



**In the Matter of:**

**ROGER G. WALSH,**

**ARB CASE NO. 05-123**

**COMPLAINANT,**

**ALJ CASE NO. 2004-TSC-00001**

**v.**

**DATE: August 10, 2005**

**RESOURCE CONSULTANTS, INC.,**

**RESPONDENT.**

**BEFORE: THE ADMINISTRATIVE REVIEW BOARD**

**Appearances:**

*For the Complainant:*

**John Dratz, Jr., Esq., Law Offices of John Dratz, Jr., San Diego, California**

*For the Respondent:*

**Eric M. Steinert, Esq., Seyfarth Shaw LLP, Los Angeles, California**

**FINAL DECISION AND ORDER DISMISSING  
INTERLOCUTORY APPEAL**

A Department of Labor Administrative Law Judge (ALJ) issued a [Recommended] Decision and Order for Complainant (D. & O.) in this case arising under the whistleblower protection provision of the Toxic Substances Control Act (TSCA)<sup>1</sup> and its interpretive regulations<sup>2</sup> on June 14, 2005. Although the ALJ resolved the liability issue, he reserved the damages issue for additional briefing and consideration.<sup>3</sup> Attached to the D. & O. is a Notice which informs the parties that the D. & O. would become the

---

<sup>1</sup> 15 U.S.C.A § 2622 (West 1998).

<sup>2</sup> 29 C.F.R. Part 24 (2004).

<sup>3</sup> D. & O. at 22.

Secretary's final order unless the Administrative Review Board received a petition for review within 10 business days.<sup>4</sup>

The Respondent, Serco, Inc. (formerly "Resource Consultants, Inc."), filed a petition for review with the Board. However, on August 9, 2005, the parties filed a joint stipulation with the Board requesting the Board to dismiss the interlocutory appeal and remand the case to the ALJ. The stipulation provides in pertinent part:

Upon further review and discussion regarding the merits of the Petition for Review the Parties agree that the Recommended Decision and Order dated June 14, 2005, was an interlocutory order and therefore was not ripe for review by a Petition for Review . . . therefore, the Parties jointly request that the Petition for Review be dismissed and that the case be remanded to the Honorable Administrative Law Judge Gerald M. Etchingham for further proceedings related to the calculation of damages and attorney's fees as referenced in the June 14, 2005 Recommended Order.

The Secretary and the Board have held many times that interlocutory appeals are generally disfavored, and that there is a strong policy against piecemeal appeals. *See e.g., United States Dep't of Labor, OFCCP v. Bank of America*, ARB No. 04-169, ALJ No. 97-OFC-16 (ARB Dec. 17, 2004); *Hasan v. Commonwealth Edison Co.*, ARB No. 99-097; ALJ No. 99-ERA-17 (ARB Sept. 16, 1999); *Carter v. B & W Nuclear Technologies, Inc.*, ALJ No. 94-ERA-13 (Sec'y Sept. 28, 1994). Accordingly, in accordance with the parties's stipulation, we **DISMISS** the Respondent's interlocutory appeal and **REMAND** this case to the ALJ.

**SO ORDERED.**

**M. CYNTHIA DOUGLASS**  
**Chief Administrative Appeals Judge**

**OLIVER M. TRANSUE**  
**Administrative Appeals Judge**

---

<sup>4</sup> The Secretary of Labor has delegated her authority to issue final agency decisions involving the TSCA whistleblower protection provision to the Administrative Review Board. Secretary's Order 1-2002 (Delegation of Authority and Responsibility to the Administrative Review Board), 67 Fed. Reg. 64272 (Oct. 17, 2002); 29 C.F.R. § 24.8(a)(2004).