

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

ROBERT HEATH,	)	
Complainant,	)	
	)	8 U.S.C. § 1324b Proceeding
v.	)	
	)	OCAHO Case No. 2021B00045
ANCILE, INC.,	)	
Respondent.	)	
	)	

---

ORDER OF DISMISSAL

This case arises under the antidiscrimination provisions of the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324b. On July 12, 2021, Complainant, Robert Heath filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) against Respondent, Ancile, Inc., alleging violations of § 1324b. On August 11, 2021, Respondent timely filed an answer denying all liability.

On July 18, 2022, the Court issued an Order related to Respondent's Notification of Complainant's Passing and Motion to Dismiss. *See Heath v. Ancile, Inc.*, 15 OCAHO no. 1411, 1 (2022).<sup>1</sup> On October 20, 2022, the Court issued a Notice and Order regarding official notice of Complainant's death and the applicability of Federal Rule of Civil Procedure (Rule 25). *See Heath v. Ancile, Inc.*, 15 OCAHO no. 1411a, 1 (2022).

On March 9, 2023, the Court issued an Order addressing official notice of Complainant's executor and Rule 25. *See Heath v. Ancile, Inc.*, 15 OCAHO no. 1411c, 1 (2023). Having found that Complainant's executor had notice of these proceedings, and that neither party had moved for dismissal based on claim extinguishment, the Court started the 90-day period proscribed by Rule 25(a)(1). *Id.* at 2. The Court observed:

---

<sup>1</sup> 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>.

A motion for substitution may be made by any party or by the decedent's successor or representative. Fed. R. Civ. P. 25(a)(1). If a motion for substitution is not made within 90 days from the date of [the March 9, 2023] Order, this action by Robert Heath (OCAHO Case No. 2021B00045) may be subject to dismissal without prejudice. *See id.*

*Id.* (internal quotation marks omitted).

The 90-day window proscribed by Rule 25(a)(1) began on March 9, 2023, and closed on June 7, 2023. To date, the Court has not received substitution motions for this case.

“If the motion [for substitution] is not made within 90 days after service of a statement noting the death, the action by or against the decedent must be dismissed.” Fed. R. Civ. P. 25(a)(1). As the conditions for dismissal under Rule 25(a)(1) are present in this case, Mr. Heath's Complaint against Ancile, Inc. (OCAHO Case No. 2021B00045) is DISMISSED without prejudice. Any pending motions are denied as MOOT.

SO ORDERED.

Dated and entered on June 27, 2023.

---

Honorable John A. Henderson  
Administrative Law Judge

Appeal Information

In accordance with the provisions of 8 U.S.C. § 1324b(g)(1), this Order shall become final upon issuance and service upon the parties, unless, as provided for under the provisions of 8 U.S.C. § 1324b(i), any person aggrieved by such Order files a timely petition for review of that Order 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, and does so no later than 60 days after the entry of such Order. Such a petition must conform to the requirements of Rule 15 of the Federal Rules of Appellate Procedure.