

U.S. Department of Labor

Office of Administrative Law Judges
90 Seventh Street, Suite 4-800
San Francisco, CA 94103-1516

(415) 625-2200
(415) 625-2201 (FAX)



Issue Date: 05 December 2012

CASE NO.: 2012-AIR-00015

In the Matter of:

JACOBUS STANDER,
Complainant,

vs.

SIKORSKY AIRCRAFT CORP.,
SIKORSKY AEROSPACE MAINTENANCE,
UNITED TECHNOLOGY COMPANY,
Respondents.

ORDER DISMISSING CASE WITH PREJUDICE

This case was scheduled to go to hearing before me beginning January 29, 2013, in Yakima, Washington. On September 24, 2012, I was notified that the Complainant's counsel had withdrawn as his representative and that he would be representing himself. On October 8, 2012, Respondents filed a motion to compel asking for an order compelling the Complainant to respond to discovery requests that had been served on him on July 13, 2012. His response to the motion to compel was due October 23, 2012.

Because the Complainant was representing himself, I decided to schedule a conference call to discuss the Respondents' motion to compel. Attempts to contact the Complainant at the phone number provided by his former attorney were unsuccessful, so I sent an order out on October 15, 2012, notifying him that a conference call was scheduled for October 23, 2012, and ordering him to make sure that my office had a contact phone number for him by October 22, 2012.

The Complainant did not respond to that order. On October 23, 2012, I cancelled the conference call and issued a new order stating that the conference call was cancelled because the Complainant could not be contacted. I stated that there was a possibility that the Complainant did not get my order in time, so I rescheduled the conference call to November 5, 2012, and ordered the Complainant to notify my office by October 31, 2012, of a contact number for him.

The Complainant did not respond to my October 23, 2012, order either. On November 5, 2012, the Respondents' counsel told me when I initiated the conference call that she also had not heard from the Complainant.

My law clerk has made repeated attempts to contact the Complainant at the phone number provided by his former attorney, but those attempts have resulted in messages indicating that the person we are trying to reach is not accepting calls. She has emailed him, but she has received no response. Mail sent to the address that we have for the Complainant have not been returned, so, presumably, he has received all my orders.

On November 5, 2012, I issued an order cancelling the hearing and ordering the Complainant to show cause why this case should not be dismissed. I warned the Complainant that if he did not respond to that order by November 21, 2012, I would dismiss this case with prejudice for failure to prosecute. The Complainant did not respond to that Order or any of the earlier orders.

It is hereby ORDERED that this case be DISMISSED WITH PREJUDICE for failure to prosecute.

JENNIFER GEE
Administrative Law Judge

NOTICE OF APPEAL RIGHTS: To appeal, you must file a Petition for Review ("Petition") with the Administrative Review Board ("Board") within fourteen (14) days of the date of issuance of the administrative law judge's decision. The Board's address is: Administrative Review Board, U.S. Department of Labor, Suite S-5220, 200 Constitution Avenue, NW, Washington DC 20210. In addition to filing your Petition for Review with the Board at the foregoing address, an electronic copy of the Petition may be filed by e-mail with the Board, to the attention of the Clerk of the Board, at the following e-mail address: ARB-Correspondence@dol.gov.

Your Petition is considered filed on the date of its postmark, facsimile transmittal, or e-mail communication; but if you file it in person, by hand-delivery or other means, it is filed when the Board receives it. *See* 29 C.F.R. § 1978.110(a). Your Petition must specifically identify the findings, conclusions or orders to which you object. You may be found to have waived any objections you do not raise specifically. *See* 29 C.F.R. § 1978.110(a).

At the time you file the Petition with the Board, you must serve it on all parties as well as the Chief Administrative Law Judge, U.S. Department of Labor, Office of Administrative Law Judges, 800 K Street, NW, Suite 400-North, Washington, DC 20001-8002. You must also serve the Assistant Secretary, Occupational Safety and Health Administration and, in cases in which the Assistant Secretary is a party, on the Associate Solicitor for Occupational Safety and Health. *See* 29 C.F.R. § 1978.110(a).

You must file an original and four copies of the petition for review with the Board, together with one copy of this decision. In addition, within 30 calendar days of filing the petition for review you must file with the Board: (1) an original and four copies of a supporting legal brief of points and authorities, not to exceed thirty double-spaced typed pages, and (2) an appendix (one copy only) consisting of relevant excerpts of the record of the proceedings from which the appeal is taken, upon which you rely in support of your petition for review.

Any response in opposition to a petition for review must be filed with the Board within 30 calendar days from the date of filing of the petitioning party's supporting legal brief of points and authorities. The response in opposition to the petition for review must include: (1) an original and four copies of the responding party's legal brief of points and authorities in opposition to the petition, not to exceed thirty double-spaced typed pages, and (2) an appendix (one copy only) consisting of relevant excerpts of the record of the proceedings from which appeal has been taken, upon which the responding party relies, unless the responding party expressly stipulates in writing to the adequacy of the appendix submitted by the petitioning party.

Upon receipt of a legal brief filed in opposition to a petition for review, the petitioning party may file a reply brief (original and four copies), not to exceed ten double-spaced typed pages, within such time period as may be ordered by the Board.

If no Petition is timely filed, the administrative law judge's decision becomes the final order of the Secretary of Labor pursuant to 29 C.F.R. §§ 1978.109(e) and 1978.110(b). Even if a Petition is timely filed, the administrative law judge's decision becomes the final order of the Secretary of Labor unless the Board issues an order within thirty (30) days of the date the Petition is filed notifying the parties that it has accepted the case for review. *See* 29 C.F.R. § 1978.110(b).