

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

June 25, 2024

US TECH WORKERS ET. AL.,)	
Complainant,)	
)	
v.)	8 U.S.C. § 1324b Proceeding
)	OCAHO Case No. 2024B00086
)	
OAK STREET HEALTH,)	
Respondent.)	
_____)	

Appearances: John M. Miano, JD, for Complainant
Stephen H. Smalley, Esq. and Vanessa N. Garrido, Esq., for Respondent

ORDER DISCHARGING ORDER TO SHOW CAUSE

This case arises under the antidiscrimination provisions of the Immigration and Nationality Act, as amended, 8 U.S.C. § 1324b. Complainant, US Tech Workers, et al., filed a complaint against Respondent, Oak Street Health, on March 19, 2024, alleging citizenship discrimination in hiring.

On April 8, 2024, the Chief Administrative Hearing Officer (CAHO) sent a copy of the Complaint and a Notice of Case Assignment for Complaint Alleging Unfair Immigration-Related Employment Practices (NOCA) to the Respondent by United States Postal Service (USPS) certified mail. The USPS tracking website indicates that the NOCA and Complaint were delivered on April 17, 2024.

On May 13, Complainant filed a Motion to Consolidate and for Leave to File a Consolidated Amended Complaint. On May 21, 2024, Respondent filed a Consent Motion for Extension of Time to File an Answer Or Other Responsive Pleading, as well as Respondent’s Consent Motion for Extension of Time to Respond to Complainant’s Motion. On May 28, 2024, this Court issued an order granting the Extension of Time to Respond to Complainant’s Motion, but denying the Extension of Time to File the Answer, because the deadline to file the answer had already passed, and Respondent did not address why the answer or the extension request was not timely filed. *U.S. Tech Workers et al. v. Oak Street Health*, 19 OCAHO no. 1574 (2024).¹

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

On June 4, 2024, Respondent filed its Answer and Affirmative Defenses, and on June 6, Respondent filed a response to the Order to Show Cause. Respondent states that the late filing was due to its misunderstanding that the filing is not deemed effective at the time of mailing, but at the time of receipt by OCAHO. Resp. at 3.

OCAHO's Rules of Practice and Procedure for Administrative Hearings provide that a respondent's failure to file an answer “may be deemed to constitute a waiver of his or her right to appear and contest the allegations of the complaint. The Administrative Law Judge may enter a judgment by default.” 28 C.F.R. § 68.9(b).² Such judgments are generally disfavored, and doubts regarding entry of default should be resolved in favor of a decision on the merits of the case. *See United States v. Vilaro Vineyards*, 11 OCAHO no. 1248, 5 (2015) (CAHO Order); *United States v. Jabil Circuit*, 10 OCAHO no. 1146, 3 (2012) (CAHO Order). In determining whether good cause to set aside an entry of default exists, OCAHO Administrative Law Judges (ALJs) have considered: (1) whether there was culpable or willful conduct; (2) whether setting the default aside would prejudice the adversary; and (3) whether the defaulting party presents a meritorious defense to the action. *Nickman v. Mesa Air Grp.*, 9 OCAHO no. 1106, 2-3 (2004) (citing *Kanti v. Patel*, 8 OCAHO no. 1007, 166, 168 (1998)).

The Court finds that Respondent has demonstrated good cause for its failure to file a timely answer. Respondent demonstrated that it is intending to pursue the case and did not willfully avoid complying with the Order. Respondent timely sought opposing counsel’s consent and placed the filing in the mail within the timeframe it believed appropriate. Complainant consented to the motion, Respondent subsequently filed the answer in a timely fashion, and Respondent filed a number of affirmative defenses.

As such, the Order to Show Cause is discharged and the answer is accepted.

SO ORDERED.

Dated and entered on June 25, 2024.

Honorable Jean C. King
Chief Administrative Law Judge

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 <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-decisions>.

² OCAHO Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2022).