

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

May 20, 2026

MICHAEL BROWNE,	)	
Complainant,	)	
	)	
	)	
v.	)	8 U.S.C. § 1324b Proceeding
	)	OCAHO Case No. 2026B00021
	)	
INSTACART,	)	
Respondent.	)	
	)	

Appearances: Michael Browne, pro se,¹ Complainant
Esther Lander, Esq., for Respondent

ORDER GRANTING RESPONDENT’S MOTION FOR EXTENSION OF TIME TO FILE
ANSWER AND DENYING COMPLAINANT’S MOTION FOR ENTRY OF DEFAULT

I. PROCEDURAL HISTORY

This case arises under the employment discrimination provisions of the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324b.

On March 2, 2026, Complainant Michael Browne filed a complaint against Respondent Instacart.

On March 19, 2026, the Office of the Chief Administrative Hearing Officer (OCAHO) mailed Respondent a Notice of Case Assignment for Complaint Alleging Unfair Immigration-Related Employment Practices (NOCA) (along with the Complaint) to an address provided by Complainant using the United States Postal Service’s (USPS) certified mail service. The NOCA directed Respondent to answer the Complaint within thirty days, as required by 28 C.F.R. § 68.9(a). NOCA ¶ 4. OCAHO requested a tracking number for the “Complaint Package” and proof of service through a USPS Domestic Return Receipt (PS Form 3811) (“return receipt”).

On March 23, 2026, USPS Tracking indicates that the Complaint Package “was delivered to the front desk, reception area, or mail room.” To date, OCAHO has not received a return receipt.

¹ A Notice of Appearance has yet to be filed or accepted for this case.

On April 23, 2026, Complainant filed a Motion for Entry of Default Against Respondent Instacart.

On May 8, 2026, Esther Lander entered her appearance, and filed a Motion for an Extension of Time to File Answer and in Opposition to Complainant's Motion for Entry of Default.

II. LAW & ANALYSIS

A. Complainant's Motion for Entry of Default

OCAHO's Rules of Practice and Procedure for Administrative Hearings² provide the methods OCAHO may use to effectuate service of a complaint. As relevant here, the Rules provide that OCAHO may serve a complaint "[b]y mailing to the last known address of such individual, partner, officer, or attorney or representative of record." 28 C.F.R. § 68.3(a)(3). Under 28 C.F.R. § 68.3(b), "[s]ervice of the complaint and notice of hearing is complete upon receipt by the addressee." Respondent must then file an answer within thirty days after service. 28 C.F.R. § 68.9(a).

To facilitate service by mail, OCAHO requires that a complaint "be accompanied by a statement identifying the party or parties to be served." 28 C.F.R. § 68.7(b)(5). OCAHO relies on complainants to provide more specific service information than a "general business address." See *Qun Wang v. Dropbox, Inc.*, 20 OCAHO no. 1605, 2 (2024).

In this case, Complainant provided only a business name ("Instacart") and a general business address (50 Beale Street, Suite 600, San Francisco, CA, 94105), without identifying an "individual, partner, officer, or attorney or representative of record." Compl. 7, 15; 28 C.F.R. § 68.3(a)(3).

USPS Tracking indicates the Complaint Package "was delivered to the front desk, reception area, or mail room," but OCAHO has previously held that such delivery is insufficient to perfect service where a complainant "provided a general address ... without identifying a registered agent, officer, or director for the company." *Qun Wang*, 20 OCAHO no. 1605, at 1-2. Therefore, the Court cannot find that service was perfected on March 23, 2026.

Instead, through Respondent's motion, the Court has learned the first known date of a "28 C.F.R. § 68.3(a)(3)" individual's receipt of the Complaint Package appears to be May 6, 2026. ("Instacart's employment law team did not learn of either filing until May 6, 2026." Mot. Extension 2.)³

² OCAHO's Rules of Practice and Procedure for Administrative Hearings, being the provisions contained in 28 C.F.R. part 68 (2026), are available in the Electronic Code of Federal Regulations. See <https://www.ecfr.gov/current/title-28/chapter-I/part-68>.

³ "Absent suggestion to the contrary, the Court presumes parties 'act with integrity, and in an ethical manner,' as required under OCAHO's Rules." *Mangewala v. Sail Internet Inc.*, 19 OCAHO no. 1552g, 5 n.9 (2026).

Complainant argues that default is warranted because Respondent failed to file an answer within thirty days of service. Mot. Entry of Default 1-2. However, the Court cannot find that service was perfected prior to May 6, 2026, so the thirty days have yet to elapse. *See* 28 C.F.R. § 68.9(a).

Complainant's Motion for Entry of Default Against Respondent Instacart is **DENIED**.⁴

B. Respondent's Motion for Extension of Time to File Answer

"OCAHO's Rules of Practice and Procedure for Administrative Hearings do not provide specific standards for granting extensions, but the standard routinely applied is good cause." *United States v. Space Expl. Techs.*, 18 OCAHO no. 1499, 5 (2023); *see also US Tech Workers Et Al. v. G2*, 19 OCAHO no. 1569, 2 (2024).

"Good cause requires a demonstration of good faith on the part of the party seeking an enlargement of time and some reasonable basis for noncompliance within the time specified in the rules." *G2*, 19 OCAHO no. 1569, at 2 (quoting *Lowden v. Ann Arbor Elec. JATC Training Ctr.*, 18 OCAHO no. 1490, 2 (2023) (internal quotation marks omitted)).

Respondent has identified a reasonable basis for its request, as the relevant individuals within the company did not learn about the complaint until May 6, 2026. Mot. Extension 2. This occurred through no fault of Respondent, as discussed above, because Complainant provided only a general business address for service. Compl. 7, 15. Respondent demonstrated good faith by filing the instant motion only two days after learning of the Complaint.

Respondent requests an extension through June 18, 2026. Mot. Extension 3. As the Court cannot conclude that service was perfected prior to May 6, 2026, an answer would be due on or before June 5, 2026. *See* 28 C.F.R. § 68.9(a).

Respondent's request amounts to an extension of less than two weeks beyond that deadline and is reasonable under these circumstances. Granting this short extension will not prejudice Complainant, and the record and these proceedings will benefit "by Respondent's opportunity to file a meaningful answer." *United States v. Brulotte Farms, Inc.*, 19 OCAHO no. 1527, 2 (2024) (considering "the lack of prejudice to Complainant to provide a short extension").

Respondent's motion is **GRANTED**, and Respondent's answer is due on or before June 18, 2026.

SO ORDERED.

Honorable Andrea R. Carroll-Tipton
Administrative Law Judge

⁴ Separately, future motions filed by attorneys who have not yet filed a Notice of Appearance may be rejected outright.