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

October 27, 2026

JOHN CHARLES WEIS, Complainant, v. YANKEE TRADER SEAFOOD LTD, Respondent.	))))))))	8 U.S.C. § 1324b Proceeding OCAHO Case No. 2027B00004

ORDER CONFIRMING 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 October 14, 2026, Complainant, John Charles Weis, filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) against Respondent, Yankee Trader Seafood LTD. The complaint alleges that Respondent discriminated against the Complainant on the basis of his citizenship status in violation of 8 U.S.C. § 1324b(a)(1)(B). To date, no Administrative Law Judge has been assigned to the case, and Respondent has neither been served with a copy of the complaint, filed an answer, nor filed a motion for summary decision.

On October 19, 2026, Complainant filed a Request to Withdraw the Complaint in which Complainant seeks to withdraw his complaint and to dismiss the case without prejudice.

II. DISCUSSION

Although stylized as a Request to Withdraw the Complaint, Complainant's request is, in substance, a motion for voluntary dismissal without prejudice. OCAHO's rules do not specifically address a complainant's motion to voluntarily dismiss a 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[.]" Furthermore, Rule 41(a)(1)(B) provides that "[u]nless the notice or stipulation states otherwise, the dismissal is without prejudice."

Here, Complainant specifically and unequivocally requested that his complaint be withdrawn and that the case be dismissed without prejudice. Further, the request was submitted

before Respondent filed either an answer or motion for summary decision.[1] Although Complainant did not cite either an OCAHO regulation or the Federal Rules of Civil Procedure in his request, as a substantive motion for voluntary dismissal, it is appropriately reviewed, pursuant to 28 C.F.R. § 68.1, through the lens of Rule 41(a)(1)(A)(i).[2] Viewed as such, the complaint is subject to dismissal without prejudice.

Moreover, "because [Rule 41(a)(1)(A)(i)] is applicable and Complainant's notice conforms with it, the dismissal . . . 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."); *Universidad Cent. Del Caribe, Inc. v. Liaison Comm. on Med. Educ.*, 760 F.2d 14, 19 (1st Cir. 1985) ("[T]he plaintiff had the right voluntarily to dismiss the case at any time before an answer or motion for summary judgment was served. The plaintiff properly invoked that right, and the district court had no power to condition its dismissal."). For clarity of the record in this matter, however, the undersigned issues this order confirming that, pursuant to OCAHO case law, 28 C.F.R. § 68.1, and Federal Rule of Civil Procedure 41(a)(1), the case is DISMISSED without prejudice.

SO ORDERED.

Dated and entered on October 27, 2026.

James McHenry
Chief Administrative Hearing Officer

[1] OCAHO uses the term "summary decision" rather than "summary judgment," *see* 28 C.F.R. § 68.38, but for purposes of a motion for voluntary dismissal, they are functional equivalents.

[2] 28 C.F.R. § 68.11(a) authorizes the Chief Administrative Hearing Officer (CAHO) "to act on non-adjudicatory matters relating to a proceeding prior to the [designation] of an Administrative Law Judge." The present case satisfies these requirements as no Administrative Law Judge has been assigned, and Complainant's request to dismiss the case without prejudice is a non-adjudicatory matter. A Rule 41(a)(1)(A)(i) voluntary dismissal by notice is a complainant's "absolute right . . . [that] automatically terminates the action" and has the effect of "leav[ing] the parties as though no action had been brought." *Com. Space Mgmt. Co. v. Boeing Co.,* 193 F.3d 1074, 1077 (9th Cir. 1999) (internal citations omitted). Consequently, a notice of voluntary dismissal is merely a notice of a complainant exercising his right; as neither the respondent nor OCAHO may "extinguish[] or circumscribe[]" the notice, an action by the CAHO merely confirming or acknowledging a voluntary dismissal pursuant to Rule 41(a)(1)(A)(i) is inherently non-adjudicatory. *Id.* (quoting *Pedrina v. Chun*, 987 F.2d 608, 610 (9th Cir. 1993)).

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 a 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.