

**UNITED STATES DEPARTMENT OF LABOR**  
**OFFICE OF ADMINISTRATIVE LAW JUDGES**  
**Cincinnati, Ohio District Office**

**Issue Date: 09 August 2023**

**Case No.: 2021-STA-00020<sup>1</sup>**

In the Matter of:

**LINDA CLARK,**  
Complainant,

v.

**TAZ TRUCKING, INC., TAZ LOGISTICS, LLC,**  
**LESLEY GLENN, AMIRA ZUKIC, AND TAHIR ZUKIC**  
Respondents.

**DECISION AND ORDER DISMISSING COMPLAINANT'S COMPLAINT**

This matter arises under the employee protection provisions of the Surface Transportation Assistance Act ("The Act" or "STAA"), 49 U.S.C. § 31105, as amended by the Implementing Recommendations of the 9/11 Commission Act of 2007, Pub. L. No. 110-53. Procedurally, this hearing will be conducted based upon the regulations published at 29 C.F.R. Part 1978 and the Rules of Practice and Procedure for Administrative Hearings before the Office of Administrative Law Judges at 29 C.F.R. Part 18, Subpart A.

On June 12, 2023, this Court issued an Order to Show Cause why the Complainant's Complainant should not be Dismissed<sup>2</sup> and Order Affirming Cancelling of the Hearing, which stated, in part, the following:

On June 14, 2019, Complainant filed a complaint against the Respondents' alleging a violation of the STAA. On January 13, 2021, the Occupational Safety and Health Administration of the U.S. Department of Labor found no reasonable cause to believe that the Respondents violated the STAA. Complainant through counsel appealed the decision to the Office of Administrative Law Judges. On March 24, 2022, the undersigned issued a Notice of Hearing and Pre-Hearing Order scheduling the case for hearing on February 22, 2023. The Pre-Hearing Order, in part, required that all discovery be completed 30 days before the hearing. On February 24, 2023, I issued

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<sup>1</sup> The style and format of this Order is to comply with Section 508 of the Rehabilitation Act, 29 U.S.C. § 794d.

<sup>2</sup> Complainant was served the show cause order by email and United Parcel Service (UPS) to her last known address. However, the UPS delivery was not completed with the following reason stated on the envelope: "COMPANY OR PERSON UNKNOWN, NOT DELIVERED."

an Order Rescheduling the hearing to June 28, 2023.<sup>3</sup> On May 23, 2023, the Respondents' counsel filed Respondents' Motion for Sanctions, Dismissal, and/or Summary Judgment, stating, in Part:

13. [A]s Respondents have previously explained, Respondents served Complainant with written discovery requests on August 30, 2021. Complainant did not respond to these requests, so, on October 14, 2022, Respondents moved this Court to compel Complainant (who is no longer represented by counsel) to respond to Respondents' written discovery requests.

14. On November 1, 2022, this Court entered an Order granting Respondents' Motion to Compel. As part of the Order, this Court noted: "The parties are reminded that failure to cooperate in discovery can result in sanctions, including dismissal."

15. Despite this Court's order advising Complainant that her claims were subject to dismissal if she failed to "cooperate in discovery," Complainant still has not responded to Respondents' discovery requests and it does not appear that she will do so prior to the close of the discovery deadline or the final hearing (currently scheduled for June 28, 2023).

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16. In light of the above, Respondents respectfully request that this Court dismiss Complainant's claims pursuant to 29 C. F. R. § 18.57(b), which provides: "If a party . . . fails to obey an order or provide or permit discovery . . . the judge may issue further just orders," including an order "dismissing the proceeding in whole or in part." Dismissal is an appropriate sanction in this matter. Complainant has had well over a year to respond to Respondents' written discovery requests has now had over six months to comply with this Court's Order compelling Complainant to respond to Respondents' written discovery requests.

Respondents' Motion for Sanctions, Dismissal. and/or Summary Judgment at 3-4.

Complainant was given thirty (30) days from the date of the June 13, 2023, Order to Show Cause Why Respondents' Motion for Dismissal for Complainant's Failure to Comply with the Orders of this Court should not be granted. Complainant has not filed a response to the show cause order. Accordingly, the Respondents' Motion to Dismiss Complainant's Complaint is granted.

## ORDER

Therefore, based on the foregoing, **IT IS HEREBY ORDERED** that the complainant's complaint is **DISMISSED** with prejudice.

LARRY S. MERCK  
Administrative Law Judge

**NOTICE OF APPEAL RIGHTS:** To appeal, you must file a Petition for Review ("Petition") with the Administrative Review Board ("Board") within **fourteen (14) days** of the date of the administrative law judge's decision.

Your Petition is considered filed on the date of its postmark, facsimile transmittal, or e-filing; 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. § 1978.110(a). Your Petition must specifically identify the findings, conclusions or orders to which you object. You may be found to have waived any objections you do not raise specifically. *See* 29 C.F.R. § 1978.110(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. You must also serve the Assistant Secretary, Occupational Safety and Health Administration and, in cases in which the Assistant Secretary is a party, the Associate Solicitor, Division of Occupational Safety and Health. *See* 29 C.F.R. § 1978.110(a).

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. §§ 1978.109(e) and 1978.110(b). Even if a Petition is timely filed, 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 of the date the Petition is filed notifying the parties that it has accepted the case for review. *See* 29 C.F.R. § 1978.110(b).

### **FILING AND SERVICE OF AN APPEAL**

**1. Use of EFS System:** The Board's Electronic Filing and Service (EFS) system allows parties to initiate appeals electronically, file briefs and motions electronically, receive electronic service of Board issuances and documents filed by other parties, and check the status of appeals via an Internet-accessible interface. Use of the EFS system is free of charge to all users. To file an appeal using the EFS System go to <https://efile.dol.gov>. All filers are required to comply with the Board's

rules of practice and procedure found in 29 C.F.R. Part 26, which can be accessed at <https://www.ecfr.gov/current/title-29/subtitle-A/part-26>.

**A. Attorneys and Lay Representatives:** Use of the EFS system is **mandatory for all attorneys and lay representatives** for all filings and all service related to cases filed with the Board, absent an exemption granted in advance for good cause shown. 29 C.F.R. § 26.3(a)(1), (2).

**B. Self-Represented Parties: Use of the EFS system is strongly encouraged for all self-represented parties** with respect to all filings with the Board and service upon all other parties. Using the EFS system provides the benefit of built-in service on all other parties to the case. Without the use of EFS, a party is required to not only file its documents with the Board but also to serve copies of all filings on every other party. Using the EFS system saves litigants the time and expense of the required service step in the process, as the system completes all required service automatically. Upon a party's proper use of the EFS system, no duplicate paper or fax filings are required.

**Self-represented parties who choose not to use the EFS system must file by mail or by personal or commercial delivery** all pleadings, including briefs, appendices, motions, and other supporting documentation, directed to:

Administrative Review Board  
Clerk of the Appellate Boards  
U.S. Department of Labor  
200 Constitution Avenue, N.W., Room S-5220  
Washington, D.C., 20210