

UNITED STATES OF AMERICA

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

ELAINE L. CHAO, Secretary of Labor,)	
United States Department of Labor)	
)	
Complainant,)	
)	OSHRC Docket No. 08-1104
v.)	
)	
IMPERIAL SUGAR COMPANY; IMPERIAL-)	
SAVANNAH, L.P.; and their Successors,)	OSHA Inspection No. 310988712
)	
Respondents.)	

COMPLAINANT’S OBJECTION TO RESPONDENTS’ MOTION TO FILE REPLY BRIEFING IN SUPPORT OF RESPONDENTS’ MOTION TO DISMISS AND MOTION FOR PARTIAL SUMMARY JUDGMENT

COMES NOW the Complainant, the Secretary of Labor, United States Department of Labor, and objects to Respondents’ Motion to File Reply Briefing in Support of Respondents’ Motion to Dismiss and Motion for Partial Summary Judgment for the following reasons:

1. Respondents Imperial Sugar Company and Imperial-Savannah, L.P. filed a Motion to Dismiss and Motion for Partial Summary Judgment with supporting documentation on January 27, 2009. Complainant’s responses thereto were filed and served on February 27, 2009.
2. On February 26, 2009, Respondents sought leave to file reply briefs, before receiving or reading Complainant’s responses to determine whether their request for leave to file replies was necessary or appropriate.
3. The Occupational Safety and Health Review Commission (“Commission”) Rules do not allow for reply briefs. Rather, “a party adversely affected by the ruling” may seek reconsideration within five days. See 29 C.F.R. § 2200.40(c).

4. Respondents' Motion sets forth no factual basis, other than "the importance of the legal issues presented," for why reply briefs would be necessary. That assertion alone is an insufficient basis for reply briefs, which will only further delay these proceedings.

5. In this instance, the Commission's Rules provide adequate procedural protections such that reply briefs are not warranted.

WHEREFORE, for the foregoing reasons, Complainant respectfully requests that Respondents' Motion for leave to file reply briefs be denied.

Respectfully submitted, this 27th day of February, 2009.

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SOL Case No. 08-60093

CERTIFICATE OF SERVICE

I certify that all parties have consented that all papers required to be served may be served and filed electronically. I further certify that a copy of Complainant's Objection to Respondents' Motion to File Reply Briefing in Support of Respondents' Motion to Dismiss and Motion for Partial Summary Judgment was electronically served on February 27, 2009 on the following parties:

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