

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

UNITED STATES OF AMERICA,)	
)	
Complainant,)	
)	8 U.S.C. § 1324a Proceeding
v.)	
)	OCAHO Case No. 2023A00038
CHILITTO PIKIN LLC,)	
)	
Respondent.)	
_____)	

Appearances: Ariel Chino, Esq., for Complainant
Jodi Goodwin, Esq., for Respondent

FINAL ORDER OF DISMISSAL

I. PROCEDURAL HISTORY

On January 18, 2023, Complainant, the United States Department of Homeland Security, Immigration and Customs Enforcement, filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) against Respondent, Chilitto Pikin LLC. The complaint alleges that Respondent violated the employer sanctions provisions of the Immigration and Nationality Act, as amended by the Immigration Reform and Control Act of 1986, 8 U.S.C. § 1324a. Compl. ¶ 6.

Following Respondent’s failure to file a timely answer to the complaint, the Court issued an Order to Show Cause on July 6, 2023. *United States v. Chilitto Pikin LLC*, 18 OCAHO no. 1486 (2023).¹ Thereafter, Respondent filed Respondent’s

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 after Volume 8, where the decision has not yet been

Answer to Complaint Regarding Unlawful Employment and Respondent's Answer to Order to Show Cause on July 28, 2023. Finding good cause for Respondent's failure to timely answer the complaint, the Court issued an Order Accepting Respondent's Response and Answer and Discharging Order to Show Cause on February 13, 2024. *United States v. Chilitto Pikin LLC*, 18 OCAHO no. 1486a (2024).

On February 13, 2024, the Court issued an Order for Prehearing Statements and Scheduling Initial Prehearing Conference. In addition to setting dates for initial disclosures, the filing of prehearing statements, and a prehearing conference, the Court authorized the parties to begin discovery. Order for Prehr'g Statements & Setting Initial Prehr'g Conf. 2, 4, 8. The Court also provided the parties with information regarding the OCAHO Settlement Officer Program and links to the Executive Office for Immigration Review (EOIR) Policy Memorandum 20-16 and Chapter 4.7 of OCAHO's Practice Manual, both of which describe the policies and procedures for the use of Settlement Officers in OCAHO cases.² *Id.* at 5-6.

On March 7, 2024, the parties filed a Joint Motion for and Consent to Referral to Settlement Officer Program, requesting that the Court refer this matter to a Settlement Officer and "expressly consent[ing] to participate in the Settlement Officer Program and agree[ing] to engage in settlement negotiations in good faith." Joint Mot. & Consent Referral Settlement Officer Prog. 1.

On March 14, 2024, the Court issued an Order Granting Joint Motion for and Consent to Referral to Settlement Officer Program, Referring Case to the OCAHO Settlement Officer Program, and Designating Settlement Officer. *United States v. Chilitto Pikin LLC*, 18 OCAHO no. 1486b (2024). The Court referred this matter to

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 through the Westlaw database "FIMOCAHO," the LexisNexis database "OCAHO," and on the United States Department of Justice's website at <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-decisions>.

² EOIR Policy Memorandum 20-16 is available at <https://www.justice.gov/eoir/page/file/1300746/download>. Chapter 4.7 of the OCAHO Practice Manual also describes the OCAHO Settlement Officer Program and may be found at <https://www.justice.gov/eoir/eoir-policy-manual/iv/4/7>.

the OCAHO Settlement Officer Program for an initial period of sixty days, beginning on March 18, 2024, and continuing through May 17, 2024. *Id.* at 4-5. The Court also designated an OCAHO Administrative Law Judge as the Settlement Officer. *Id.* at 5. The Court directed the parties to proceed in accordance with 28 C.F.R. § 68.14³ should they reach a settlement. *Id.*

On March 14, 2024, the Court issued an Order on Electronic Filing, through which this case was enrolled in OCAHO's Electronic Filing Pilot Program.⁴

On May 17, 2024, the referral of this matter to the OCAHO Settlement Officer Program ended. The Settlement Officer then notified the Court that the parties had reached a settlement agreement through the program.

On May 24, 2024, the parties filed a Joint Motion to Dismiss Complaint with Prejudice, moving the Court to dismiss the complaint with prejudice pursuant to 28 C.F.R. § 68.14(a)(2). Joint Mot. Dismiss Compl. with Prejudice 1. The parties represented that they had reached "a full agreement and now ask the court to dismiss the instant matter with prejudice." *Id.* Counsel for both parties signed the joint motion. *Id.*

II. LEGAL STANDARDS AND DISCUSSION

OCAHO's Rules of Practice and Procedure for Administrative Hearings provide two avenues to parties seeking to conclude a case after entering into a settlement agreement: consent findings or dismissal. *See* 28 C.F.R. § 68.14. The parties here have chosen to pursue dismissal pursuant to 28 C.F.R. § 68.14(a)(2). That regulation provides that, where the parties have entered into a settlement agreement, they shall "[n]otify the Administrative Law Judge that the parties have reached a full settlement and have agreed to dismissal of the action. Dismissal of

³ Proceedings in this case are governed by OCAHO's Rules of Practice and Procedure for Administrative Hearings, being the provisions contained in 28 C.F.R. part 68 (2024). OCAHO's Rules are available on OCAHO's homepage on the United States Department of Justice's website. *See* <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-regulations>.

⁴ OCAHO's Electronic Filing Pilot Program is described in detail in the Federal Register. *See* 79 Fed. Reg. 31143 (May 30, 2014).

the action shall be subject to the approval of the Administrative Law Judge, who may require the filing of the settlement agreement.” *Id.* § 68.14(a)(2).

The Court has reviewed the parties’ Joint Motion to Dismiss Complaint with Prejudice and finds that it satisfies the requirements of 28 C.F.R. § 68.14(a)(2). Through the joint motion, the parties represent that they “have come to a full agreement” and agree to dismissal of this case pursuant to 28 C.F.R. § 68.14(a)(2). Joint Mot. Dismiss Compl. with Prejudice 1. Both parties’ counsel signed the motion. *Id.*

The parties seek a dismissal with prejudice. Joint Mot. Dismiss Compl. with Prejudice 1. The Court finds that a dismissal with prejudice—and the finality it brings—is appropriate here where the parties have entered into a full settlement agreement to resolve the allegations raised in the complaint and have jointly agreed to a dismissal with prejudice. *See, e.g., United States v. Eco Brite Linens, LLC*, 18 OCAHO no. 1485c, 1-2 (2024) (dismissing case with prejudice where the parties jointly requested dismissal with prejudice and represented through counsel that they had signed a settlement agreement). The stage of the proceedings also supports a dismissal with prejudice because this case has been pending for sixteen months with over three months of discovery being available to the parties. *See, e.g., Huesca v. Rojas Bakery*, 4 OCAHO no. 654, 550, 557 (1994) (basing a finding of dismissal with prejudice in part on the fifteen-month pendency of the case and the advanced stage of discovery).

Although the parties have represented that they have reached a full settlement in this matter, they did not file a copy of the settlement agreement with their Joint Motion to Dismiss Complaint with Prejudice. As noted above, the Court may exercise its discretion and require them to do so before ruling on their joint motion. 28 C.F.R. § 68.14(a)(2); *see also United States v. Torres Mexican Food, Inc.*, 4 OCAHO no. 596, 88, 89 (1994) (explaining that 28 C.F.R. § 68.14(a)(2) neither requires Administrative Law Judges to review parties’ settlement agreements nor precludes them from doing so). However, the Court will not require the filing of the settlement agreement in this case given the nature of these proceedings and the record before the Court. The Court has considered that both parties are represented by counsel and have been actively participating in this matter, including by mediating a full settlement with the assistance of a Settlement Officer through the OCAHO Settlement Officer Program. *See, e.g., United States v. Dilligas Corp.*, 19 OCAHO no. 1526, 3 (2024) (considering the nature of the proceedings, the record before the Administrative Law Judge, and the parties’

representation by counsel and participation in the case in determining not to require the filing of a settlement agreement).

Given the Court's findings that the parties have sought dismissal in conformity with 28 C.F.R. § 68.14(a)(2) and that dismissal with prejudice is appropriate, the Court now grants the parties' Joint Motion to Dismiss Complaint with Prejudice and approves the dismissal of this case with prejudice.

III. ORDERS

Upon consideration of the Joint Motion to Dismiss Complaint with Prejudice filed by Complainant, the United States Department of Homeland Security, Immigration and Customs Enforcement, and Respondent, Chilitto Pikin LLC, and pursuant to 28 C.F.R. § 68.14(a)(2),

IT IS SO ORDERED that the parties' Joint Motion to Dismiss Complaint with Prejudice is GRANTED; and

IT IS FURTHER ORDERED that this case is DISMISSED WITH PREJUDICE.

SO ORDERED.

Dated and entered on June 5, 2024.

Honorable Carol A. Bell
Administrative Law Judge

Appeal Information

This order shall become the final agency order unless modified, vacated, or remanded by the Chief Administrative Hearing Officer (CAHO) or the Attorney General.

Provisions governing administrative reviews by the CAHO are set forth at 8 U.S.C. § 1324a(e)(7) and 28 C.F.R. pt. 68. Note in particular that a request for administrative review must be filed with the CAHO within ten (10) days of the date of this order, pursuant to 28 C.F.R. § 68.54(a)(1) (2012).

Provisions governing the Attorney General's review of this order, or any CAHO order modifying or vacating this order, are set forth at 8 U.S.C. § 1324a(e)(7) and 28 C.F.R. pt. 68. Within thirty (30) days of the entry of a final order by the CAHO, or within sixty (60) days of the entry of an Administrative Law Judge's final order if the CAHO does not modify or vacate such 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.

A petition to review the final agency order may be filed in the United States Court of Appeals for the appropriate circuit within forty-five (45) days after the date of the final agency order pursuant to 8 U.S.C. § 1324a(e)(8) and 28 C.F.R. § 68.56.