

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

QUN WANG,)	
Complainant,)	
)	
v.)	8 U.S.C. § 1324b Proceeding
)	OCAHO Case No. 2024B00110
)	
DROPBOX, INC.,)	
Respondent.)	
)	

Appearances: Qun Wang, pro se Complainant
Sean M. McCrory, Esq., for Respondent

ORDER DENYING MOTION FOR DEFAULT JUDGMENT AND ACCEPTING ANSWER

I. PROCEDURAL HISTORY

This case arises under the unfair immigration-related employment practices provisions of the Immigration and Nationality Act, as amended by the Immigration Reform and Control Act of 1986, 8 U.S.C. § 1324b. Complainant Qun Wang filed a Complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) against Respondent Dropbox, Inc. on June 4, 2024, alleging that Dropbox discriminated against him on the basis of his citizenship status. Compl. 6.

On August 20, 2024, Complainant filed a Motion to Modify Complaint and a Motion for Default Judgement.

On August 21, 2024, the Court issued an Order Directing Complainant to Provide Working Address, noting that Complainant “only provided a general address for the Respondent, without identifying a registered agent, officer, or director for the company” as OCAHO’s rules require. Wang v. Dropbox, Inc., 20 OCAHO no. 1605, 2 (2025).¹ Because the Court found that service was not perfected, id., the Court ordered Complainant to either file a supplement

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 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 in the Westlaw database “FIMOCAHO,” or in the LexisNexis database “OCAHO,” or on the website at <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-decisions>.

identifying an officer, director or registered agent for Respondent; to provide a working mailing address for Respondent; or to seek leave to effect service by some other means.

On August 26, Respondent filed Respondent's Response to the Motion for Default Judgment and Request to Extend the Deadline for a Responsive Pleading.

On September 4, 2024, Complainant filed a Reply to Defendant's Response to Motion for Default Judgment, responding to Respondent's substantive arguments against default judgment.²

On September 5, 2024, Respondent filed a Supplement to Respondent's Response to the Motion for Default Judgment, discussing service of the complaint and stating that it will not file a responsive pleading until properly served. Supplement 1.

On September 11, 2024, Complainant filed a Supplement to the Complaint, providing a mailing address for Respondent's counsel and requesting that his previous filings be accepted without requiring re-filing.³

Also on September 11, 2024, this Court re-issued the Complaint and Notice of Case Assignment (NOCA), to both Respondent's Legal Department and Respondent's counsel. The Court sent both copies of the complaint package via United States Postal Service certified mail. Although the tracking information for the complaint package sent to Respondent's counsel stopped updating on September 20, 2024, the complaint package appears to have been delivered to the mail room on September 18, 2024.

On October 17, 2024, Respondent submitted a filing titled Respondent's Response to Complainant's Supplement to Complaint. In it, Respondent asserts that it responded to all of the allegations in the Complaint. Resp. Suppl. Complaint. 1.

² The Court notes that under 28 C.F.R. § 68.11(b), no replies to responses are allowed unless the Administrative Law Judge allows. *See also United States v. Zarco Hotels, Inc.*, 18 OCAHO no. 1518, 1 (2024) ("OCAHO's Rules of Practice and Procedure for Administrative Hearings do not allow parties to file replies or sur-replies unless the Court provides otherwise.") (internal citations omitted). Complainant did not seek leave of the Court to file his reply. However, the Court exercises its discretion and accepts the filing because Respondent did not oppose the submission of a reply, because Section VIII of the General Litigation Order (issued after the reply was submitted) permits the parties to file replies in support of motions in these proceedings, and because Complainant's reply addresses new arguments raised in Respondent's filing. *Id.*; *see e.g., US Tech Workers v. Boston Consulting Grp.*, 20 OCAHO no. 1580a, 1 (2024).

³ The Court clarifies here that Complainant's filings have been accepted and are part of the case record. (Those filings are: the Complaint, Complainant's Motion to Modify Complainant and Submit Evidence, Motion for Default Judgment, Complainant's Reply to Defendant's Response to Motion for Default Judgment and Opposition.) They do not need to be refiled.

II. SERVICE OF THE COMPLAINT

OCAHO’s “[r]ules do not permit Complainant or this Judge to waive service of the complaint,” and Respondent has specifically stated that it does not waive service. United States v. Inguiez-Casillas, 6 OCAHO no. 870, 510, 513 (1996); *see also* United States v. Vector Xpress, Inc., 16 OCAHO no. 1431, 5 (2022); United States v. DJ’s Transp., 18 OCAHO no. 1488, (2023). In a previous order, the Court noted that “service was not perfected per OCAHO’s regulatory requirements,” Wang, 20 OCAHO no. 1605 at 2, and that Respondent becoming aware of this litigation on August 20, 2024, when it received the Motion for Default Judgment, does not change the Court’s prior ruling that Complainant’s previous effort to effect service was insufficient.

However, Complainant supplemented its prior filing by identifying Respondent’s counsel as Respondent’s representative and providing a new mailing address for service of process. 28 C.F.R. § 68.3(a)(3) allows the Court to effect service of process on respondents by “mailing to the last known address of such individual, partner, officer, or attorney or representative of record.” Respondent’s counsel has submitted a notice of appearance and is Respondent’s attorney of record in this case. Complainant has fulfilled his obligations, and the Court has reissued the Complaint and Notice of Case Assignment to Respondent’s counsel.

III. MOTION FOR DEFAULT JUDGMENT

A. Parties’ Filings

In his Motion for Default Judgment, Complainant argues that Respondent “failed to file an answer or otherwise respond to the Complaint” and that as a result, “Complainant is entitled to a judgment by default, including appropriate relief.” Mot. Default J. 1. The bulk of the motion then focused on the relief sought. Id. at 2-3.

In addition to the discussion of the service of the Complaint discussed above, the Respondent argues against granting Complainant default judgment, arguing that Complainant did not exhaust his administrative remedies, that Dropbox does not have a record of Complainant’s application, that Complainant’s charge was untimely, and that Complainant was not the most qualified candidate for the position. Id. at 3.

Complainant, in response, first argues that Complainant followed the appropriate steps in filing with IER and exhausted his administrative remedies, that he did apply to Respondent and attached evidence to demonstrate this to his Motion to Modify Complaint, and arguing that he was at least equally qualified as those hired. Reply Resp. Mot. Default 2

B. Legal Standards and Discussion

Under OCAHO’s Rules of Practice and Procedure, the Administrative Law Judge may enter default when the respondent has “fail[ed] . . . to file an answer within the time provided[.]” 28 C.F.R. 68.9(b). Failure to file an answer “within the time provided may be deemed to constitute a waiver of [respondent’s] right to appear and contest the allegations of the complaint.” *Id.* “If a default judgment is entered, the request for hearing is dismissed, AND judgment is entered for the complainant without a hearing.” *Nickman v. Mesa Air Grp.*, 9 OCAHO no. 1106, 1 (2004) (emphasis in original). However, “[d]efault judgments are generally disfavored in the law and thus should not be granted on the claim, without more, that the defendant . . . failed to meet procedural requirement.” *Id.* at 2; *see also Griffin v. All Desert Appliances*, 14 OCAHO no. 1370b, 12 (2021). The Court has previously denied default judgment where Respondent missed its answer deadline because the “manner of service was not reasonably calculated to advise the Respondent of a matter pending before it (e.g., to the mailroom of a multinational company, rather than directed to the attention of an officer, director, or registered agent of the company).” *Shater v. Shell Oil Co.*, 18 OCAHO no. 1504, 4 (2023).

Because service was not perfected when Complainant filed his Motion for Default Judgment, Respondent did not fail to timely file an answer. As a result, Respondent has not waived its right to appear and contest the claims in the Complaint. The Motion for Default Judgment is therefore DENIED.

IV. RESPONDENT’S RESPONSE TO COMPLAINANT’S SUPPLEMENT TO COMPLAINT ACCEPTED AS ANSWER

It is unclear from the mail tracking information available to the Court when, if at all, Respondent’s counsel received his copy of the complaint package that was reissued on September 11, 2024. However, Respondent filed its Response to Complainant’s Supplement to Complaint, which addresses the assertions in the Complaint and raises affirmative defenses on October 17, 2024, within 30 days of the re-issued complaint reaching Respondent business.

Because the filing fulfills the regulatory requirements for an answer, 28 C.F.R. § 68.9(c), and was filed within 30 days of service of the re-issued Complaint and Notice of Case Assignment, it is ACCEPTED as Respondent’s timely Answer.

Given this, Respondent's request for an extension to the answer deadline is denied as moot.

SO ORDERED

Dated and entered on January 15, 2025.

Honorable John A. Henderson
Administrative Law Judge