

STATE OF COLORADO SECRETARY OF STATE Administrative Hearing Officer 1700 Broadway, Suite 550 Denver, CO 80290	
BUSINESS AND LICENSING DIVISION of the SECRETARY OF STATE,	
Notary Division,	
	▲ COURT USE ONLY ▲
v.	
GARY PAUL BROWN,	Case No. 2026 AHO 02
Respondent.	
RESPONSE TO MOTION TO SET ASIDE DEFAULT JUDGMENT	

The Notary Division of the Colorado Department of State respectfully responds to Respondent Gary Paul Brown’s Motion to Set Aside Default Judgment (“Resp. Mot.”).¹ As grounds in support, the Notary Division states the following:

1. The Notary Division does not oppose this Court setting aside the default judgment as requested in Respondent’s Motion. In pursuit of an ultimate resolution to this matter, by April 17, 2026, the Notary Division will either file a motion of dismissal if a settlement agreement is approved by the Deputy Secretary of State, as required by 8 C.C.R. 1505-3.9.2, or file a motion to reset the answer deadline and hearing date.

2. However, the Notary Division opposes Respondent’s requested relief that this Court order it to “complete the paperwork for the settlement it agreed to.” Resp. Mot. at 2. Respondent cites to no law, nor is the Notary Division aware of any, that allows this Court to order a party to settle a matter, much less settle it in a specific way. The ultimate decision to settle is always the client’s, and this Court should not inject itself into a decision-making process that is the client’s. *Cf. United States v. Ridley’s Fam. Markets, Inc.*, 525 F. Supp. 3d 1355, 1357-58 (D. Utah 2021) (“Although a court has inherent authority to order mediation as a way of managing the litigation before it, the court must be mindful that when mediation is forced upon unwilling litigants, it stands to reason that the likelihood of settlement is diminished. Requiring parties to invest substantial amounts of time and money in

¹ The Notary Division notes that Respondent did not seek the Notary Division’s position as to the Motion, which is required by Rule 3.6.3(a) and (b) of the Secretary of State Administrative Hearing Rules, 8 C.C.R. 1505-3.

mediation under such circumstances may well be inefficient.”) (cleaned up). This Court shall, on a party’s motion, order the parties to engage in mediation, but ordering the Notary Division to enter into a specific settlement agreement is inconsistent with the rules governing this proceeding. *See* 8 C.C.R. 1505-3.8.1 (“Upon petition of the licensee or the Secretary of State after the licensee has received the notice of hearing, the hearing officer shall order mediation[.]”).

3. While the above positions represent the specific items for this Court’s rulings, the Notary Division also responds below to several of the assertions in Respondent’s Motion.

4. Counsel for the State did not engage in “dilatatory tactics” to obtain a default judgment. *Resp. Mot.* at ¶ 3. The parties reached a settlement agreement in principle on March 6, 2026. *Mot. for Default* at ¶ 5 (“The parties have been negotiating a settlement and have reached an initial agreement in principle.”). Undersigned counsel informed Respondent’s counsel on that same day that she “very likely [couldn’t] start preparing [the settlement] document until Thursday [March 12]. I’ll try to get to it before then, but chances are high that’s not possible.” March 12 was four business days later. In the same email, undersigned counsel noted the upcoming answer deadline, which was March 8 (effectively March 9, because March 8 was a Sunday).

5. Undersigned counsel does not have personal knowledge of Respondent’s counsel’s fee agreement with Respondent. *Contra Resp. Mot.* at ¶ 4. The Notary Division had no obligation to agree to a stay of the hearing. *Contra id.* Nevertheless, undersigned counsel conveyed that she would not oppose a motion for a reasonable extension of the answer deadline so Respondent could file an answer. Respondent did not file a request for an extension of the answer deadline.

6. Undersigned counsel diligently moved settlement negotiations forward. The parties reached an agreement in principle less than two business days before the answer deadline. *See Resp. Mot.* at ¶ 5. At that time, the agreement still needed to be reduced to writing, and client approvals of the written agreement were still necessary on both sides. *See Mot. for Default* at ¶ 5; *Reply* at ¶¶ 13-16.

7. Undersigned counsel timely responded to communications from Respondent’s counsel after filing the motion for default and continued to communicate about ongoing litigation deadlines, including discovery and the timing of the hearing.

8. Undersigned counsel candidly conveyed to this Court the status of settlement negotiations and notified Respondent of the Notary Division’s intent to file for default before filing the motion. *See Mot. for Default* at ¶ 5; *Reply* at ¶¶ 13-16; *contra Resp. Mot.* at ¶ 5. Undersigned counsel candidly communicated to this

Court that there was an agreement in principle, but that the agreement was not finalized. *See* Mot. for Default at ¶¶ 5-6; Reply at ¶¶ 13-16. Undersigned counsel maintained candor towards the tribunal at all times. Further, undersigned counsel maintained candor towards opposing counsel, repeatedly raising the need to file an answer and indicating the Notary Division’s lack of opposition to a reasonable extension of the answer deadline.

9. When Respondent’s counsel reached out to undersigned counsel’s supervisor, the supervisor promptly responded, leaving a voice mail and e-mail address for follow up communication at the number listed for Respondent’s counsel’s attorney registration, as the phone number she left did not work. *Contra* Resp. Mot. at ¶ 9.

THEREFORE, in the interest of resolving this case on the merits, the Notary Division does not oppose this Court setting aside the default judgment and respectfully requests that the Administrative Hearing Officer deny Respondent’s requested relief of ordering the Secretary and/or Notary Division to settle this matter.

Respectfully submitted this 2nd day of April, 2026.

PHILIP J. WEISER
Attorney General

/s/ Sonia R. Russo

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CERTIFICATE OF SERVICE

This is to certify that I will cause the foregoing **RESPONSE TO MOTION TO SET ASIDE DEFAULT JUDGMENT** to be served this 2nd day of April, 2026, by email and/or U.S. mail, addressed as follows:

Hearing Officer
Colorado Secretary of State
AdministrativeHearingOfficer@ColoradoSOS.gov

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/s/ Jennet Kurbandurdyeva