



Issue Date: 08 March 2007

In the Matter of
BRUNO CORTEZ
Complainant

v.

Case Number 2007 STA 00023

SYSCO FOOD SERVICES
Respondent

RECOMMENDED ORDER

DISMISSAL OF CLAIM

This case was scheduled for hearing on Tuesday, April 10, 2007 in Brownsville, Texas, under the Surface Transportation Assistance Act of 1982, 49 U.S.C. § 1305 (herein the STAA) and the regulations promulgated thereunder at 29 C.F.R. Part 1978.

On March 5, 2007, the Complainant withdrew the request for hearing. The Complainant understands that the OSHA determination will stand.

Pursuant to 29 C.F.R. § 1978.111(c), a complainant may file a written withdrawal of objections to the Secretary's preliminary findings with an Administrative Law Judge at any time before the findings or order becomes final. Thus, where a complainant seeks to withdraw his or her complaint, the Complainant's request is construed as a withdrawal of objections to the Secretary preliminary findings. *Mysinger v. Rent-A-Driver*, 1990-STA- 23 (Sec'y Sept. 21, 1990).

Accordingly, it is hereby **ORDERED** that the hearing is **CANCELED**, the Secretary's findings are **REINSTATED**, and the above-captioned matter is hereby **DISMISSED**, pursuant to 29 C.F.R. § 1978.111(c).

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DANIEL F. SOLOMON
Administrative Law Judge

NOTICE: This Recommended Order Approving Withdrawal of Objections and Dismissing Claim, and the administrative file in this matter, will be forwarded to the Administrative Review Board, U.S. Department of Labor, Room S-4309, 200 Constitution Avenue, NW, Washington DC 20210, for entry of a Final Order. See 29 C.F.R. § 1978.109(a) and 1978.109(c); *Ass't Sec'y & Boyd v. Palmentere Brothers Cartage Service, Inc.*, ARB No. 04-135, ALJ No. 2003-STA-40 (ARB Oct. 27, 2004), *Foley v. J.B. Hunt Transportation, Inc.*, ARB No. 04-080, ALJ No. 2004-STA-14 (ARB

Oct. 27, 2004) and *Pavon v. United Parcel Service*, ARB No. 04-127, ALJ No. 2003-STA-46 (ARB Oct. 27, 2004). The parties may file with the Administrative Review Board briefs in support of or in opposition to Recommended Order Approving Withdrawal of Objections and Dismissing Claim within thirty days of the issuance of this Recommended Order unless the Administrative Review Board, upon notice to the parties, establishes a different briefing schedule. 29 C.F.R. § 1978.109(c).