



Issue Date: 26 September 2014

Case No. 2014-ACA-1

In the Matter of:
ANN G. YANIGA,
Complainant,

v.

SOUTHWEST GENERAL MEDICAL CENTER,
Respondent.

ORDER DISMISSING COMPLAINT WITH PREJUDICE

This action is being conducted under the Section 1558 of the Patient Protection and Affordable Care Act (ACA), P.L. 111-148 (March 23, 2010), codified at section 18C of the Fair Labor Standards Act, 29 U.S. § 218C, 29 C.F.R. Part 1984.

A hearing is presently scheduled for Thursday, October 30, 2014, in Cleveland, Ohio. On August 26, 2014, the undersigned granted the Respondent's Motion to Compel Complainant's Attendance at Deposition, noting that the Claimant had failed to submit any written response but had, rather, only contacted counsel for the Respondent by telephone to suggest alternative sites although the scheduled deposition was only 7.5 miles from her home. On August 28, 2014, this Office received an email from the Complainant stating that she wanted to dismiss this action "due to health." Subsequently, there followed a period in which attempts to set up a teleconference with the parties was rebuffed by the Complainant. On September 4, 2014, this Office received a written submission from the Complainant stating that she was "dismissing due to health."

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 become final. 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). Being duly advised, and in light of the light of the Complainant's disinterest in discussing the matter further on the record, I find that the Complainant's request should be granted.

IT IS THEREFORE ORDERED:

1. The hearing scheduled for October 30, 2014, in Cleveland, Ohio is **CANCELED**.

2. The Secretary's Findings issued on May 6, 2014, are **REINSTATED**.
3. The above-captioned matter is hereby **DISMISSED** with prejudice, pursuant to 29 C.F.R. § 1978.111(c), with each party to bear its own attorney fees and costs.

SO ORDERED.

JOHN P. SELLERS, III
Administrative Law Judge