



Issue Date: 01 October 2019

Case No.: **2017STA00089**

In the Matter of:
WILMER BURTON,
Complainant

v.

BAYLOR TRUCKING, INC.,
Respondent.

**ORDER GRANTING CLAIMANT'S WITHDRAWAL OF OBJECTIONS
AND MOTION TO DISMISS PROCEEDING AND COMPLAINT**

This proceeding arises claim of whistleblower provision of the Surface Transportation Assistance Act of 1982, 49 U.S.C. § 31101 *et seq.* and the regulations published at 29 C.F.R. Part 1978. Procedurally, this hearing will be conducted based upon the rules of Practice and Procedure for Administrative Hearings before the Office of Administrative Law Judges at 29 C.F.R. Part 18.¹ In this case, the Complainant objected to the Secretary's findings dated September 18, 2017. On August 28, 2019, the undersigned issued a Notice of Hearing scheduling this matter for hearing on January 7, 2019.

On September 24, 2019, the Complainant, through counsel, submitted Complainant's Withdrawal of Objections and Motion to Dismiss Proceeding with Prejudice. The Complainant is withdrawing his objections to the Secretary's Findings and Order and wishes to dismiss this proceeding and his complaint. Under 29 C.F.R. §1982.111(c), a party may withdraw its objections at any time before the OSHA findings become final if the Administrative Law Judge approves the withdrawal. Being duly advised, I find that the motion should be GRANTED.

¹ On May 19, 2015, the Department of Labor published final Rules of Practice and Procedure for Administrative Hearings before the Office of Administrative Law Judges ("Rules of Practice and Procedure"). 80 Fed. Reg. 28767 (May 19, 2015). The Rules of Practice and Procedure are published in Title 29, Part 18, of the Code of Federal Regulations ("C.F.R."). The C.F.R. is updated annually, on a staggered basis. Title 29 of the C.F.R. will be updated beginning July 1, 2015. Until the 2015 edition of the C.F.R. is updated to include 29 C.F.R. Part 18, I have cited to the Federal Register, 80 Fed. Reg. 28767 (May 19, 2015), when referring to the Rules of Practice and Procedure.

IT IS THEREFORE ORDERED that the “Complainant’s Withdrawal of Objections and Motion to Dismiss Proceeding and Complaint” filed on September 24, 2019, is **GRANTED**. The findings issued by OSHA on September 18, 2017, shall be the final order of the Secretary of Labor as provided by 29 C.F.R. § 1982.111(c).

IT IS FURTHER ORDERED that the hearing scheduled for January 7, 2020, is **CANCELED**.

JOSEPH E. KANE
Administrative Law Judge