



In the Matter of:

COLEEN L. POWERS,

ARB CASE NO. 04-066

COMPLAINANT,

ALJ CASE NO. 2004-AIR-6

v.

DATE: July 30, 2004

PINNACLE AIRLINES, INC.,

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

FINAL DECISION AND ORDER OF DISMISSAL

This case arises under the whistleblower protection provision of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21), 49 U.S.C.A. § 42121 (West 1997), and its implementing regulations at 29 C.F.R. Part 1979 (2003). The Complainant requested interlocutory review by the Administrative Review Board (ARB) of a letter from the Administrative Law Judge (ALJ) dated February 4, 2004, and ALJ orders dated January 23, 2004 and December 16, 2003. The ARB has jurisdiction to review ALJ decisions and issue final orders in AIR 21 cases pursuant to 29 C.F.R. § 1979.110 and Secretary's Order 1-2002, 67 Fed. Reg. 64,272 (Oct. 17, 2002).

On March 9, 2004, this Board ordered the Complainant to show cause why the Board should not dismiss her uncertified interlocutory appeal. On March 23, 2004, the Complainant filed her response to the Board's order to show cause.

Subsequent to the Complainant's petition to this Board, on April 29, 2004, the ALJ issued a recommended decision denying the Complainant's claim in 2004-AIR-6 after finding that the Complainant repeatedly failed to comply with discovery orders and other requests by the ALJ and the Respondents. The Complainant has filed a timely petition for review of the ALJ's dismissal in ALJ No. 2004-AIR-06, and this Board has assigned this pending appeal ARB No. 04-102. The ALJ's dismissal of ALJ No. 2004-AIR-06 and the subsequent appeal of that case to the Board has rendered this

interlocutory appeal moot. Therefore, the Complainant's petition for review of this interlocutory issue is **DENIED**, and ARB No. 04-066 is **DISMISSED**.

SO ORDERED.

WAYNE C. BEYER
Administrative Appeals Judge

M. CYNTHIA DOUGLASS
Chief Administrative Appeals Judge