U.S. Department of Labor   Office of Administrative Law Judges
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Issue Date: 25 January 2006

CASE NO.   2006-SOX-00023

In the Matter of:

RANDALL PITTMAN,
Complainant,

  vs.

DIAGNOSTIC PRODUCTS CORP.,
Respondent.

Order Granting Complainant's Motion To Withdraw Claim

This case arises out of a complaint of discrimination filed under the employee protection provisions of section 806 of the Corporate and Criminal Fraud Accountability Act of 2002, Title VIII of the Sarbanes-Oxley Act of 2002, codified at 18 U.S.C.A. §1514A (West Supp. 2005)(Act). The Act covers employers with a class of securities registered under section 12 of the Securities Exchange Act of 1934, 15 U.S.C.A. § 781, and companies required to file reports under section 15(d) of that statute are covered. It protects employees from retaliation or discrimination by covered employers when they provided information to their employer, a federal agency, or to Congress relating to alleged violations of 18 U.S.C.A. §§ 1341, 1343, 1344, 1348, or any provision of federal law relating to fraud against shareholders.

Complainant, Randall Pittman, was terminated in January 2005 from employment at the Respondent, Diagnostic Products Corp. He filed a complaint of employment discrimination under the Act on October 4, 2005 with the Secretary of Labor. The Administrator for the San Francisco Region of the Occupational Health and Safety Administration investigated and dismissed the complaint on the Secretary's behalf on November 3, 2005 for untimeliness. Mr. Pittman requested a hearing on that denial of relief.

On January 19, 2006 the Complainant faxed a statement seeking to withdraw his complaint. I treat the request as one to withdraw the objection to the November 3, 2005 findings and to withdraw his request for a hearing. Such withdrawals are permitted by 29 C.F.R. § 1980.111(c) (2005). There is no reason to believe the withdrawal is part of a settlement that would be subject to approval under 29 C.F.R. § 1980.111(d)(2) (2005).

Order

It is ORDERED that Complainant's motion to withdraw his objections to the Regional Administrator's decision, issued November 5, 2005 is GRANTED.

A

William Dorsey
Administrative Law Judge

NOTICE OF APPEAL RIGHTS: To appeal, you must file a Petition for Review ("Petition") with the Administrative Review Board ("Board") within ten (10) business days of the date of the administrative law judge's decision. *See* 29 C.F.R. § 1980.110(a). The Board's address is: Administrative Review Board, U.S. Department of Labor, Room S-4309, 200 Constitution Avenue, NW, Washington, DC 20210. Your Petition is considered filed on the date of its postmark, facsimile transmittal, or e-mail communication; but if you file it in person, by hand-delivery or other means, it is filed when the Board receives it. *See* 29 C.F.R. § 1980.110(c). Your Petition must specifically identify the findings, conclusions or orders to which you object. Generally, you waive any objections you do not raise specifically. *See* 29 C.F.R. § 1980.110(a).

At the time you file the Petition with the Board, you must serve it on all parties as well as the Chief Administrative Law Judge, U.S. Department of Labor, Office of Administrative Law Judges, 800 K Street, NW, Suite 400-North, Washington, DC 20001-8002. The Petition must also be served on the Assistant Secretary, Occupational Safety and Health Administration and the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor, Washington, DC 20210.

If no Petition is timely filed, the administrative law judge's decision becomes the final order of the Secretary of Labor pursuant to 29 C.F.R. § 1980.109(c). Even if you do file a Petition, the administrative law judge's decision becomes the final order of the Secretary of Labor unless the Board issues an order within thirty (30) days after the Petition is filed notifying the parties that it has accepted the case for review. *See* 29 C.F.R. §§ 1980.109(c) and 1980.110(a) and (b).