

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

ZAJI O. ZAJRADHARA,	)	
Complainant,	)	
	)	
	)	8 U.S.C. § 1324b Proceeding
v.	)	OCAHO Case No. 2023B00078
	)	
MARIANA PHARMACY	)	
Respondent.	)	
	)	

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Appearances: Zaji Obatala Zajradhara, pro se Complainant  
Janet King, Esq., for Respondent<sup>1</sup>

AMENDED ORDER DISCHARGING ORDERS TO SHOW  
CAUSE, ACCEPTING RESPONDENT'S ANSWER TO THE COMPLAINT,  
AND DENYING COMPLAINANT'S MOTIONS FOR SUMMARY DECISION<sup>2</sup>

I. INTRODUCTION

This case arises under the antidiscrimination provisions of the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324b. Complainant Zaji Obatala Zajradhara filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) on July 18, 2023. Complainant alleges that Respondent Mariana Pharmacy discriminated against him on the basis of his national origin and citizenship status and retaliated against him in violation of 8 U.S.C. §§ 1324b(a)(1) and (a)(5). Respondent filed its answer on November 15, 2023.

This Order addresses Complainant's two very brief motions seeking summary decision, which were filed in January 2024, and Respondent's motion for leave to file an untimely answer to the Complaint. Respondent opposed the motions for summary judgment; Complainant filed a reply in support of his filing.

Complainant filed a third motion for summary decision in March 2025 which will be addressed in a subsequent order.

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<sup>1</sup> Respondent filed a Notice of Appearance for Ms. King on January 25, 2024. The Court ACCEPTS the Notice and enters her into the record as counsel for Respondent.

<sup>2</sup> On April 11, 2025, the Court issued the Order Discharging Order to Show Cause, Accepting Respondent's Answer to the Complaint, and Denying Complainant's Motion for Summary Decision. This order amends the prior order only to correct typographical errors.

## II. COMPLAINANT’S SUMMARY DECISION MOTIONS

Complainant styles his motions as motions for summary decision, however, the contents of the motions indicate a different objective. His first motion for summary decision seeks a finding of default judgment related to Respondent’s delayed submission of its Answer. Complainant offers none of the required elements of a motion for summary decision — he offers no facts which he contends are undisputed, no evidence to support these facts, and no legal theories which might otherwise direct one to a finding of liability. *See* 28 C.F.R. 68.38(b) (standards for a summary decision motion); Fed. R. Civ. P. 56.

Complainant’s second motion for summary decision follows a similar line — the motion is also titled a motion for summary decision, however the substance of the filing argues against the Respondent’s request for an extension of time to file its Answer. Accordingly, the Court will consider both motions in the context of Respondent’s motion for additional time to file its Answer.<sup>3</sup>

## III. PROCEDURAL HISTORY OF MOTION FOR EXTENSION OF TIME TO FILE ANSWER

Respondent’s Answer was due on September 20, 2023. On October 25, 2023, the Court issued a show cause order, directing Respondent to file an answer and to show cause why the Court should amend its prior order to permit the entry of the otherwise untimely pleading. Zajradhara v. Mariana Pharmacy, 18 OCAHO no. 1507 (2023).<sup>4</sup> On November 15, 2023, the Respondent filed an Answer, but submitted no filing proffering good cause for its late filing of the Answer. As a result, on December 20, 2023, the Court issued a second order to show cause, again ordering Respondent to submit a good cause filing. Zajradhara v. Mariana Pharmacy, 18 OCAHO no. 1507a, 2-3 (2023).

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<sup>3</sup> The motions are titled “Request for Summary Judgment in Favor of Complainant” and “Layman’s Motion Summary Judgment and Disallowing the Respondents Reply as Untimely.” Insofar as Complainant’s motions seek an order of summary decision on the basis of an undisputed question of material fact, the motions are DENIED.

<sup>4</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 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>.

On January 25, 2024, Respondent filed its Motion for Leave to File Out of Time Respondent's Response to the Second Order to Show Cause dated December 20, 2023. Respondent's Managing Partner Perry Inos asserts that he received the Notice of Case Assignment (NOCA) and Complaint by mail on August 21, 2023,<sup>5</sup> Decl. Marianas Pharmacy LLC 1, but that it was misplaced and only identified in late October 2023. *Id.* Respondent explains he then had difficulty finding an attorney and only retained his counsel on November 14, 2023. *Id.* Respondent mailed its Answer on November 15, 2023 via certified mail. *Id.* at 2. Respondent states that by the time the Court issued its second order to show cause on December 20, 2023, he had traveled to Russia, where he stayed until January 15, 2024. *Id.* According to his declaration, Respondent was only able to meet with counsel upon his return and provide the necessary information for the good cause filing on January 18, 2024, due to "serious issues" in one of his businesses. *Id.*

Respondent's counsel states that she made diligent attempts to reach her client while he was abroad but was unable to do so. Mot. Leave File Out of Time 3. Respondent's counsel adds that due to an administrative oversight within her firm, she did not realize the deadline set in the Second Order to Show Cause had passed. *Id.* Respondent argues that "[i]t is in the interest of fairness and justice that this matter be determined on the merits" and that "no prejudice would result to Complainant" if the Court accepts Respondent's late-filed good cause. *Id.* at 4.

As stated previously, Complainant's first motion for summary decision will be construed as a motion seeking default judgment. His second motion for summary decision will be considered as an opposition to the Respondent's motion to file its out of time Answer and discharge the show cause orders.<sup>6</sup>

#### IV. LATE-FILED ANSWER AND LATE-FILED GOOD CAUSE ACCEPTED

##### A. Legal Standards

Under the OCAHO Rules of Practice and Procedure, to contest a material fact alleged in the complaint or a penalty assessment, a respondent must file an answer. 28 C.F.R. § 68.9(c).

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<sup>5</sup> In its motion, Respondent states that the Answer was due by September 30, 2023. Mot. Leave File Out of Time 2. However, as Respondent notes, the NOCA gave Respondent 30 days from receipt to file an Answer. *Id.* Respondent agrees that he received the NOCA and Complaint on August 21, 2023. The Answer was therefore due by September 20, 2023. See *Zajradhara v. Mariana Pharmacy*, 18 OCAHO no. 1507, 1 (2023).

<sup>6</sup> Complainant also filed a submission titled "Complainant's Layman's Motion/Response Summary Judgement and Disallowing the Respondent's Reply as Untimely Part 2#." While titled as a motion, the filing appears to be a reply in support of his motion for default judgment. The Court addresses the motion for default judgment in this order in the context of Respondent's motion to accept the Answer, however, for clarity in the record "Complainant's Layman's Motion/Response Summary Judgement ..." is DENIED.

That answer must include “[a] statement that the respondent admits, denies, or does not have . . . sufficient information to admit or deny each allegation” and “[a] statement of facts supporting each affirmative defense.” *Id.* 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. The Administrative Law Judge may enter a judgment by default.” 28 C.F.R. § 68.9(b).

OCAHO precedent, however, favors “evaluat[ing] and resolv[ing] cases on their merits.” *United States v. MRD Landscaping & Maint., Corp.*, 15 OCAHO no. 1407c, 4 (2022) (citing *D’Amico, Jr., v. Erie Cmty. Coll.*, 7 OCAHO no. 927, 61, 63 (1997); *United States v. R & M Fashion Inc.*, 6 OCAHO no. 826, 46, 48 (1995)).

If a respondent fails to timely file an answer, “the Court may issue an order to show cause as to why a default judgment should not issue, and ask the respondent to justify its failure to file its answer on time.” *Y.Y. v. Zuora, Inc.*, 15 OCAHO no. 1402, 4 (2021) (citing *United States v. Shine Auto Serv.*, 1 OCAHO no. 70, 444, 445-46 (1989) (Vacation by the CAHO of the Admin. Law Judge’s Order Denying Default Judgment)). When deciding whether to accept a late filing, “OCAHO courts employ a standard of good cause.” *MRD Landscaping & Maint., Corp.*, 15 OCAHO no. 1407c at 5. The Court has “broad discretion to find that Respondent demonstrated good cause for its failure to file a timely answer.” *Robert Paul Heath v. Tringapps, Inc.*, 15 OCAHO 1410a, 2 (2022); *see also* *Zajradhara v. Ranni’s Corp.*, 16 OCAHO no. 1426, 2 (2023) (citing *United States v. Sal’s Lounge*, 15 OCAHO no. 1394c, 8, (2022)). Specifically, “default judgment may not be appropriate in all circumstances where a respondent fails to meet a procedural time requirement.” *United States v. Tx Pollo Feliz LLC*, 18 OCAHO no. 1503, 2 (2023).

The Court has previously found good cause for a late-filed answer and a late-filed good cause explanation where respondent counsel’s personal and medical issues delayed the filing. *United States v. Steidle Lawn & Landscape, LLC*, 17 OCAHO no. 1457a, 2-3 (2022). The Court reasoned that Respondent “demonstrated that it is intending to pursue the case and did not willfully avoid complying with the Order to Show Cause, and Complainant is not prejudice by the delay.” *Id.* at 3. The Court has also found good cause for late-filed answers where Respondent’s location made it difficult for it to receive and send mail in a timely manner. *Ranni’s Corp.*, 16 OCAHO no. 1426 at 2.

## B. Discussion

In the matter presently before the Court, Respondent offers as a justification for its delayed Answer that Respondent mislaid the Complaint and did not become aware of this lawsuit until roughly a month after receiving notice of it. Decl. Marianas Pharmacy LLC 1. Respondent retained counsel on November 14, 2023, and filed its Answer the next day. *Id.*

Concerning the justification for the response to the second order to show cause, Respondent asserts that Mr. Inos, an essential person in preparing the Respondent’s response to the order, was

out of the country and inaccessible to counsel. In addition, Respondent asserts that administrative error caused it to not correctly docket the deadline for the response. Decl. Marianas Pharmacy LLC 2, Mot. Leave File Out of Time 3.

Respondent's explanations of administrative error, coupled with its diligence in presenting its Answer once it became aware of this litigation, constitutes good cause for the delay. The Court notes that, as with Ranni's Corp., the parties are thousands of miles from this Court, and that delays in mail delivery might occur under the circumstances. Ranni's Corp., 16 OCAHO no. 1426, at 2. Once Respondent became aware of the Complaint it made diligent efforts to retain counsel and file its Answer. There is no evidence that Respondent willfully avoided complying with the Order to Show Cause; moreover, there is no evidence that the delay was an intentional failure to respond to litigation.

However, the Court emphasizes the importance of ensuring that the parties maintain a system to receive, review, and respond to correspondence from the Court and from their counterparty.

With regard to the delayed response to the show cause order, Respondent's explanation of administrative error and the unavailability of the client also constitutes good cause. The unavailability of the client is understandable when the client travelled to a foreign country during a period where that country was at war with another nation. Similar to the Answer, there is no evidence of an intention to delay these proceedings or abuse the orderly disposition of this matter. Nonetheless, the parties are reminded to stay in contact with counsel during the pendency of this litigation, and that future delays related to the same may not constitute good cause for an untimely filing.

Turning to the Complainant's arguments in opposition to the motion, the Court does not find that Complainant has been prejudiced by the delay. OCAHO case law has made it clear that "[m]ere delay alone does not constitute prejudice without any resulting loss of evidence, increased difficulties in discovery, or increased opportunities for fraud and collusion." Nickman v. Mesa Air Grp., 9 OCAHO no. 1106, 3 (2004). Here the delay is not likely to result in such prejudicial results. Potential future requests for attorneys' fees do not constitute prejudice against Complainant, as Complainant proceeds in this matter pro se. Complainant's argument that Respondent has misled the Court concerning the delay is unsupported by any of the exhibits attached to his submissions.<sup>7</sup>

Most importantly, as previously mentioned, this Court favors "evaluat[ing] and resolv[ing] cases on their merits." MRD Landscaping & Maint., Corp., 15 OCAHO no. 1407c at 4. Given

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<sup>7</sup> The Court reminds the parties that the rules of decorum before the Court also apply to the filings made to this Court. Consequently, the parties should refrain from naming their exhibits and motions anything other than a plain description of the purpose of the filing (e.g. "Motion for Summary Decision," or "Exhibit 2"), and that ad hominem attacks on the opposing party may constitute sanctionable conduct.

that Respondent did indicate a “desire[] . . . to have access to the hearing process to which it is entitled under statute,” the Court is not inclined to impose default judgment, despite Respondent’s tardiness. Tx Pollo Feliz, 18 OCAHO no. 1503, at 4; *see* 8 U.S.C. § 1324b(e)(1) (“The person or entity so complained of shall have the right to file an answer to the original or amended complaint and to appear in person or otherwise and give testimony at the place and time fixed in the complaint.”). The Court therefore ACCEPTS the late-filed Answer and the Respondent’s Response to the Second Order to Show Cause.

The orders to show cause are DISCHARGED.

Because the Court has accepted Respondent’s Answer and Response to the Second Order to Show Cause and finds default judgment inappropriate in these circumstances, Complainant’s January 2024 Motions for Summary Judgment are DENIED.

#### V. CHANGING CASE CAPTION

The Court notes that in its Answer, Respondent states that its legal name is Marianas Pharmacy, LLC, rather than “Mariana Pharmacy,” as Complainant identified it in the Complaint. The Court interprets this as a motion to amend the case caption to Zajradhara v. Marianas Pharmacy, LLC, and is inclined to grant the motion. Respondent has 14 days from the date of this order to respond if the Court has mischaracterized its intentions. Complainant also has 14 days from the date of this order to respond to the extent that he opposes the requested change to the case caption.

#### VI. ORDERS

Respondent’s late-filed Answer and late-filed good cause explanation are ACCEPTED and the Court’s Order to Show Cause dated October 25, 2023 and Second Order to Show Cause dated December 20, 2023 are DISCHARGED.

Respondent counsel’s Notice of Appearance is ACCEPTED.

Complainant’s Request for Summary Judgment in Favor of Complainant, filed January 24, 2024, which seeks default judgment against Respondent, is DENIED.

Complainant’s Layman’s Motion Summary Judgment and Disallowing the Respondent’s Reply as Untimely, filed January 25, 2024, which the Court interprets as an opposition to Respondent’s Motion for Leave to File Out of Time Respondent’s Response to the Second Order to Show Cause dated December 20, 2023, is DENIED.

Complainant's Layman's Motion/Response Summary Judgement and Disallowing the Respondent's Reply as Untimely Part 2# is DENIED.

SO ORDERED.

Dated and entered on April 16, 2025.

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Honorable John A Henderson  
Administrative Law Judge