



Issue Date: 07 November 2007

Case No.: 2001-AIR-00007

In the Matter of:

MARK S. SASSMAN, SR.,
Complainant

v.

UNITED AIRLINES,
Respondent

**ORDER DENYING THE COMPLAINANT'S MOTION
TO ADJUDICATE CLAIM**

This matter is before me on the Complainant's Motion to Adjudicate Claim to Assist Bankruptcy Court. The Complainant states that the Bankruptcy Judge presiding over the Respondent's bankruptcy proceedings has expressed a preference that the Department of Labor adjudicate the claim. The Respondent has filed a response, stating that it has no preference whether the claim is resolved before the Department of Labor or the Bankruptcy Court. For the following reason, I find that I no longer have jurisdiction over this claim.

This was a claim for whistleblower protection under the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21), 49 U.S.C. 42121. The case was stayed on January 23, 2003, due to then pending bankruptcy proceedings of the Respondent. On March 3, 2006, the Respondent filed a Motion to Dismiss because the Respondent had been discharged from bankruptcy with a confirmation order discharging and releasing the Respondent from claims such as this, and enjoining further proceedings by the Complainant and others similarly situated. On April 10, 2006, I issued an order to the Complainant to show cause why the claim should not be dismissed. I issued a Decision and Order dismissing the complaint with prejudice on June 12, 2006, based on the Bankruptcy Court Confirmation Order, along with the United States Bankruptcy Code, and Administrative Review Board orders relating to similar cases. See *Davis v. United Airlines, Inc.*, ARB No. 02-105, ALJ No. 2001-AIR-5 (ARB Apr. 26, 2006). A "Notice of Appeal Rights" accompanied the order of dismissal which stated, pursuant to 29 CFR § 1979.110(a) (2007), that any party wanting to appeal to the Administrative Review Board must file a Petition for Review within ten (10) business days of the date of issuance of the Administrative Law Judge's decision. The Notice also notified the parties that "[i]f no Petition is timely filed, the Administrative Law Judge's decision becomes the final order of the Secretary of Labor pursuant to 20 C.F.R. § 1979.110." The Decision and Order issued on June 12, 2006, became the final order of the Secretary of Labor dismissing this case by operation of the regulation. As a result, I no longer have jurisdiction over this claim.

IT IS THEREFORE ORDERED that the *Complainant's Motion to Adjudicate Claim to Assist Bankruptcy Court* is DENIED.

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ALICE M. CRAFT
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 issuance of the Administrative Law Judge’s decision. 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. § 1979.110(a). Your Petition must specifically identify the findings, conclusions, or orders to which you object. You waive any objections you do not raise specifically. *See* 29 C.F.R. § 1979.110(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. You must also serve 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. *See* 29 C.F.R. § 1979.110(a).

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. § 1979.110. Even if a Petition is timely filed, 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 of the date the Petition is filed notifying the parties that it has accepted the case for review. *See* 29 C.F.R. §§ 1979.109(c) and 1979.110(a) and (b).