findings. *See* 28 C.F.R. § 68.14(a)(1)(i).

⁴ Respondent did not file a response to Complainant’s motion despite being afforded ten days to do so. *See* 28 C.F.R. § 68.11(b).

complainant's motion for voluntary dismissal of the complaint); *United States v. La Parisienne Bakery, LLC*, 15 OCAHO no. 1390a, 2–4 (2021) (same).⁵

A. Whether to Permit Dismissal

The Court first decides whether to permit Complainant's voluntary dismissal under Federal Rule of Civil Procedure 41(a)(2). Although Rule 41(a)(2) does not limit when a court may dismiss a claim, the Court is guided in its decision by OCAHO case precedent and case law from the appropriate United States Court of Appeals for judicial review of a final order, namely, the circuit in which "the violation is alleged to have occurred or in which the employer resides or transacts business."⁶ 28 C.F.R. § 68.57. This Court and federal courts have held that "[c]ourts should grant voluntary dismissals unless the non-moving party will suffer some plain legal prejudice." *United States v. Diego Quisquina-Yaxon*, 17 OCAHO no. 1474a, 3 (2023) (quotation

⁵ 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 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>.

⁶ Given the lack of development of the record, the Court has consulted case law from the Fifth Circuit Court of Appeals, being the circuit where Complainant claims that the alleged violations occurred, *see* Compl. §§ 1, 4, and the Second Circuit Court of Appeals, being the circuit where the Respondent-business is headquartered and transacts business. *See id.* § 4. "The Fifth Circuit has not articulated a precise set of factors" for courts to use when deciding whether to grant a Rule 41(a)(2) motion. 9 Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 2364 (4th ed. 2025). Rather, it has instructed that courts "may refuse to grant a voluntary dismissal when the plaintiff does not seek it until a late stage in the action and when the defendants already have expended significant time and effort." *Id.* The Second Circuit has articulated the following factors: (1) the plaintiff's diligence in bringing the motion; (2) any undue vexatiousness on the plaintiff's part; (3) the extent to which the suit has progressed, including the defendant's effort and expense in preparing for trial; (4) the duplicative expense of relitigation; and (5) the adequacy of the plaintiff's explanation for the need to dismiss. *See Zagano v. Fordham Univ.*, 900 F.2d 12, 14 (2d Cir. 1990). (citations omitted). The Court reaches the same result in this case applying either court of appeal's guidance.

omitted). “Plain legal prejudice may arise ‘when a party proposes to dismiss the case at a late stage of pretrial proceedings, or seeks to avoid an imminent adverse ruling, or may on refiling deprive the defendant of a limitations defense.’” *Id.* (quoting *In re FEMA Trailer Formaldehyde Prod. Liab. Litig.*, 628 F.3d 157, 162 (5th Cir. 2010)).

The Court exercises its discretion and permits Complainant’s voluntary dismissal. Neither party wants to continue this litigation, which is in its early stages and in which the parties have invested limited resources, time, and effort. Complainant has been diligent in bringing the motion before the opening of discovery. *See United States v. G-Net Constr. Corp.*, 21 OCAHO no. 1625b, 3 (2025) (applying Second Circuit factors and explaining that “[a] plaintiff is often considered sufficiently diligent in moving for a voluntary dismissal so long as the motion was made before discovery begins in earnest.”) (quotation omitted). No summary decision motions have been filed, no contested hearing has been set, and there are no imminent adverse rulings. *See Johnny & Leona Ent., LLC*, 13 OCAHO no. 1325, 2 (2019) (finding no prejudice from dismissal where the case was in its initial pleadings stage and the respondent had only filed an answer). Further, there is no indication that the motion is the product of “undue vexatiousness” on Complainant’s part, or that Complainant acted with ill motive. *Zagano*, 900 F.2d 12 at 14.

Complainant has adequately explained the need for dismissal, being the parties’ entry into a settlement agreement which “fully resolves Complainant’s claims.” Mot. Withdrawal Compl. 1. Respondent does not oppose Complainant’s request and has not argued that it will suffer any plain legal prejudice from dismissal. *See, e.g., Diega Quisquina-Yaxon*, 17 OCAHO no. 1474a, at 4–5 (granting dismissal where the respondent did not argue that she would suffer plain legal prejudice). Given that Complainant seeks to dismiss this action with prejudice, *see* Mot. Withdrawal Compl. 1–2, the Court finds no evidence of plain legal prejudice or harm, such as duplicative expenses, to Respondent. There will be no relitigation. As federal courts have explained, “no matter when a dismissal with prejudice [pursuant to Rule 41(a)(2)] is granted, it does not harm the defendant.” *Schwarz v. Folloder*, 767 F.2d 125, 129 (5th Cir. 1985); *see also Beer v. John Hancock Life Ins. Co.*, 211 F.R.D. 67, 68 (N.D.N.Y. 2002) (granting dismissal “[b]ecause plaintiff is willing to dismiss the litigation *with prejudice* and there is no evidence of prejudice to defendant by such a dismissal”) (emphasis in original).

B. Dismissal With or Without Prejudice

Under Federal Rule of Civil Procedure 41(a)(2), unless the order states otherwise, a dismissal is without prejudice. Both OCAHO and federal courts have recognized a court’s “broad discretionary power” over whether to dismiss a complaint under Rule 41(a)(2) with or without prejudice. *Diega Quisquina-Yaxon*, 17 OCAHO no. 1474a, at 4 (citing *La Parisienne Bakery, LLC*, 15 OCAHO no. 1390a, at 3; and then citing *Rivera v. PNS Stores, Inc.*, 647 F.3d 188, 195 (5th Cir. 2011)). In

determining whether to dismiss a complaint with or without prejudice in the context of a voluntary dismissal, OCAHO ALJs have considered factors such as the stage of the proceedings and the resulting prejudice to the respondent from dismissal. *See, e.g., Oriental Garden*, 20 OCAHO no. 1611, at 10; *Johnny & Leona Ent., LLC*, 13 OCAHO no. 1325, at 2; *La Parisienne Bakery, LLC*, 15 OCAHO no. 1390a, at 3. As explained above, this case is in the early stages and there is no evidence of prejudice or harm to Respondent. Further, Complainant has represented to the Court that “[t]he parties have reached a private, written settlement agreement resolving all matters raised in this proceeding.” Mot. Withdrawal Compl. 1. According to Complainant, this settlement agreement “fully resolves Complainant’s claims, and does not require any continuing action by OCAHO.” *Id.*

Significantly, Complainant specifies that he is seeking to dismiss his complaint with prejudice. Mot. Withdrawal Compl. 1–2. The Court finds that there is no harm to Respondent from an order dismissing this action with prejudice and bringing finality to the allegations raised against the Respondent-business. Through a dismissal with prejudice, Respondent “receives all that he would have received had the case been completed.” *Schwarz*, 767 F.2d 125 at 129. Therefore, the Court now exercises its discretion and finds that the requested voluntary dismissal with prejudice is appropriate in this matter.

C. Dismissal Terms and Conditions

Lastly, Federal Rule of Civil Procedure 41(a)(2) permits a court ordering a dismissal to include any “terms that the court considers proper.” A court may impose curative conditions, such as costs and attorney’s fees, to an order of dismissal to prevent parties “from being unfairly affected by such dismissal.” *LeCompte v. Mr. Chip, Inc.*, 528 F.2d 601, 604 (5th Cir. 1976) (citation omitted); *see also Diega Quisquina-Yaxon*, 17 OCAHO no. 1474a, at 3 (noting that, in addition to the payment of costs and fees, dismissal terms may include producing documents or witnesses) (citation omitted).

In granting Complainant’s unopposed voluntary motion to dismiss, the Court declines to impose any supplemental terms or curative conditions. There is no evidence that Respondent will be unfairly affected by a dismissal with prejudice. Rather, the dismissal will free Respondent from the risk of relitigation of the issues just as if the case had been adjudicated in its favor at a hearing. Respondent also has not sought any curative terms or payments, such as attorney’s fees. Indeed, “[f]ee awards are often made when a plaintiff dismisses a suit *without prejudice* under Rule 41(a)(2).” *Colombrito v. Kelly*, 764 F.2d 122, 133 (2d Cir. 1985) (emphasis in original).

Accordingly, for the reasons set forth herein, the Court grants Complainant’s Motion for Withdrawal of Complaint with Prejudice. This case is dismissed with

prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2). All pending motions in this case are denied as moot.

III. ORDERS

IT IS SO ORDERED that the Motion for Withdrawal of Complaint with Prejudice, filed by Complainant, Ashutosh Sharma, is GRANTED;

IT IS FURTHER ORDERED that Complainant's Motion for Adverse Inference, Motion for Leave [to Conduct Discovery], and Motion for Sanctions and Adverse Inference Based on Respondent's Material Misrepresentations and Bad-Faith Conduct are DENIED as moot; and

IT IS FURTHER ORDERED that, pursuant to Federal Rule of Civil Procedure 41(a)(2), this case, *Ashutosh Sharma v. Headstrong Services LLC*, OCAHO Case No. 2025B00052, is DISMISSED with prejudice.

SO ORDERED.

Dated February 3, 2026.

Honorable Carol A. Bell
Acting Chief Administrative Law Judge

Appeal Information

In accordance with the provisions of 8 U.S.C. § 1324b(g)(1), this Order shall become final upon issuance and service upon the parties, unless, as provided for under the provisions of 8 U.S.C. § 1324b(i), any person aggrieved by such Order files a timely petition for review of that Order 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, and does so no later than 60 days after the entry of such Order. Such a petition must conform to the requirements of Rule 15 of the Federal Rules of Appellate Procedure.