

UNITED STATES DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES
BOSTON, MASSACHUSETTS

Issue Date: 31 October 2016

CASE NO.: 2016-CAA-00003

In the Matter of:

IRVING F. ROUNDS, JR.,
Complainant,

v.

CHARM SCIENCES, INC.,
Respondent.

**ORDER GRANTING COMPLAINANT'S REQUEST TO WITHDRAW AND
DISMISSING CLAIM WITH PREJUDICE**

This proceeding arises from a complaint of discrimination filed under the whistleblower provisions of the Clean Air Act, 42 U.S.C. § 7622 (the "CAA"). On June 13, 2016, the Occupational Safety and Health Administration ("OSHA") issued the Secretary's Findings denying Complainant's CAA claim. On July 11, 2016, Complainant appealed OSHA's denial to the Office of Administrative Law Judges and, shortly thereafter, it was assigned to my docket. On August 3, 2016, after I held a conference call with both Complainant—an unrepresented appellant in this matter—and Respondent's attorneys, I issued a Notice of Hearing and Pre-hearing Order on August 3, 2016; setting the formal hearing for November 16, 2016.

On October 11, 2016, I received Respondent's Motion to Dismiss this Action as a Sanction for Complainant's Failure to Comply with his Discovery Obligations and this Court's Orders ("Motion to Dismiss"), with supporting memorandum and exhibits. Shortly thereafter, on October 17, 2016, Respondent filed a Motion for Summary Decision, with supporting memorandum and exhibits. Complainant's responses to Respondent's motions were due on October 25, 2016 and October 31, 2016, respectively.

On October 24, 2016, Complainant sent an email to my Attorney-Advisor, David Zieja; Respondent; and, a number of other attorneys and federal employees. Within his email, Complainant expressed his desire to withdraw the claim before me:

Therefore with the Court and Judge McGrath being pressured by the upper management of the DOL, DOJ and EPA, the Court is now bias and prejudice in giving me a fair and due process in this appeal. I formally withdraw my appeal in Charm Sciences, Inc./Rounds/1-0765-13-024 effective immediately.

Now that the Court has denied me a fair appeal process, I will be forced to take other Legal action against Charm Sciences and their Vice President Rick Skiffington in a different forum and venue.

On October 27, 2016, my Attorney-Advisor attempted to schedule a telephonic conference with the parties to discuss Complainant's request to withdraw his appeal and ensure that he fully understood the ramifications of a withdrawal. After initially indicating a willingness to participate, Complainant sent the following message on October 28, 2016: "Again after careful consideration, I have withdrawn my appeal in Charm Sciences, Inc./Rounds/1-0765-13-024. I will not be attending in any future conference calls regarding this matter."

Complainant informed the Court of his unequivocal desire to withdraw his appeal on two separate occasions; a decision he reached "after careful consideration." In light of Complainant's decision, I find good cause to **GRANT** his request and dismiss his claim with prejudice.¹ Therefore, the following **ORDER** shall enter:

1. This case is **DISMISSED** with prejudice.

SO ORDERED.

TIMOTHY J. McGRATH
Administrative Law Judge

Boston, Massachusetts

¹ It is no longer necessary to consider Respondent's Motion to Dismiss or Motion for Summary Decision because the motions are now moot.