

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

WALIED SHATER,	)	
Complainant,	)	
	)	8 U.S.C. § 1324b Proceeding
v.	)	
	)	OCAHO Case No. 2022B00025
SHELL OIL COMPANY,	)	
Respondent.	)	
	)	

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Appearances: Walied Shater, pro se Complainant  
Ethel J. Johnson, Esq., for Respondent

ORDER ON COMPLAINANT’S MOTIONS

I. BACKGROUND

This case arises out of the antidiscrimination provisions of the Immigration and Nationality Act, as amended, 8 U.S.C. § 1324b. On February 16, 2022, Complainant Walied Shater filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) alleging that Respondent Shell Oil Company retaliated against him for asserting rights protected under § 1324b.

After issues with service of the Notice of Case Assignment and Complaint, as detailed at length in the Court’s October 13, 2022 Order Setting Status Conference and October 20, 2022 Notice Regarding Status Conference, the Court held a telephonic status conference on November 16, 2022 to discuss the status of the case with the parties. *See* Order Memorializing Status Conf. During this conference, Respondent’s attorney indicated that Respondent did not receive the original NOCA and Complaint, which was sent to Respondent’s corporate address without specifying an individual recipient, and that a second copy of the NOCA and Complaint the Court sent to Respondent’s attorney contained the complaint for a different matter before OCAHO. *Id.* at 1–2. Complainant then made an oral motion for default judgment due to Respondent’s failure to timely file an answer to the Complaint which the Court originally sent to Respondent’s corporate mailing address. *Id.* at 3. The Court directed Complainant to file a written motion to this effect to provide Respondent with a chance to respond. *Id.*

On January 4, 2023, the Court received Complainant’s Motion for Default Judgment. This submission was rejected and returned to Complainant because the certificate of service did

not comply with the requirements of 28 C.F.R. § 68.6(a).<sup>1</sup> On January 23, 2023, Respondent filed an Opposition to Complainant’s Motion for Default Judgment.

Respondent’s counsel was served with a copy of the Complaint on January 25, 2023. Respondent timely filed an answer and a Motion to Dismiss on February 24, 2023.

On February 28, 2023, Complainant filed a Request for Information. On April 18, 2023, Complainant re-filed his Motion for Default Judgment and filed a Motion for Deposition. Respondent filed oppositions to Complainant’s Motion for Default Judgment and Motion for Deposition on April 27, 2023.

Complainant’s Request for Information, Motion for Default Judgment, and Motion for Deposition are now ripe for adjudication.

## II. COMPLAINANT’S MOTIONS

### A. Request for Information

In his Request for Information, Complainant raises two questions: (1) whether “Court filings in this case are a matter of public record and can be shared with the public,” and (2) whether “evidence presented to the Court alleging violations of US laws by the Respondent will be referred by the Court to the Department of Justice” or United States Attorney Offices. Req. Information 1.

“An advisory opinion is a ‘nonbinding statement by a court of its interpretation of the law[.]’” Sharma v. NVIDIA Corp., 17 OCAHO no. 1450g, 3 (2022)<sup>2</sup> (citing Advisory Opinion, BLACK’S LAW DICTIONARY (11th ed. 2019), and then citing Advisory Opinion, ENCYCLOPEDIA BRITANICA (2009) (“Advisory opinions adjudicate nothing[.]”). “OCAHO precedent discourages the issuance of advisory opinions that speculate on applicability and scope of the forum’s regulations.” Id. (citing United States v. Harris Ranch Beef Co., 2 OCAHO no. 333, 292, 292 (1991)).

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<sup>1</sup> OCAHO Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2022).

<sup>2</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 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 <http://www.justice.gov/eoir/OcahoMain/ocahosibpage.htm#PubDecOrders>.

Here, Complainant does not move the Court to adjudicate an issue in this case, but rather, to opine on OCAHO law and on a hypothetical scenario. Complainant does not provide a compelling reason for the Court to deviate from precedent on this issue. Accordingly, the Court DENIES the Request for Information. Given Complainant's pro se status, the Court encourages him to review the OCAHO Rules of Practice and Procedure, available at:

<https://www.govinfo.gov/content/pkg/CFR-2021-title28-vol2/pdf/CFR-2021-title28-vol2-part68.pdf>,

and prior OCAHO case law on these issues, available both chronologically and sorted by topic at:

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

The order denying Complainant's motion is without prejudice. Complainant is not precluded from filing proper motions or requests related to these issues pursuant to 28 C.F.R. § 68.11(a).

#### B. Motion for Default Judgment

Complainant moves for a default judgment against Respondent due to Respondent's failure to file a timely answer to the Complaint. Mot. Default 1 (collecting cases). Complainant takes issue with Respondent's contention that it did not receive the copy of the Complaint originally sent to Respondent's business address, arguing that the contention that "multiple pieces of mail from the Court and Compl[ainant] did not reach Respondent" is "not credible" and should "be summarily rejected by the Court as it displays an arrogance and disrespect for the Court, Complainant and rule of law in this country." *Id.* at 2.

Respondent argues that the Court should reject Complainant's motion for the reasons previously argued during the Status Conference and its response to Complainant's original motion. R's Resp. 1. Moreover, Respondent asserts that the motion is now moot, given that Respondent has now appeared in this matter and filed an answer to the Complaint. *Id.* at 1–2.

"A party that fails to answer a complaint within the time specified is already in default[.]" *United States. v. Quickstuff, LLC*, 11 OCAHO no. 1265, 4 (2015). Failure to file "an answer within the time provided 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).

However, in this case, as the undersigned explained at the status conference and outlined in the Court's December 6, 2022 Order Memorializing Status Conference, when the Court originally mailed the Complaint to Respondent's general business address (the only address for

Respondent provided by Complainant), this 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). *See* Order Memorializing Status Conf. 3; *see also* 28 C.F.R. § 68.3(a). Once Complainant’s attorney of record was properly served with the Complaint by the Court on January 25, 2023, Respondent timely filed an answer on February 24, 2023. *See* 28 C.F.R. § 68.8(a).

Accordingly, Complainant’s Motion for Default Judgment is DENIED.

C. Motion for Deposition

Complainant moves “for a deposition against Respondent . . . pursuant to § 68.22 of the law.” Mot. Deposition 1. Respondent opposes this motion, noting that during the Status Conference, the Court advised the parties that they could not engage in discovery until after the Court issued a Scheduling Order, which has not yet been entered in this matter. Resp. 1. Respondent also argues that Complainant’s request is “vague, non-specific, confusing and not within the applicable rules of procedure.” *Id.* Respondent asserts that deposition dates should be agreed to between the parties, not selected by one party unilaterally. *Id.* at 1–2.

Pursuant to 28 C.F.R. § 68.22, “[a]ny party desiring to take the deposition of a witness shall give notice in writing to the witness and other parties of the time and place of the deposition . . .” This provision does not require the parties to notify the Court of the deposition, or to move the Court for permission to conduct the deposition. Here, prior to this Order, discovery had not yet commenced in this matter. Therefore, the Court DENIES Complainant’s motion as procedurally improper and premature.

SO ORDERED.

Dated and entered on October 24, 2023.

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John A. Henderson  
Administrative Law Judge