

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

April 2, 2024

PRAKASH SINHA,)	
Complainant,)	
)	8 U.S.C. § 1324b Proceeding
v.)	
)	OCAHO Case No. 2020B00064
INFOSYS LIMITED,)	
Respondent.)	
_____)	

Appearances: Prakash Sinha, pro se Complainant
K. Edward Raleigh, Esq., for Respondent

ORDER OF DISMISSAL

I. BACKGROUND

On April 15, 2020, Complainant Prakash Sinha filed a complaint pro se with the Office of the Chief Administrative Hearing Officer (OCAHO). Complainant alleged that Respondent Infosys Limited discriminated against him based on his citizenship status and national origin in violation of the antidiscrimination provisions of the Immigration and Nationality Act, as amended by the Immigration Reform and Control Act of 1986 (IRCA), Title 8, United States Code, Section 1324b. On December 9, 2020, Respondent filed an Answer.

On February 23, 2021, Respondent moved to dismiss the complaint, asserting that OCAHO lacks jurisdiction, that the complaint is untimely, and that Complainant failed to state a claim upon which OCAHO may grant relief. Mot. to Dismiss 1–2. Complainant timely filed a response. On November 29, 2022, this Court issued an order converting the motion to a motion for summary decision as to jurisdiction and timeliness. *Sinha v. Infosys Limited*, 14 OCAHO no. 1373b (2022).¹ Both parties filed responses.

¹ Citations to OCAHO precedents subsequent to 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 on the Westlaw database “FIM-OCAHO,” the LexisNexis

On March 1, 2023, this Court issued an Order Issuing Stay of Proceedings. On January 18, 2024, the Court lifted the stay and dismissed in part and granted in part Respondent’s Motion to Dismiss. *Sinha v. Infosys Limited*, 14 OCAHO no. 1373d (2024). The Court held a prehearing conference on February 6, 2024, and set a case schedule.

On February 8, 2024, Complainant filed a motion to reconsider the Court’s January 18, 2024, order on the motion to dismiss, and on February 14, 2024, Respondent filed its opposition. The Court issued an Order Denying Motion for Reconsideration on March 12, 2024, finding that Complainant’s arguments did not compel a different result.

On March 17, 2024, Complainant filed a Motion to Withdraw His Claims, stating that “[a]fter considering the situations following the decision, and denial of its reconsideration, Complainant wishes to discontinue his claims against Respondent,” and requesting that the Court grant withdrawal of his claims. Mot. Withdraw 1. Two days later, Respondent filed a Response to Complainant’s Motion to Withdraw, stating that it does not oppose Complainant’s Motion to Withdraw. Resp. Mot. Withdraw 1.

II. LEGAL STANDARDS

OCAHO’s Rules of Practice and Procedure specifically provide for dismissal for complaints when: 1) “the parties . . . or their counsel have entered into a settlement agreement” and jointly moved to dismiss pursuant to 28 C.F.R. § 68.14(a)(2); 2) when “[a] complaint or request for hearing” is “deemed to have been abandoned” by the filing party pursuant to 28 C.F.R. § 68.37(b); and 3) when the presiding administrative law judge has “enter[ed] a judgment by default” pursuant to 28 C.F.R. § 68.9(b). *See Hughes v. Fiat Chrysler Auto.*, 13 OCAHO no. 1336, 1 (2019); *Y.Y. v. Zuora, Inc.*, 15 OCAHO no. 1402c, 4 (2022).

OCAHO’s Rules, however, do not directly address voluntary dismissal upon motion from Complainant. This Court may use the Federal Rules of Civil Procedure “as a general guideline in any situation not provided for or controlled” by OCAHO’s rules, the Administrative Procedure Act, or any applicable statute, executive order, or regulation. Federal Rule 41(a) addresses voluntary dismissal by a plaintiff. Under Rule 41(a)(1), a plaintiff may dismiss an action without a court order by filing a notice of dismissal before an opposing party files an answer or motion for summary judgment, or by filing a joint stipulation signed by all parties. Rule 41(a)(2) provides that under all other circumstances, a plaintiff may request dismissal of a case by a court

database “OCAHO,” or on OCAHO’s homepage on the United States Department of Justice’s website at <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-decisions>.

order, which may be granted “on terms that the court considers proper” and which will be without prejudice unless the order states otherwise.

Under OCAHO case law, “[i]t has been consistently recognized that the Court should grant a motion for voluntary dismissal under Rule 41(a)(2) unless the opposing party will suffer some plain legal prejudice as a result.” *A.S. v. Amazon Web Servs.*, 14 OCAHO no. 1381p, 2 (2024) (quoting *United States v. La Parisienne Bakery, LLC*, 15 OCAHO no. 1390a, 3 (2021)). “‘Legal prejudice’ is prejudice to some legal interest, some legal claim, or some legal argument.” *United States v. La Parisienne Bakery, LLC*, 15 OCAHO no. 1390a at 3.

This Court’s case law also “recognize[s] a court’s broad discretionary power over whether to grant a Rule 41(a)(2) dismissal with or without prejudice.” *United States v. Diega Quisquina-Yaxon*, 17 OCAHO no. 1474a, 4 (2023); *see also United States v. Chinese Back Rub*, 17 OCAHO no. 1452, 2 (2022) (collecting cases). A dismissal with prejudice bars the complainant from bringing the same cause of action in a future suit. *Zajradhara v. Changxing Corp.*, 14 OCAHO no. 1356, 2 (2020) (citing *Mangir v. TRW, Inc.*, 4 OCAHO no. 672, 722, 726 (1994)). “A dismissal with prejudice ‘is res judicata not only as to matters actually litigated in the previous action, but as to all relevant issues which could have been but were not raised and litigated in the suit.’” *Id.* at 2-3 (quoting *Mangir*, 4 OCAHO no. 672 at 726)).

In considering a motion to dismiss without prejudice, OCAHO administrative law judges have considered factors such as “the [complainant’s] diligence in bringing the motion; any ‘undue vexatiousness’ on [complainant’s] part; the extent to which the suit has progressed, including the [respondent’s] effort and expense in preparation for trial; the duplicative expense of relitigation; and, the adequacy of [complainant’s] explanation for the need to dismiss. *Melody Gay Brooks v. Anthem, Inc.*, 14 OCAHO no. 1351, 2 (2020) (citing *Bosteve Ltd. v. Marauszwiki*, 110 F.R.D. 257, 259 (E.D.N.Y. 1986); *Harvey Aluminum, Inc. v. American Cyanamid Co*, 15 F.R.D. 14, 18 (S.D.N.Y. 1953); *Huesca v. Rojas Bakery*, 4 OCAHO no. 654 (1994) (dismissing with prejudice where case was pending for 15 months)).

III. DISCUSSION

Complainant states that he “withdraws all his claims” that “he brought against the Respondent” and requests the Court grant the motion. Mot. Withdraw 1. Respondent’s Response to Complainant’s Motion to Withdraw references Federal Rule 41(a)(2), noting that Respondent brought no counterclaims and does not object to the dismissal. Resp. Mot. Withdraw 1.

Although this case has a lengthy history, Respondent does not have any pending motions before the Court at this time, and the parties only recently entered a period of discovery. Respondent did not identify, and the Court does not find, that it would suffer prejudice as a result of dismissal.

Neither party explicitly expressed a preference as to dismissal with or without prejudice, although Complainant asked that in dismissing the case, the Court “not . . . allow any repercussion against the Complainant.” Mot. Withdraw 1.

This case was initiated in 2020 and is no longer in its early stages, though it has not progressed beyond a motion to dismiss. The parties have engaged in limited discovery and have not begun preparing for trial. The Complainant has not explained why he seeks dismissal other than to reference the Court’s denial of his motion for reconsideration, and has not been diligent in bringing the motion, but there have been no allegations of vexatiousness. This is a close case, but in consideration for Complainant’s pro se status, the fact that the case has not progressed far, and Respondent’s silence on the issue, the Court will dismiss the case without prejudice.

Complainant’s Motion to Withdraw His Claims is GRANTED and the case is DISMISSED without prejudice.

SO ORDERED.

Dated and entered on April 2, 2024.

Honorable Jean C. King
Chief Administrative Law Judge

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 an Administrative Law Judge's 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.