

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 08 June 2006

CASE NO.: 2006-STA-9

IN THE MATTER OF

JOHN NICHOLS,

Complainant

vs.

ROMA OF DALLAS,

Respondent.

APPEARANCES:

RAUL LOYA, ESQ.,

On Behalf of the Complainant

JONATHAN C. WILSON, ESQ.,

On Behalf of the Respondent

BEFORE: PATRICK M. ROSENOW
Administrative Law Judge

**RECOMMENDED ORDER APPROVING WITHDRAWAL OF
OBJECTIONS AND DISMISSING CLAIM**

This case arises under Section 405, the employee protection provision, of the Surface Transportation Assistance Act of 1982, 49 U.S.C.A. § 31105 (West 2003), and the implementing regulations at 29 C.F.R. Part 1978 (2004). The parties have submitted a joint motion to dismiss with prejudice.

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

SO ORDERED.

A

PATRICK M. ROSENOW
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).