

UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF ADMINISTRATIVE LAW JUDGES

In the Matter of:

LEON E. CABREJA,

Respondent.

HUDALJ 11-M-005-PF-1

May 10, 2011

ORDER GRANTING MOTION TO DISMISS

On November 29, 2010, the Department of Housing and Urban Development (HUD), filed a Complaint with the Office of Administrative Law Judges in the above-entitled matter. The Complaint was hand-delivered to the Respondent on January 20, 2011.¹ Letters by the Government counsel and the docket clerk for this Court were sent to the Respondent (at the address where he was personally served on January 20, 2011) explaining the Respondent's right to request a hearing and file a timely answer to the Complaint. No answer or request for hearing was received within the established 30-day time limit. By motion filed March 3, 2011, the Government moved for a default judgment.

On March 30, 2010, this Court issued an Order Requiring Statutory Compliance that ordered HUD to comply with provisions set forth by the Servicemembers Civil Relief Act ("SCRA"), 50 U.S.C. App. § 501-596, and in particular 50 U.S.C. App. § 521, entitled "Protection of Servicemembers Against Default Judgments."

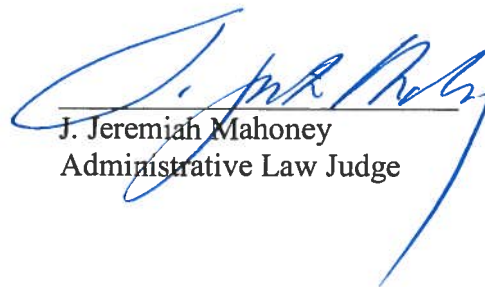
In response, on April 4, 2011, the Government filed a declaration by a paralegal accompanying a Military Status Report from the Defense Manpower Data Center, certifying that the Respondent is in active duty military status with the U.S. Air Force, and has been in such status since November 11, 2010, with no projected status end date.

¹ An earlier complaint, sent by certified mail, was returned as unclaimed.

The foregoing established: (1) that the Respondent in this civil action has not entered an appearance; and (2) is in active military service. As such, the Court could not enter a default judgment. The Court issued an order dated April 8, 2011, staying the matter for 90 days to permit appointment of counsel for the Respondent, or dismissal of the action.

On May 9, 2011, the Government filed a motion to dismiss, indicating that it was not able to locate the Respondent, who is currently in active duty military service, and the Government has not appointed an attorney to represent the Respondent.

Accordingly, it is **ORDERED** that the motion is **GRANTED** and this proceeding is **DISMISSED**, without prejudice.²



J. Jeremiah Mahoney
Administrative Law Judge

² 50 U.S.C. App § 526(a).