

MARYLAND INSURANCE ADMINISTRATION

MARYLAND INSURANCE
ADMINISTRATION
EX REL. V.R. ON BEHALF OF
M.R.

Complainant

v.

UNITED FINANCIAL CASUALTY
COMPANY,

Licensee

* REVIEW OF A RECOMMENDED
* DECISION ISSUED BY
* LEIGH WALDER
* AN ADMINISTRATIVE LAW JUDGE
* OF THE MARYLAND OFFICE OF
* ADMINISTRATIVE HEARINGS,
* OAH No.: MIA-CC-33-23-03171
* MIA No.: MIA 2023-01-006

* * * * *

FINAL ORDER

As a consequence of the Complainant’s failure to file a response to the Proposed Default Order in the above-captioned case, it is hereby, ORDERED that the attached Proposed Default Order by Administrative Law Judge (ALJ) Walder is approved by the Maryland Insurance Commissioner.

THEREFORE, it is hereby

ORDERED that the Proposed Default Order of ALJ Walder be adopted as the Commissioner’s Final Order, and it is further

ORDERED that the records and publications of the Maryland Insurance Administration reflect this decision.

It is so **ORDERED** this 31st day of July, 2023.

KATHLEEN A. BIRRANE

Commissioner

signature on original

ERICA J. BAILEY

Associate Commissioner for Hearings

MARYLAND INSURANCE	* BEFORE LEIGH WALDER,
ADMINISTRATION <i>EX REL.</i> V.R. ON	* ADMINISTRATIVE LAW JUDGE
BEHALF OF M.R., ¹	* OF THE MARYLAND OFFICE
COMPLAINANT	* OF ADMINISTRATIVE HEARINGS
v.	*
STATE FARM FIRE AND CASUALTY	*
COMPANY,	* OAH No.: MIA-CC-33-23-03171
LICENSEE	* MIA No.: 2023-01-006
* * * * *	* * * * *

PROPOSED DEFAULT ORDER

On September 3, 2022, V.R. on behalf of M.R. (Complainant), filed a complaint with the Maryland Insurance Administration (MIA) asserting that State Farm Fire and Casualty Company (Licensee) erred in its handling of an August 21, 2022 water damage claim. After investigating the complaint, the MIA notified the Complainant, on or about January 10, 2023, that it determined that the Licensee did not err in its handling of the Complainant’s water damage claim. On January 10, 2023, V.R., on behalf of the M.R., requested a hearing to contest the MIA’s determination. On January 30, 2023, the MIA transmitted the matter to the Office of Administrative Hearings (OAH) to hold a contested case hearing and issue a proposed decision.²

I initiated an in-person hearing in this matter on March 15, 2023, at 10:00 a.m., at the OAH in Hunt Valley, Maryland. Jordan Cockrum, Esquire, appeared on behalf of the Licensee. V.R. was present, but M.R. was not. V.R. wished to represent M.R.’s interests. As a preliminary

¹ The Complainant is identified by their initials only to preserve the confidentiality of the proceeding.
² Under the relevant statute and regulations, the Insurance Commissioner may, on a case-by-case basis, delegate to the OAH the authority to issue: (a) proposed or final findings of fact; (b) proposed or final conclusions of law; (c) proposed or final findings of fact and conclusions of law; or (d) a proposed or final order. Md. Code Ann., State Gov’t § 10-205(b) (2021); Code of Maryland Regulations (COMAR) 31.02.01.04-1A(2).

matter, the Licensee pointed out that V.R. is not the policy holder and is unable to represent M.R.'s interests at an administrative proceeding, as no statute or regulation afforded him the right to do so. V.R. requested that this matter be postponed so that M.R. could appear or so that an attorney for M.R. could appear. The Licensee had no objection to postponing this matter. I granted the postponement. *See* COMAR 28.02.01.16. The parties agreed to resume this matter on May 11, 2023, at 9:30 a.m. Prior to adjourning, V.R. requested that this matter be converted to a remote proceeding so that M.R. would not have to travel to the OAH in Hunt Valley to participate. The Licensee had no objection to converting this matter to a remote proceeding. As such, I granted the request to convert this matter to a remote proceeding to take place on the Webex video-conferencing platform (Webex). *See* COMAR 28.02.01.20B(1)(b).³

On March 15, 2023, the OAH mailed a Notice of Remote Hearing (Notice) to the parties at their addresses of record. The Notice stated that a remote proceeding, via Webex, would take place on May 11, 2023, at 9:30 a.m. and provided the details on how to participate in the Webex proceeding. The Notice further advised the Complainant that failure to attend the hearing might result in "dismissal of your case or a decision against you." The postal service did not return the Notice to the OAH as undeliverable. In these circumstances, I find the Complainant received proper notice of the hearing. *See Maryland State Bd. of Nursing v. Sesay*, 224 Md. App. 432, 448 (2015) ("Generally, notice by mail is presumed to provide constitutionally sufficient notice."); *see also* Md. Code Ann., State Gov't § 10-208 (2021).

On April 26, 2023, V.R. requested that this matter be postponed because M.R. was experiencing health issues and had not been able to have conversations with her attorney. On April 28, 2023, the OAH reached out to the parties and requested that they provide their

³ The parties also exchanged all documents they anticipated offering at the hearing and were emailed an electronic copy of the MIA's exhibits.

availability to participate in a pre-hearing conference to discuss V.R.'s postponement request and, if granted, to discuss a date to reschedule the matter. On May 1, 2023, V.R. notified the OAH that he had conversations with M.R., that M.R. had an attorney, and that he would be in contact with M.R.'s attorney to make sure they have all the documents and the Webex information for the hearing scheduled for May 11, 2023. On May 2, 2023, the OAH sent the parties correspondence that stated that I reviewed V.R.'s email and determined that V.R. was no longer requesting a postponement and that the parties should be prepared to proceed on May 11, 2023, as scheduled.

On May 10, 2023, at approximately 11:23 p.m., V.R. sent an email (signed V.R. and M.R.) to both the Licensee and the OAH that set out that M.R. had been injured, that M.R. did not have an attorney, that this matter had taken a toll on M.R.'s mental and physical health, that the Licensee did not properly handle M.R.'s claim, and "[M.R.] is not physically or financially able to fight this fight at this time. We will focus on her health and attempt[] to pay for all this damage out of pocket. We will maintain all photos and invoices, and once [M.R.] is able to pursue this matter we will secure the needed legal help to go after [the Licensee]." Nowhere in the email did V.R. or M.R. request a postponement or state that they wished to withdraw the hearing request.

On May 11, 2023, at 9:02 a.m., the Licensee responded to the email explaining that M.R. needed to formally withdraw her request for a hearing; otherwise, the Licensee indicated that it would be present at the hearing. At 9:09 a.m., the OAH docket clerk responded to the email by explaining how to file a withdrawal.⁴ As this matter had not been withdrawn or postponed, I logged into Webex at 9:30 a.m. Melissa McNair, Esquire,⁵ was present on behalf of the Licensee

⁴ The OAH docket clerk explained that M.R. could sign the bottom of the Notice authorizing a withdraw. Later in the day, at 2:29 p.m., V.R. emailed the OAH docket clerk explaining that he would attempt to find the Notice. To date, this matter has not been withdrawn.

⁵ Ms. McNair entered her appearance in this matter on May 9, 2023.

and was accompanied by a witness: Elizabeth Costa, Claims Specialist, Licensee. I waited for fifteen minutes to see if either V.R., M.R., or any individual representing M.R. would log-in to Webex. At 9:45 a.m., after nobody else logged into Webex, the Licensee made a Motion for Default against the Complainant.

The OAH Rules of Procedure are applicable to this proceeding. COMAR 28.02.01.01A; COMAR 31.02.01.01B. Those rules contemplate the issuance of a default order when a party fails to appear, stating:

If, after receiving proper notice . . . a party fails to attend or participate, either personally or through a representative, in a prehearing conference, hearing, or other stage of a proceeding, the [Administrative Law Judge] may proceed in that party's absence or may, in accordance with the hearing authority delegated by the agency, issue a final or proposed default order against the defaulting party.

COMAR 28.02.01.23A; *see also* COMAR 31.02.01.10. The Complainant received proper notice of the hearing but failed to appear. Accordingly, I will grant the Licensee's Motion for Default.

THEREFORE, I PROPOSE the following:

1. The Complainant is found in **DEFAULT**;
2. The MIA's determination that the Licensee did not violate Maryland insurance law is **UPHELD**;
3. All further proceedings in this matter are **TERMINATED** and a disposition of **DISMISSAL** is entered in this case;
4. The Complainant, or her representative may, within fifteen (15) days, file a written motion to modify or vacate this Proposed Default Order with the Hearing and Appeals Coordinator, Maryland Insurance Administration, 200 St. Paul Place, Suite 2700, Baltimore, Maryland 21202. The written motion must state the grounds for the request. COMAR 28.02.01.23D; COMAR 31.02.01.09-1B(4); COMAR 31.02.01.10G. If good cause is not shown

to excuse the default, the Proposed Default Order will be affirmed as the final order, and the denial of the complaint against the Licensee will stand. COMAR 31.02.01.10H(2); and

5. Any motion requesting that the Proposed Default Order be vacated or modified must include a certificate of service indicating that a copy of the written motion was mailed, postage prepaid, to the Licensee's attorney: Melissa D. McNair, Esquire, Law Offices of Budow and Noble, P.C., Twinbrook Metro Plaza, 12300 Twinbrook Parkway, Suite 540, Rockville, Maryland 20852.

May 19, 2023
Date Order Mailed

signature on original

Leigh Walder
Administrative Law Judge

LW/ja
#205211

Copies Mailed To:

Complainant

Melissa McNair, Esquire
Budow & Noble, P.C.
Twinbrook Metro Plaza
12300 Twinbrook Pkwy, Suite 540
Rockville, MD 20852

Wendy Riggs Ritchie
State Farm Mutual Automobile Insurance
P.O. Box 273
Woodsboro, MD 21793

