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**Issue Date: 23 July 2010**

CASE NO.: 2010-STA-52

In the Matter of:

SCOTT WHEELER,  
Complainant

v.

NFI INTERACTIVE LOGISTICS,  
Respondent

**RECOMMENDED ORDER APPROVING WITHDRAWAL  
OF OBJECTIONS AND DISMISSING CLAIM**

On March 31, 2010, the Complainant filed a complaint against the Respondent under the Surface Transportation Assistance Act of 1982, 49 U.S.C. § 2305, *et seq.*, (the “Act”). It was investigated by the Occupational Safety and Health Administration (“OSHA”). OSHA determined that the complaint that Mr. Wheeler’s refusal to drive a night load due to his “body clock” not having enough time to adjust from driving days to nights between Friday, March 26 and Sunday, March 28, 2010, did not constitute a reasonably believed violation of Department of Transportation (“DOT”) regulations. On May 28, 2010, Mr. Wheeler timely requested a hearing before an Administrative Law Judge.

On June 18, 2010, I issued a Notice of Hearing and Pre-Hearing order scheduling a hearing, in Wheaton, Illinois, on October 13, 2010. On July 22, 2010, Mr. Wheeler asked to withdraw his hearing request reporting that the “headache I would have to endure to proceed with this far outweighs and potential benefits I would receive from a decision in my favor.”

I have reviewed and considered Mr. Wheeler’s complaint and find no reason why his motion to withdraw his hearing request should be denied.

**IT IS ORDERED THAT:**

1. The Complainant’s motion to withdraw his hearing request is GRANTED;

2. The scheduled hearing is CANCELLED; and,
3. The complaint is DISMISSED.

**A**

RICHARD A. MORGAN  
Administrative Law Judge

**NOTICE OF REVIEW:** The administrative law judge's Recommended Order Approving Withdrawal of Objections and Dismissing Claim, along with the Administrative File, will be automatically forwarded for review to the Administrative Review Board, U.S. Department of Labor, Suite S-5220, 200 Constitution Avenue, NW, Washington, DC 20210. *See* 29 C.F.R. § 1978.109(a); Secretary's Order 1-2002, ¶4.c.(35), 67 Fed. Reg. 64272 (2002).

Within thirty (30) days of the date of issuance of the administrative law judge's Recommended Order Approving Withdrawal of Objections and Dismissing Claim, the parties may file briefs with the Administrative Review Board ("Board") in support of, or in opposition to, the administrative law judge's order unless the Board, upon notice to the parties, establishes a different briefing schedule. *See* 29 C.F.R. § 1978.109(c)(2). All further inquiries and correspondence in this matter should be directed to the Board.