



**Issue Date: 30 March 2018**

OALJ Case No.: 2014-STA-00017  
OSHA Case No. 4-1050-13-026

*In the Matter of:*

**ANDREA COZART-LUNDIN,**  
*Complainant,*

v.

**MIDWEST TRANSPORT, INC.,**  
*Respondent.*

### **DECISION AND ORDER OF DISMISSAL**

On March 12, 2018, I issued an Order to Show Cause Why Matter Should Not Be Dismissed Without Prejudice (Re-Served) (the “March 12 Order”). I had previously issued a similar order on December 28, 2017, but the Office of Administrative Law Judges received return-to-sender notifications for the copies of the December 2017 order that were sent to Claimant and to counsel for Claimant. Accordingly, after reviewing the file and determining that it did not appear that counsel for Claimant filed any document advising us of a new address, or filed any document seeking to withdraw as counsel, I conducted an internet search querying the Florida bar’s website to obtain counsel for Claimant’s address.

The March 12 Order was served on the parties, including counsel for Claimant at the address I found on the Florida bar’s website. The March 12 Order stated that if I did not receive a response within 14 days of the date of the order, I would dismiss this matter without prejudice. Specifically, the March 12 Order stated, in relevant part:

This matter arises under the Surface Transportation Assistance Act (“STAA”), 49 U.S.C. § 31105, as amended by the Implementing Recommendations of the 9/11 Commission Act of 2007, Pub. L. No. 110-053, and the applicable regulations at 29 C.F.R. Part 1978. On February 8, 2017, I issued a Notice Regarding Settlement (the “Notice”) informing the parties of the obligation to submit their settlement for review and approval under 29 C.F.R. § 1978.111(d)(2), and advising them that if I approved the settlement, I would be in a position to dismiss this matter with prejudice. In the Notice, I also advised the parties that, if a concern for confidentiality led to their not submitting the

settlement agreement for review, they could request that I seal the settlement and also could request that it be subject to the Freedom of Information Act's pre-disclosure notification requirements. In the thirteen months since I issued the Notice, I have received no further filings from the parties.

An administrative law judge ("ALJ") is imbued with "all powers necessary to conduct fair and impartial proceedings" in matters before that ALJ. 29 C.F.R. § 18.12(b). Among those powers is the ability to: "[r]egulate the course of proceedings[;]" "[t]erminate proceedings through dismissal or remand when not inconsistent with statute, regulation, or executive order;" and "[w]here applicable take any appropriate action authorized by the [Federal Rules of Civil Procedure]." *Id.* §§ 18.12(b)(1, 7, 10). Moreover, 29 C.F.R. § 1978.115 allows an ALJ, in special circumstances or for good cause shown, to "issue such orders as justice or the administration of STAA requires."

The parties have made no filings with my office for more than two years. Given these circumstances, the parties are **ORDERED TO SHOW CAUSE** why this matter should not be dismissed without prejudice. The parties are granted **14 days** from the date of issuance of this order to file a response. If neither party files a response within that time, I will dismiss this matter without prejudice pursuant to my authority under 29 C.F.R. § 18.12(b) and 29 C.F.R. § 1978.115.

As of the close of business on March 29, 2018, I have received no response to the March 12, 2018 Order.

Accordingly, this matter is **DISMISSED WITHOUT PREJUDICE**.

**SO ORDERED.**

**PAUL R. ALMANZA**  
Associate Chief Administrative Law Judge