

U.S. Department of Labor

Office of Administrative Law Judges
11870 Merchants Walk - Suite 204
Newport News, VA 23606

(757) 591-5140
(757) 591-5150 (FAX)



Issue Date: 01 July 2015

Case No.: 2015-PED-00001
ETA Case No.: [None listed]

In the Matter of:

ADMINISTRATOR,
OFFICE OF FOREIGN LABOR CERTIFICATION,
EMPLOYMENT AND TRAINING ADMINISTRATION,
UNITED STATES DEPARTMENT OF LABOR,
Prosecuting Party,

v.

DIXIE BELL, INC.,
Employer.

ORDER DISMISSING CASE

A hearing in the above-captioned matter was scheduled for June 2, 2015 in Atlanta, Georgia. It was canceled by Order dated May 28, 2015, after the parties submitted an executed Stipulation of Dismissal. That same order required the parties to submit the settlement agreement or a consent agreement for approval pursuant to 29 C.F.R. Part 18.

By joint motion filed on June 29, 2015, the parties request reconsideration of the May 28 order requiring them to submit their settlement documents. The parties agree, and argue, that 29 C.F.R. Part 18, particularly the provisions of former § 18.9(c), do not apply in this matter, and cite to *Indiana Department of Workforce Development v. U.S. Dep't of Labor*, ARB No. 98-155, ALJ No. 97-JTP-15 (ARB Dec. 8, 1998) in support of their position. They argue that because they did not request a deferral of the originally scheduled hearing to pursue settlement discussions, 29 C.F.R. § 18.9(c) does not apply by its own terms; and therefore, Fed. R. Civ. P. 41(a) is applicable.

I need not determine whether the parties are correct in their interpretation of former Section 18.9(c), as the Rules of Practice and Procedure Before the Office of the Administrative Law Judges were completely revised, effective June 18, 2015. The new rules are applicable to all proceedings pending as of that effective date, and the current matter was (and still is) so pending. Under Rule 18.71, 29 C.F.R. § 18.71, "When the applicable statute or regulation requires it, the parties must submit a settlement agreement for the judge's review and approval." 29 C.F.R. § 18.71(a). As the parties aptly point out, the statute and regulations governing this matter do not require the parties to submit their settlement agreement for review and approval. Accordingly,

their motion for reconsideration will be granted and their stipulation for dismissal approved, and this matter will be dismissed.

ORDER

Based on the foregoing, IT IS ORDERED:

1. The parties' motion for reconsideration is GRANTED;
2. The Stipulation for Dismissal is APPROVED; and
3. This matter is DISMISSED.

SO ORDERED.

PAUL C. JOHNSON, JR.
District Chief Administrative Law Judge