



**Issue Date: 21 December 2006**

**CASE NO: 2006-SOX-128**

**IN THE MATTER OF**

**KEITH LOWE,  
Complainant**

**v.**

**THE SERVICEMASTER COMPANY and  
JUDITH PETERSON, Individually,  
Respondents**

**DECISION AND ORDER DISMISSING  
THE COMPLAINT AND CANCELLING HEARING**

This case arises under Section 806 of the Sarbanes-Oxley Act of 2002, 18 U.S.C. § 1514A Act and implementing regulations found at 29 C.F.R. Part 1980 (2004).

**Background**

1. On July 11, 2006, Complainant mailed a complaint to the U.S. Department of Labor.
2. By determination letter dated August 9, 2006, Complainant was advised by OSHA that his complaint of discrimination had no merit.
3. By letter dated September 5, 2006, Complainant appealed OSHA's decision and the matter was assigned to the Office of Administrative Law Judges.
4. By agreement of the parties a formal hearing was scheduled for March 6, 2007.
5. On October 25, 2006, Complainant, in response to the pre-hearing order, filed an amended complaint.

6. On November 1, 2006, Respondents filed a Motion to Dismiss for Lack of Subject Matter Jurisdiction, a Motion to Strike and Dismiss Complainant's Amended Complaint, Motion to Dismiss for Failure to State a Claim, and a Motion to Dismiss Judith Peterson as a Respondent.

7. In accordance with 29 C.F.R. § 18.6(b) Complainant had ten (10) days in which to respond to these motions, but failed to do so. By motion received November 22, 2006, Respondents sought a granting of their motions and a dismissal of Complainant's complaint.

8. By order dated November 28, 2006, Complainant was granted ten (10) days to show cause why Respondents' motion should not be granted.

9. By letter dated December 13, 2006, and received December 15, 2006, Complainant through counsel filed a motion to dismiss his complaint with prejudice.

## **ORDER**

**IT IS HEREBY ORDERED** that Complainant's Motion is **GRANTED**, and the Complainant's complaint is **DISMISSED** with prejudice. Accordingly, the hearing scheduled in this matter for March 6, 2007. is **CANCELLED**. Respondents' requests for cost and attorney fees are **DENIED**.

**So ORDERED** this 21<sup>st</sup> day of December, 2006, in Covington, Louisiana.

**A**

**C. RICHARD AVERY**  
**Administrative Law Judge**

**NOTICE OF APPEAL RIGHTS:** To appeal, you must file a Petition for Review ("Petition") with the Administrative Review Board ("Board") within ten (10) business days of the date of the administrative law judge's decision. *See* 29 C.F.R. § 1980.110(a). The Board's address is: Administrative Review Board, U.S. Department of Labor, Room S-4309, 200 Constitution Avenue, NW, Washington, DC 20210. 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. § 1980.110(c). Your Petition must specifically identify the findings, conclusions or orders to which you object. Generally, you waive any objections you do not raise specifically. *See* 29 C.F.R. § 1980.110(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. The Petition must also be served on the Assistant Secretary, Occupational Safety and Health Administration and the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor, Washington, DC 20210.

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. § 1980.109(c). Even if you do file a Petition, 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 after the Petition is filed notifying the parties that it has accepted the case for review. *See* 29 C.F.R. §§ 1980.109(c) and 1980.110(a) and (b).