

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. 2026A00013
INDUSTRIAL CONSTRUCTION AND	)	
ENGINEERING CO.,	)	
	)	
Respondent.	)	
	)	

Appearances: Mohammad Abdelaziz, Esq., for Complainant
David W. Leopold, Esq., Allison Hall, Esq., and Hati Baltagi, Esq., for
Respondent

FINAL ORDER OF DISMISSAL

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 January 15, 2026, Complainant, the United States Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) against Respondent, Industrial Construction and Engineering Co. Specifically, Complainant alleges that Respondent failed to ensure that employees properly completed section 1 and/or failed to properly complete section 2 or 3 of the Employment Eligibility Verification Form (Form I-9) for 62 individuals (Count I) and failed to prepare and/or present the Form I-9 for 27 individuals (Count II), all in violation of 8 U.S.C. § 1324a(a)(1)(B). Compl. 3–5, Ex. A.

Complainant attached as exhibits to the complaint: (1) the Notice of Intent to Fine Pursuant to Section 274A of the INA (NIF) that it personally served on Respondent on July 11, 2024, in St. Peters, Missouri, seeking a total fine of \$214,133.30, with an attachment listing the allegations and providing lists of

employees, and (2) Respondent's July 16, 2024, letter requesting a hearing before an Administrative Law Judge (ALJ), signed by counsel David W. Leopold (request for hearing). Compl. Exs. A, B.

On February 11, 2026, using the United States Postal Service's certified mail service, OCAHO mailed Respondent a Notice of Case Assignment for Complaint Alleging Unlawful Employment, the complaint, the NIF, and Respondent's request for hearing.

On March 6, 2026, attorneys David W. Leopold, Allison Hall, and Hani Baltagi filed a group Notice of Appearance as counsel on behalf of Respondent. On the same day, Respondent, through counsel, filed its Answer of Industrial Construction and Engineering Co. to Complaint Regarding Unlawful Employment Practices.

On March 12, 2026, the Court issued an Order for Prehearing Statements and Scheduling Initial Prehearing Conference. *See United States v. Indus. Constr. and Eng'g*, 22 OCAHO no. 1696 (2026).¹ Through that Order, the Court directed the parties to make their initial disclosures and file their prehearing statements with the Court within twenty-one days of the date of issuance of the Order. *Id.* at 10. Further, the Court scheduled an initial telephonic prehearing conference with the parties on April 7, 2026. *Id.* Neither party filed prehearing statements by April 2, 2026, as ordered by the Court.

On April 6, 2026, the parties filed a Notice of Settlement and Joint Motion to Dismiss (Joint Motion to Dismiss). The parties attached their settlement agreement to the filing. Joint Mot. Dismiss Tab A.

On April 7, 2026, the Court conducted an initial prehearing conference with the parties and issued an Order Memorializing Initial Prehearing Conference. During the conference, the parties represented to the Court that they were seeking

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 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>.

to dismiss this case with prejudice. Apr. 7, 2026 Order Memorializing Initial Prehr’g Conf. 2–3.

II. LEGAL STANDARDS AND ANALYSIS

Under OCAHO’s Rules of Practice and Procedure for Administrative Hearings,² which generally govern these proceedings, 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 may either submit an agreement containing consent findings or file a notice of settlement and seek dismissal. *Id.* § 68.14(a). 28 C.F.R. § 68.14(a)(2) requires the parties to notify the ALJ that they “have reached a full settlement and have agreed to dismissal of the action.” The presiding ALJ may require the parties to file their settlement agreement and must approve dismissal of the action. *Id.* § 68.14(a)(2).

In this case, the parties have filed a Notice of Settlement and Joint Motion to Dismiss pursuant to 28 C.F.R. § 68.14(a)(2). The Court finds that the parties’ filing substantially conforms to the requirements of 28 C.F.R. § 68.14(a)(2). Specifically, the parties “give notice to this Court that the parties have reached a full settlement of this case and are in agreement to dismiss this action.” Joint Mot. Dismiss at 1. A copy of the parties’ settlement agreement is attached. *Id.* Tab A (hereinafter “Settlement Agreement”).

The Court now exercises its discretion pursuant to 28 C.F.R. § 68.14(a)(2) and considers the parties’ settlement agreement. *See 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 nor precludes ALJs from reviewing parties’ settlement agreements). The agreement bears the signatures of both parties and counsel.³ Settlement Agreement 5. It reflects a clear resolution of the violations of 8 U.S.C. § 1324a alleged in the complaint against Respondent. Respondent has admitted that it violated 8 U.S.C. § 1324a(a)(1)(B) and has agreed to pay a specific civil monetary penalty for

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>.

³ Specifically, the agreement was signed by the Acting Special Agent in Charge of ICE’s Homeland Security Investigations (HSI), ICE’s Associate Regional Counsel, the owner of the Respondent business, and David Leopold, counsel for Respondent. *Id.* at 5.

the admitted violations. *Id.* ¶¶ 4, 6–7. It has agreed to withdraw its written request for a hearing and waive its right to request a hearing before an ALJ. *Id.* ¶ 5.

The Court is satisfied with the form and substance of the parties’ settlement agreement and accepts it apart from portions of paragraph eight. First, paragraph eight of the settlement agreement states that HSI “will issue a Final Order” that “is a final and unappealable order pursuant to [8 U.S.C. § 1324a(e)(3)(B)].” Settlement Agreement ¶ 8. However, the Court has explained that “8 U.S.C. § 1324a(e)(3)(B) allows for ‘a final and unappealable order’ only ‘[i]f no hearing is ... requested.’” *United States v. PJs of Tex.*, 18 OCAHO no. 1524j, 7 (2026) (quoting 8 U.S.C. § 1324a(e)(3)(B)). “Because Respondent requested a hearing before OCAHO, ‘administrative review by the Chief Administrative Hearing Officer [CAHO] and the Attorney General are available.’” *Id.* (quoting *United States v. Bread Alone, Inc.*, 20 OCAHO no. 1604, 3 (2024)). The Court has attached to this Final Order of Dismissal appellate information concerning administrative review by OCAHO’s CAHO and the Attorney General, *see* 8 U.S.C. §§ 1324a(e)(7); 28 C.F.R. §§ 68.54(a)(1), 68.55, as well as petitions for review in the United States Court of Appeals for the appropriate circuit. *See* 8 U.S.C. §§ 1324a(e)(8); 28 C.F.R. § 68.56.

Second, paragraph eight of the settlement agreement states that the “Final Order will order Respondent ... to cease and desist from violations of [8 U.S.C. § 1324a], now and in the future.” Settlement Agreement ¶ 8. However, the Court has explained that “8 U.S.C. § 1324a only provides a cease and desist order for hiring violations and not for paperwork violations.” *PJs of Tex.*, 18 OCAHO no. 1524j, at 6 (citing 8 U.S.C. § 1324a(e)(4)(a)); *see also United States v. Vasquez*, 15 OCAHO no. 1403, 2–3 (2021) (incorporating cease and desist remedy into final order only for hiring violations); *Torres Mexican Food, Inc.*, 4 OCAHO no. 596, at 89 (explaining that a cease and desist order is not available for paperwork violations). This case involves only paperwork violations arising under 8 U.S.C. § 1324a(a)(1)(B). Therefore, the Court does not approve the cease and desist remedy in the parties’ settlement agreement and it is not incorporated into the Final Order of Dismissal. *See* 8 U.S.C. § 1324a(e)(4)(a); *see also United States v. Elsinore Mfg., Inc.*, 1 OCAHO no. 5, 13, 16 (1998) (explaining that DHS “is not entitled to a cease and desist order [in cases solely involving paperwork violations] in light of the clear statutory distinction[.]”), *modified on other grounds*, 1 OCAHO no. 13, 44 (1988).

Although the parties’ filing is silent as to whether they are moving the Court for a dismissal with or without prejudice, counsel for both parties represented during the initial prehearing conference that the parties seek a dismissal with prejudice. *See* Apr. 7, 2026 Order Memorializing Initial Prehr’g Conf. 2–3. A dismissal with prejudice “would bar another prosecution based on identical facts.” *United States v. A-1 Roofing & Constr., Co.*, 21 OCAHO no. 1657b, 5 (2025) (citation omitted). The Court finds that dismissal with prejudice is appropriate here given the parties’ joint request and their entry into a full settlement agreement to resolve the allegations

raised in the complaint. *See, e.g., United States v. RGV Best Burger, Inc.*, 18 OCAHO no. 1492a, 3 (2023) (finding dismissal with prejudice appropriate given the parties' expressed intent and full settlement of the issues); *United States v. Chinese Back Rub*, 17 OCAHO no. 1452, 2 (2022) (finding dismissal with prejudice appropriate where parties' settlement agreement reflected a desire for a final resolution). Dismissal with prejudice will bring finality to this litigation and the allegations that Complainant has raised against Respondent.

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 and dismisses this case with prejudice.

III. ORDERS

IT IS SO ORDERED that the April 6, 2026, Notice of Settlement and Joint Motion to Dismiss filed by Complainant, the United States Department of Homeland Security, Immigration and Customs Enforcement, and Respondent, Industrial Construction and Engineering Co., is GRANTED; and

IT IS FURTHER ORDERED that, pursuant to 28 C.F.R. § 68.14(a)(2), this case, namely OCAHO Case No. 2026A00013, is DISMISSED with prejudice.

SO ORDERED.

Dated April 7, 2026.

Honorable Carol A. Bell
Acting Chief Administrative Law Judge

Appeal Information

This order shall become the final agency order unless modified, vacated, or remanded by the Chief Administrative Hearing Officer (CAHO) or the Attorney General.

Provisions governing administrative reviews by the CAHO are set forth at 8 U.S.C. § 1324a(e)(7) and 28 C.F.R. pt. 68. Note in particular that a request for administrative review must be filed with the CAHO within ten (10) days of the date of this order, pursuant to 28 C.F.R. § 68.54(a)(1).

Provisions governing the Attorney General's review of this order, or any CAHO order modifying or vacating this order, are set forth at 8 U.S.C. § 1324a(e)(7) and 28 C.F.R. pt. 68. Within thirty (30) days of the entry of a final order by the CAHO, or within sixty (60) days of the entry of an Administrative Law Judge's final order if the CAHO does not modify or vacate such 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.

A petition to review the final agency order may be filed in the United States Court of Appeals for the appropriate circuit within forty-five (45) days after the date of the final agency order pursuant to 8 U.S.C. § 1324a(e)(8) and 28 C.F.R. § 68.56.