

WENDY ORELLANA MANZANO, )  
Complainant, )  
 ) 8 U.S.C. § 1324b Proceeding  
v. ) OCAHO Case No. 19B00017  
 )  
WALMART, INC., )  
Respondent. )  
 )

The OCAHO rules “explicitly provide for dismissal of complaints under three circumstances: (1) ‘[w]here the parties or their authorized representatives or their counsel have entered into a settlement agreement’ (28 C.F.R. § 68.14); (2) when a complaint or a request for hearing is abandoned by the party or parties who filed it (28 C.F.R. § 68.37(b)); (3) by default (28 C.F.R. § 68.37(c)).” *LeEdwards v. Kumagai Int’l USA Corp.*, 4 OCAHO no. 609, 197, 200 (1994). The OCAHO rules do not specifically cover a voluntary dismissal by the complainant, but the Federal Rules of Civil Procedure may be used as a general guideline for any situation not covered by the OCAHO rules, the Administrative Procedure Act, any other applicable statute, executive order, or regulation. 28 C.F.R. § 68.1.

Under Federal Rule of Civil Procedure 41(a)(2), the Court may, in certain circumstances, order dismissal of an action at the plaintiff's request. "Such an order is proper only if a plaintiff has made a motion for dismissal." *LeEdwards*, 4 OCAHO no. 609 at 200. The Court "should grant a motion for voluntary dismissal under Rule 41(a)(2) unless a [respondent] can show that it will suffer some plain legal prejudice as a result." *Smith v. Lenches*, 263 F.3d 972, 975 (9th Cir. 2001). Legal prejudice is "prejudice to some legal interest, some legal claim, [or] some legal argument." *Id.* (internal quotation marks and citation omitted). "Uncertainty because a dispute remains unresolved" or "the threat of future litigation which causes uncertainty" does not constitute plain legal prejudice. *Westlands Water Dist. v. United States*, 100 F.3d 94, 97 (9th Cir. 1996); *see United States v. Johnny & Leona Entertainment, LLC*, 13 OCAHO no. 1325, 12 (2019). The Respondent does not object, and did not raise any concerns about prejudice. While the parties have filed prehearing statements, no dispositive motions have been filed.

Accordingly, the Court finds that Complainant's Motion to Dismiss Without Prejudice is GRANTED. The Complaint is DISMISSED WITHOUT PREJUDICE.

SO ORDERED.

Dated and entered on February 20, 2020.

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Jean C. King  
Chief Administrative Law Judge