

**UNITED STATES DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES
COVINGTON, LA DISTRICT OFFICE**

Issue Date: 05 February 2024

In the Matter of:

ROBERT ARNOLD BROWN,
Complainant,

v.

**SUNVIEW LOGISTICS (SPEED
INTERMODAL),**
Respondent.

CASE NO.: 2023-STA-00084

OSHA NO.: 301012861

JOHN M. HERKE
Administrative Law Judge

**ORDER DISMISSING CASE
(Failure to Comply with Prehearing Requirements)**

1. Nature of Order. Pursuant to 29 C.F.R. § 18.12(b)(7), 29 C.F.R. § 18.21(c), and 29 C.F.R. § 18.57(b)(1)(v), the undersigned Administrative Law Judge (ALJ) issues this order on his own motion. This order dismisses the matter due to Complainant’s failure to file required pleadings, his failure to attend two scheduled conferences, his failure to respond to an order to show good cause why appropriate sanctions should not be imposed, and his failure to contact the Office of Administrative Law Judges about this case at any time since it was initially filed.

2. Procedural History.

a. This case was assigned to the undersigned ALJ on November 7, 2023. A *Notice of Case Assignment* and a “pro se packet” were sent to Complainant on December 19, 2023. The “pro se” packet explained Complainant’s rights and responsibilities in prosecuting his case. The packet also contained a “pro se” (i.e., self-represented litigant) letter for Complainant to sign and return. That letter acknowledges the rights and responsibilities Complainant has in this matter. As of the date of this order, Complainant has not returned a signed copy of the letter.

b. The undersigned set an initial videoconference with the parties for January 3, 2024. Notice of the conference was sent to both parties by email. Respondent’s attorney attended the conference, but Complainant did not. The undersigned re-set the initial videoconference for January 10, 2024. The conference notice was sent to Complainant by email and by mail to his last known mailing address. Further, on the morning of the January 10, 2024 conference, the undersigned’s attorney-advisor left a voicemail on Complainant’s phone reminding him of the conference. Again, Respondent’s attorney attended the conference, but Complainant did not.

c. On January 10, 2024, the undersigned issued a *Show Cause Order*. That order directed Complainant to file a written response explaining his failure to participate in this proceeding and his failure to contact the Office of Administrative Law Judges (OALJ). The order specifically advised Complainant that “[f]ailure to timely comply with [the] Order will result in the undersigned issuing appropriate sanctions, which may include but are not limited to disallowing

evidence submitted by Complainant, striking the claim in whole or in part, or any other appropriate sanctions available to the undersigned.” Complainant has not filed any response to the *Show Cause Order*.

d. Additionally, Complainant is required to file charts detailing (i) each alleged activity he engaged in that he contends would be a “protected activity” under the Surface Transportation Assistance Act (STAA) and (ii) each alleged “adverse employment action” he contends was taken against him by Respondent in violation of the STAA. The deadline for Complainant to file his charts of alleged protected activities and alleged adverse actions was January 18, 2024. No such charts have been filed.

3. Analysis.

A party’s failure to comply with the prehearing requirements directly and adversely impacts the opposing party. As such, non-compliance is an entirely unacceptable practice for which a party is accountable.

Claimant, as a self-represented litigant, has been afforded great latitude because he is at least presumptively not versed in the procedural and substantive aspects of pursuing a claim under the Act. However, the requirement to attend two status conferences, the requirement to sign and return the “pro se” letter, the deadline for Complainant to complete and file his charts, and the requirement to file a written response to the *Show Cause Order* were all quite clear. No reason has been given for Complainant’s failure to comply with any of these directives. Further, no motion has been filed seeking additional time and, indeed, Complainant has not made any attempt to participate in this matter since it was initially filed at the OALJ.

The case filings to date demonstrate no reason for Complainant’s failure to comply with the requirement to attend two status conferences, the requirement to sign and return the “pro se” letter, the deadline for Complainant to complete and file his charts, and the requirement to file a written response to the *Show Cause Order*. Consequently, at this point, the undersigned can only conclude such conduct was willful or negligent, or that Complainant has abandoned his claim.

1. Specific Terms of Order. Pursuant to the authority granted in 29 C.F.R. § 18.12(b)(7), 29 C.F.R. § 18.21(c), and 29 C.F.R. § 18.57(b)(1)(v), and due to Complainant's (i) failure to attend two status conferences, (ii) failure to sign and return the "pro se" letter, (iii) failure to adhere to the deadline for completing and filing his charts, and (iv) failure to file a written response to the *Show Cause Order*, as well as his failure to contact the Office of Administrative Law Judges at any time, this case is **DISMISSED**.

So ORDERED at Covington, Louisiana, on February 5, 2024.

JOHN M. HERKE
Administrative Law Judge