

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. 2023A00064
MENDOZA MAINTENANCE	)	
GROUP, INC.,	)	
	)	
Respondent.	)	
	)	

Appearances: Oscar J. Montemayor, Esq., for Complainant
Javier Mendoza, pro se Respondent

ORDER ON COMPLAINANT'S NOTICE OF VOLUNTARY DISMISSAL AND
SCHEDULING SECOND PREHEARING CONFERENCE

I. PROCEDURAL HISTORY

This case arises under the employer sanctions provisions of the Immigration and Nationality Act (INA), as amended by the Immigration Reform and Control Act of 1986, 8 U.S.C. § 1324a. On June 6, 2023, the United States Department of Homeland Security (DHS), Immigration and Customs Enforcement, filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) against Respondent, Mendoza Maintenance Group, Inc. Complainant alleges that Respondent, Mendoza Maintenance Group, Inc., failed to prepare and/or present the Employment Eligibility Verification Form (Form I-9) for nine individuals and failed to ensure proper completion of Forms I-9 for seventeen individuals, all in violation of 8 U.S.C. § 1324a(a)(1)(B). Compl. ¶ 6.

After Respondent failed to file an answer to the complaint, the Court issued an Order to Show Cause on January 11, 2024. *See United States v. Mendoza Maint. Grp., Inc.*, 18 OCAHO no. 1516 (2024).¹ On March 5, 2024, Respondent filed

¹ 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

Respondent's Answer to Complainant's Complaint Regarding Unlawful Employment Practices. On June 18, 2025, the Court issued an Order Accepting Untimely Answer and Response and Discharging Order to Show Cause. *See United States v. Mendoza Maint. Grp., Inc.*, 18 OCAHO no. 1516a (2025).

On August 19, 2025, the Court issued an Order Granting Joint Motion to Refer Matter to a Settlement Officer, Referring Case to the Settlement Officer Program, and Designating Settlement Officer (Order Referring Case to Settlement Officer Program). *See United States v. Mendoza Maint. Grp., Inc.*, 18 OCAHO no. 1516d (2025).

On February 11, 2026, the assigned Settlement Officer, OCAHO ALJ Andrea Carroll-Tipton, requested a thirty-day extension of the case's initial referral to the OCAHO Settlement Officer Program. On February 12, 2026, the Court issued an Order Extending Referral to the OCAHO Settlement Officer Program. *See United States v. Mendoza Maint. Grp., Inc.*, 18 OCAHO no. 1516e (2026). Through that Order, the Court extended the referral period to the OCAHO Settlement Officer Program through March 19, 2026.

On April 8, 2026, the Settlement Officer advised the Court that the parties were in the process of finalizing a settlement agreement resolving the allegations in this case. On April 9, 2026, the Court issued an Order for Status Reports and Notice Regarding OCAHO Portal (Order for Status Reports). The Court ordered the parties by April 30, 2026, either to file individual status reports addressing the status of their settlement negotiations or, should they enter into a settlement agreement, to make the necessary settlement filings in accordance with 28 C.F.R. § 68.14.² Apr. 9, 2026 Ord. Status Rep. 5–6. On April 9, 2026, the Complainant filed a Notice of Voluntary Dismissal Pursuant to F.R.C.P. 41(a)(1)(A)(i). Complainant also filed a copy of the parties' signed settlement agreement.

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>.

² OCAHO's Rules of Practice and Procedure for Administrative Hearings are the provisions contained in 28 C.F.R. part 68 (2026). OCAHO's Rules are available in the Electronic Code of Federal Regulations. *See* <https://www.ecfr.gov/current/title-28/chapter-I/part-68>.

II. DISCUSSION

A. Complainant's Notice of Voluntary Dismissal

Before the Court is Complainant's Notice of Voluntary Dismissal Pursuant to F.R.C.P. 41(a)(1)(A)(i). Through that filing, Complainant gives "notice that the above captioned action is voluntarily dismissed, without prejudice against the Respondent, Mendoza Maintenance Group, Inc." Notice Voluntary Dismissal 1. Complainant also filed a copy of the parties' settlement agreement with the Court.

Rule 41(a)(1)(A)(i) of the Federal Rules of Civil Procedure states that an action may be dismissed without a court order by filing: "a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment." Because Respondent has filed an answer to the complaint in this case, Complainant cannot avail itself of Rule 41(a)(1)(A)(i) and voluntarily dismiss this case without a court order.³ See *United States v. La Troje Bar and Grill, LLC*, 22 OCAHO no. 1690c, 4–5 (2026) (confirming dismissal pursuant to Rule 41(a)(1)(A)(i) in case where the respondent had not yet filed an answer to the complaint); *United States v. Space Expl. Techs. Corp.*, 18 OCAHO no. 1499b, 5 (2025) (explaining that Federal Rule of Civil Procedure 41(a)(1)(A)(i) applied where "Respondent has not served Complainant with either an answer or a motion for summary judgment.").

Given the parties' entry into a settlement agreement in this matter, however, the parties may exit this forum by proceeding in accordance with OCAHO's Rules of Practice and Procedures for Administrative Hearings, which generally govern these proceedings. Specifically, 28 C.F.R. § 68.14 describes the two avenues for leaving the forum when the parties have entered into a settlement agreement. The parties either may submit an "agreement containing consent findings" and a proposed decision and order, 28 C.F.R. § 68.14(a)(1)(i)–(ii), or they may notify the Court that they "have reached a full settlement and have agreed to dismissal of the action." *Id.* § 68.14(a)(2).

³ Although Federal Rule of Civil Procedure 41(a)(1)(A)(i) is not applicable given the stage of these proceedings in which an answer has been filed, Rule 41(a)(1)(A)(ii) provides for voluntary dismissal without a court order where the complainant files "a stipulation of dismissal signed by all the parties who have appeared." Here, Complainant has not filed with the Court a stipulation of dismissal signed by both parties.

B. Second Prehearing Conference

Pursuant to 28 C.F.R. §§ 68.13(1), (2)(v), (2)(ix), the Court will hold a second telephonic prehearing conference on Tuesday, April 14, 2026, at 1:00 p.m. Eastern Time⁴ to discuss the parties' filings and decision to exit the forum either by consent findings or dismissal. *See* 28 C.F.R. § 68.14; *see also United States v. PJ's of Tex., Inc.*, 18 OCAHO no. 1524j, 5–6 (2026) (finding that the parties' joint notification of settlement and oral motion to dismiss made during a prehearing conference satisfied 28 C.F.R. § 68.14(a)(2)). Before the conference, the parties should review 28 C.F.R. § 68.14 and be prepared to discuss their positions as to a dismissal of this action with or without prejudice. "A dismissal without prejudice allows a complainant to refile a complaint as if it had never been filed." *United States v. A-1 Roofing & Constr., Co.*, 21 OCAHO no. 1657b, 4 (2025) (citations omitted). In contrast, a dismissal with prejudice "would bar another prosecution based on identical facts." *Id.* at 5 (citation omitted). The parties also should be prepared to discuss the settlement agreement on file with the Court.

III. ORDERS

IT IS SO ORDERED that, pursuant to 28 C.F.R. §§ 68.13(1), (2)(v), (2)(ix), a telephonic prehearing conference with the parties will be held on Tuesday, April 14, 2026, at 1:00 p.m. Eastern Time. Both parties shall attend the prehearing conference by calling telephone number [x-xxx-xxx-xxxx] and entering the meeting number ([xxx xxx xxx]) and password ([xxxx]).

SO ORDERED.

Dated April 10, 2026.

Honorable Carol A. Bell
Acting Chief Administrative Law Judge

⁴ If the parties need to reschedule the prehearing conference, at least one day in advance of the date set for the prehearing conference, they shall provide the Court with a joint written notice of a minimum of three proposed agreed dates and times in Eastern Standard Time for the rescheduled conference. The Court will confirm the date and time for the rescheduled conference either telephonically or in writing as soon thereafter as practicable.