

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

June 23, 2022

ANA MARIA RAVINES DE SCHUR,)	
Complainant,)	
)	8 U.S.C. § 1324b Proceeding
v.)	OCAHO Case No. 2020B00093
)	
EASTER SEALS-GOODWILL NORTHERN)	
ROCKY MOUNTAIN, INC.,)	
)	
Respondent.)	
)	

Appearances: Ana Maria Ravines de Schur, pro se, for Complainant
Jean E. Faure, Esq., for Respondent

ORDER DEEMING COMPLAINT ABANDONED AND
ISSUING STAY OF PROCEEDINGS

I. BACKGROUND

On October 15, 2021, the Court issued an Order on Respondent's Renewed Motion to Compel (Order on Renewed MTC). *Ravines de Schur v. Easter Seals-Goodwill N. Rocky Mountain, Inc.*, 15 OCAHO no. 1388d (2021).¹ The Court ordered Complainant to produce certain discovery responses within thirty days. *Id.* at 14. The Court warned "that failure to comply with this Order

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 subsequent to Volume 8, where the decision has not yet 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," or in the LexisNexis database "OCAHO," or on the website at <http://www.justice.gov/eoir/OcahoMain/ocahosibpage.htm#PubDecOrders>.

may result in sanctions pursuant to 28 C.F.R. § 68.23(c).” *Id.* (quoting *Ogunrinu v. Law Resources*, 13 OCAHO no. 1332e, 10 (2020)).

On January 14, 2022, the Court issued an Order to Show Cause requiring Complainant submit a filing explaining why she did not produce the discovery responses, and provide the aforementioned discovery responses. Order Show Cause 3; *see also Ehrenhaus v. Reynolds*, 965 F.2d 916, 919 (10th Cir. 1992) (discussing procedural history of trial court issuing an order to show cause when a pro se plaintiff failed to comply with a discovery order). Once again, the Court warned Complainant that failure to respond may result in sanctions, such as dismissal of her case. *Id.* at 3–4. Complainant did not file a response.

On April 14, 2022, the Court issued an Order Imposing Discovery Sanctions on Complainant and Updating Case Schedule (Order Imposing Discovery Sanctions) in which it imposed discovery sanctions on Complainant for failing to comply with discovery orders and required Complainant to submit a filing by May 27, 2022 in which she clarifies whether she intends to continue her case or voluntarily dismiss it. *Ravines de Schur v. Easter Seals-Goodwill No. Rocky Mountain, Inc.*, 15 OCAHO no. 1388f, 4–5 (2022). The Court also warned Complainant that “[f]ailure to respond to this instant order will be construed as abandonment of her complaint pursuant to 28 C.F.R. § 68.37(b)(1).” *Id.* at 5. To date, the Court has not received any submission from Complainant.

II. DISCUSSION

In accordance with 28 C.F.R. § 68.37(b)(1), a complainant “shall be deemed to have abandoned a complaint” if the party “fails to respond to orders issued by the Administrative Law Judge” (ALJ).

To date, Complainant has failed to respond to or comply with multiple Court orders. In each order, the undersigned warned Complainant that her lack of cooperation may lead to sanctions, notably, up to dismissal. *See Order to Show Cause 4; Ravines de Schur*, 15 OCAHO no. 1388d, at 14; *Ravines de Schur*, 15 OCAHO no. 1388f, at 5. Nonetheless, Complainant failed to heed the Court’s warnings.

Complainant has simply stopped participating in her case. The Court has not received a filing from Complainant since September 30, 2021, over eight months ago. Respondent’s counsel also “has had no contact or communication from Complainant since August 2021[.]” *Ravines de Schur*, 15 OCAHO no. 1388f, at 3 (citation omitted).

The Court has previously exercised discretion favorably for Complainant in light of her pro se status, providing her with opportunities to course correct and very clear warnings should she fail to do so. *See Olivares Aguirre v. KDI Am. Prods., Inc.*, 6 OCAHO no. 882, 632, 641 (1996) (“When a party is unrepresented, a Court should make some allowances for the failure literally to

abide by the strict terms of an order.”). Nevertheless, “[c]ompassion for Complainant’s pro se status in the circumstances described must give way to the need for orderly and informed participation by the parties to an administrative adjudication.” *Holguin v. Dona Ana Fashions*, 4 OCAHO no. 605, 142, 146 (1994).

Based on the record, including the Order Imposing Discovery Sanctions and the lack of Complainant’s responses, the Court finds that Complainant has ABANDONED her complaint. 28 C.F.R. § 68.37(b)(1); *see Speakman v. Rehab. Hosp. of S. Tex.*, 3 OCAHO no. 476, 798, 800 (1992) (determining the complainant abandoned his complaint for failure to respond to and order to show); *Yohan v. Cent. State Hosp.*, 4 OCAHO no. 622, 301, 303 (1994) (finding that the complainant abandoned his complaint for failure to appear for his court-ordered deposition); *Holguin*, 4 OCAHO no. 605, at 145–46 (holding that the pro se complainant abandoned his complaint for failure to attach certificates of service despite court admonitions); *United States v. Cordin Co.*, 10 OCAHO no. 1162, 3–4 (2012) (CAHO order) (holding that the ALJ “correctly found” a request for hearing abandoned for failure to respond to an order to show cause); *United States v. Greif*, 10 OCAHO no. 1177, 2–3 (2013) (finding that a request for hearing abandoned based on the respondent’s failure to respond to an order to show cause); *United States v. Louie’s Wine Dive, LLC*, 15 OCAHO no. 1404, 2 (2021) (holding that the respondent abandoned its request for a hearing when it failed to respond to an order to show cause).

The Court has discretion to dismiss a case once it deems it abandoned. *See* § 68.37(b) (emphasis added) (“A complaint or a request for hearing *may be* dismissed upon its abandonment by the party or parties who filed it.”); *Olivares Aguirre*, 6 OCAHO no. 882, at 641 n.6 (noting that § 68.37(b) utilizes “discretionary rather than mandatory language”). Because the Court is not in a position to issue a final order at this time,² it now holds the dismissal with prejudice in abeyance and ISSUES a stay of proceedings.³ All remaining deadlines are stayed in this matter.

² *See generally A.S. v. Amazon Web Servs. Inc.*, 14 OCAHO no. 1381h, 2 n.4 (2021) (CAHO Order).

³ Dismissal with prejudice is appropriate given the extensive litigation of this case. *See Tingling v. City of Richmond*, 13 OCAHO no. 1324e, 2 (2021) (dismissing a case with prejudice that had an impending hearing date); *Rogers v. Andrus Transp. Servs.*, 502 F.3d 1147, 1152 (10th Cir. 2007) (finding “prejudice to [the defendant], which had prepared for trial and wished to conclude the proceedings”). In reaching this conclusion, the Court is mindful of the prejudice to Respondent. *See Gripe v. City of Enid*, 312 F.3d 1184, 1188 (10th Cir. 2002) (affirming dismissal with prejudice upon finding that the plaintiff’s repeated failures to follow court orders “prejudiced the defendants and the court”).

SO ORDERED.

Dated and entered on June 23, 2022.

Honorable Andrea R. Carroll-Tipton
Administrative Law Judge