



Issue Date: 04 December 2018

OALJ Case No.: 2018-MSP-00008
MSPA Case No.: 2018-MSPA-P-00008

In the Matter of:

**SAINTE ANNA MARSEILLE d/b/a
SAINTE ANNA MARSEILLE FLC,**
Respondent

ORDER OF DEFAULT JUDGMENT

This matter arises under the Migrant and Seasonal Agricultural Worker Protection Act of 1983 (“MSPA”), 29 U.S.C. § 1801, *et seq.*, and the implementing regulations at 29 C.F.R. Part 500. The parties are hereby notified that this matter has been docketed by the U.S. Department of Labor, Office of Administrative Law Judges (“Office”). *See* 29 C.F.R. §§ 500.212, 500.224.

By notice dated November 6, 2014, the Wage and Hour Division of the U.S. Department of Labor in Lawrenceville, New Jersey (“Plaintiff”) notified the above-named Respondent of its decision to assess civil monetary penalties in the amount of \$2,050.00 for violations of the MSPA.¹ On December 5, 2014, Plaintiff received a request for hearing from Respondent. Plaintiff subsequently filed an *Order of Reference* on July 26, 2018 with this Office, initiating these proceedings.

On August 7, 2018, I issued a *Notice of Docketing* and prehearing order instructing Respondent, within thirty days, to file a *Statement of Intent to Continue Opposition to the Secretary's Determination* (“Statement of Intent”). On October 4, 2018, having not received Respondent’s Statement of Intent or any returned mail, I issued an *Order to Show Cause* (“Order”) instructing Respondent to show cause within thirty (30) days why a default judgment should not be entered in this matter. To date, this Office has not received any correspondence from Respondent. On November 26, 2018, this Office received the Order as returned mail that had been sent to Respondent, marked “Unclaimed.”²

¹ Plaintiff conducted an investigation covering the period from June 16, 2014 to July 25, 2014. Plaintiff found that Respondent “[f]ail[ed] to disclose conditions to workers”; “[f]ail[ed] to make/keep employer records”; “[f]ail[ed] to ensure [its] driver has a valid license”; “[f]ail[ed] to register employees”; “[k]nowingly made misrepresentation[s] on [the] application”; “[w]as not the real party in interest”; “[t]ransported workers without a certificate of auth[orization]”; and “[f]ail[ed] to apply to amend [its] certificate.”

² The returned mail was addressed to Sainte Anna Marseille at 110 N. 20th Street, Fort Pierce, Florida 34950-3816. I note that the Order was also sent to Sainte Anna Marseille at a second address, 1109 N. 27th Street, Apt. 75, Fort Pierce, Florida 34947, and to date, that mail has not been returned. On December 3, 2018, at my direction, a member of my staff contacted Plaintiff’s attorney

The rules governing practice and procedure in proceedings before this Office provide that:

If a party . . . fails to obey an order to provide or permit discovery . . . the judge may issue further just orders. They may include the following: (i) Directing that the matters embraced in the order or other designated facts be taken as established for purposes of the proceeding, as the prevailing party claims; (ii) Prohibiting the disobedient party from supporting or opposing designated claims or defenses, or from introducing designated matters in evidence; (iii) Striking claims or defenses in whole or in part; (iv) Staying further proceedings until the order is obeyed; (v) Dismissing the proceeding in whole or in part; or (vi) Rendering a default decision and order against the disobedient party.

29 C.F.R. § 18.57(b).

Respondent was expressly warned in the October 4, 2018 Order that failure to respond to, or comply with, the Order could result in an entry of default decision against Respondent.

Accordingly, it is hereby ORDERED that judgment by default is entered against Respondent. The Plaintiff's list of violations set forth in its November 6, 2014 notice, and referenced in footnote 2 above, are established as fact. Sainte Anna Marseille d/b/a Sainte Anna Marseille FLC is hereby ORDERED to pay the assessed civil monetary penalty in the amount of \$2,050.00. The amount is due and payable by certified check or money order to "Wage and Hour Division, U.S. Department of Labor" within 30 days of the date of this Order and should be mailed to: Wage and Hour Division, U.S. Department of Labor, 3131 Princeton Pike, Building 5, Room 216, Lawrenceville, NJ 09648.

SO ORDERED.

STEPHEN R. HENLEY
Chief Administrative Law Judge

NOTICE OF APPEAL RIGHTS: To appeal, you must file a Petition for Issuance of a Notice of Intent ("Petition") to modify or vacate that is received by the Administrative Review Board

to confirm the addresses on file. Plaintiff's attorney also provided a telephone number for Respondent. However, to date, that telephone number is not accepting calls at this time.

(“Board”) within twenty (20) days of the date of issuance of the administrative law judge’s decision. *See* 29 C.F.R. §§ 500.263 and 500.264; Secretary's Order 02-2012, para. 5.c.(33), Delegation of Authority and Assignment of Responsibility to the Administrative Review Board, 77 Fed. Reg. 69377 (Nov. 16, 2012) (effective Oct. 19, 2012).

The Board's address is: Administrative Review Board, U.S. Department of Labor, Suite S-5220, 200 Constitution Avenue, NW, Washington DC 20210, for traditional paper filing. Alternatively, the Board offers an Electronic File and Service Request (EFSR) system. The EFSR for electronic filing (eFile) permits the submission of forms and documents to the Board through the Internet instead of using postal mail and fax. The EFSR portal allows parties to file new appeals electronically, receive electronic service of Board issuances, file briefs and motions electronically, and check the status of existing appeals via a web-based interface accessible 24 hours every day. No paper copies need be filed.

An e-Filer must register as a user, by filing an online registration form. To register, the e-Filer must have a valid e-mail address. The Board must validate the e-Filer before he or she may file any e-Filed document. After the Board has accepted an e-Filing, it is handled just as it would be had it been filed in a more traditional manner. e-Filers will also have access to electronic service (eService), which is simply a way to receive documents, issued by the Board, through the Internet instead of mailing paper notices/documents.

Information regarding registration for access to the EFSR system, as well as a step by step user guide and FAQs can be found at: <https://dol-appeals.entellitrak.com>. If you have any questions or comments, please contact: Boards-EFSR-Help@dol.gov

If filing paper copies, you must file an original and four copies of the petition for review with the Board. If you e-File your petition, only one copy need be uploaded.

A copy of the administrative law judge’s decision must be attached to the Petition that is filed with the Board. Once an appeal is filed, all inquiries and correspondence should be directed to the Board.

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. *See* 29 C.F.R. § 500.264(b).

If the Board declines to modify or vacate the administrative law judge’s decision, then the decision becomes the final order of the Secretary of Labor pursuant to 29 C.F.R. § 500.262(g).