



Issue Date: 14 November 2019

OALJ Case No.: 2019-TNE-00030

*In the Matter of:*  
ADMINISTRATOR, WAGE AND HOUR DIVISION,  
UNITED STATES DEPARTMENT OF LABOR,  
*Prosecuting Party*

v.

ACAPULCO CORPORATION,  
*Respondent.*

**ORDER GRANTING THE PROSECUTING PARTY'S MOTION TO WITHDRAW  
THE APRIL 19, 2019 ADMINISTRATOR'S DETERMINATION LETTER AND  
RESPONDENT'S MOTION TO WITHDRAW ITS REQUEST FOR HEARING  
BEFORE THE OFFICE OF ADMINISTRATIVE LAW JUDGES, RESULTING IN  
A DISMISSAL OF THIS CASE WITHOUT PREJUDICE**

The above-captioned matter arises from the Secretary of Labor's enforcement of H-2B provisions of the Immigration and Nationality Act ("INA")<sup>1</sup> and the implementing regulations promulgated by the Department of Labor and the Department of Homeland Security governing the administration and enforcement of the H-2B temporary labor certification program.<sup>2</sup>

On October 30, 2019, the Prosecuting Party, through counsel, submitted a "Joint Motion to Withdraw Determination Letter and Request for Hearing and [to] Dismiss [this] Case Without Prejudice." In this pleading, the parties have jointly requesting to withdraw the Administrator's April 19, 2019 Determination Letter, and Respondent's subsequent request for a hearing before the Office of Administrative Law Judges, so that the Administrator may issue a new determination letter. Additionally, the parties are requesting the undersigned dismiss this current matter without prejudice to refile.

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<sup>1</sup> 8 U.S.C. §§ 1101(a)(15)(H)(ii)(b), 1184(c)(1), 1184(c)(14), as amended.

<sup>2</sup> 29 C.F.R. Part 503 (2015); Temporary Non-Agricultural Employment of H-2B Aliens in the United States; Interim Final Rule, 80 Fed. Reg. 24042 (Apr. 29, 2015). See also 29 C.F.R. §503.43 (noting the possibility of dismissal in these proceedings) and 29 C.F.R. §18.12(7) and §18.70 regarding dismissal of a pending claim before the Office of Administrative Law Judges.

Therefore, **IT IS ORDERED** that the Parties' Motions to Withdraw the Prosecuting Party's Determination Letter and Respondent's subsequent Request for Hearing is **GRANTED** and this matter is **DISMISSED WITHOUT PREJUDICE**.

PETER B. SILVAIN, JR.  
Administrative Law Judge