

UNITED STATES DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES
Newport News, VA

Issue Date: 22 May 2024

Case No.: 2023-STA-00061

In the Matter of:

MICHAEL D. LEAR,
Complainant,

v.

GFL ENVIRONMENTAL,
Respondent.

ORDER

This matter arises from a complaint filed under the provisions of the Surface Transportation Assistance Act of 1982, U.S. Code Title 49, Section 31105, as amended by the Implementing Recommendations of the 9/11 Commission Act of 2007, Pub. L. No. 110-53 ("STAA"). It is governed by the implementing Regulations found in 29 CFR Part 1978. On May 7, 2024, I issued an *Order of Dismissal and Order Canceling Hearing*. On May 10, 2024, I issued an *Order Denying Complainant's Request for Reconsideration of Order of Dismissal*.

On May 13, 2024, Complainant filed a request to review and correct errors in his deposition transcript, and for his deposition transcript "to be entered into the record in full or struck from the record." Complainant also requested that the deposition transcript of Robert Cunningham "be filed into the record in its entirety." In both arguments, Complainant argued that "cherry picked sections" were being used out of context. Third, Complainant requested that the transcript from the telephonic motion hearing "be made available for inspection" before it is filed into the record, pursuant to 29 CFR 18.55(a)(8).

On May 14, 2024, Respondent filed a letter in response, stating that Respondent filed the complete deposition transcripts for Complainant and Robert Cunningham on April 19, 2024, in support of its motion for summary decision. Therefore, in both instances, the complete deposition transcript is already within the record. Respondent also stated that Complainant never served Respondent with an errata sheet for his deposition transcript.

Complainant's requests will be denied. This case closed with the issuance of the Order denying reconsideration on May 10, 2024. The filings that had been made to that point are

contained within the record; the record will not be altered to strike or supplement the documents that were previously filed. The record will stand as it was made.

Moreover, complete copies of the deposition transcripts of Complainant and Mr. Cunningham are contained within the record, as exhibits to Respondent's motion for summary decision. Contrary to Complainant's assertions, these are not "cherry picked sections"; the full deposition transcript was submitted in each instance. Complainant's deposition transcript consists of four volumes; each volume reflects that the transcriber sent an email to Complainant allowing 30 days for the return of an errata sheet, and stating that "[i]f the errata is not returned within thirty days of your receipt of this letter, the reading and signing will be deemed waived." The emails were sent on dates between February 20-26, 2024. Complainant's request to review those volumes and submit errata now is untimely.

Complainant's request to review the transcript of the motion hearing before it is filed is also denied. Complainant's reliance on 29 CFR § 18.55 is misplaced; the motion hearing was not a deposition, and the rule regarding using depositions at hearings is inapplicable.

For these reasons, Complainant's requests presented in his May 13, 2024 letter are **DENIED.**

SO ORDERED.

MONICA MARKLEY
Administrative Law Judge