

**U.S. Department of Labor**

Office of Administrative Law Judges  
William S. Moorhead Federal Office Building  
1000 Liberty Avenue, Suite 1800  
Pittsburgh, PA 15222



(412) 644-5754  
(412) 644-5005 (FAX)

**Issue Date: 06 March 2009**

CASE NO. 2009-STA-14

In the Matter of:

IVAN NEUBAUER,  
Complainant

v.

TILE SHOP LLC,  
Respondent

**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 (2006). A hearing is presently scheduled for March 24, 2009 in Toledo, Ohio. On March 4, 2009, Complainant submitted a Motion for Voluntary Dismissal of his case. Respondent has no objection to the dismissal and waives costs.

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's preliminary findings. *Mysinger v. Rent-A-Driver*, 1990-STA-23 (Sec'y Sept. 21, 1990).

Accordingly, it is hereby ordered that the hearing scheduled for March 24, 2009 in Toledo, Ohio is **cancelled**, the Secretary's findings are reinstated, and the above-captioned matter is hereby dismissed with prejudice, pursuant to 29 C.F.R. § 1978.111(c). Parties are to bear their own attorney fees and costs.

SO ORDERED.

**A**  
MICHAEL P. LESNIAK  
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, N.W. 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).