

**UNITED STATES OF AMERICA
DEPARTMENT OF LABOR
ADMINISTRATIVE REVIEW BOARD**

ANDREW J. SIEMASZKO,)	
)	
Complainant)	
)	ARB Case No. 09-123
v.)	
)	ALJ Case No. 2003-ERA-013
FIRST ENERGY NUCLEAR)	
OPERATING COMPANY, INC.,)	
)	
Respondent.)	

**COMPLAINANT'S STATEMENT OF NO RESPONSE
BRIEF TO FIRST ENERGY'S REPLY BRIEF**


Complainant Andrew J. Siemaszko ("Complainant" or "Mr. Siemaszko"), through his attorney Billie Pirner Garde of Clifford & Garde, LLP, and pursuant to 29 C.F.R. § 24.110, advises the Administrative Review Board (ARB) that, upon review, FENOC's Reply Brief raises no issues or arguments that require additional briefing or rebuttal argument. It restates the arguments advanced in earlier briefings and reiterates its earlier position regarding the legal effect of Mr. Siemaszko's conviction on his Department of Labor (DOL) case. Complainant has already set forth his opposition to FENOC's position and the Administration Law Judge's July 14, 2009 Decision and Order (D&O) in his opening appeal brief; thus, all the arguments and facts are already before the ARB.¹ For this reason, Complainant advises the Board that he is not filing a response brief.

¹ The only exception to this is the various distinctions that FENOC raises to the Nuclear Regulatory Commission's (NRC) Atomic Safety and Licensing Board (ASLB) Order in the *Geisen* case; however, as is obvious, FENOC's arguments miss the points raised by the Complainant's references to the earlier decision.

As requested in his initial brief, Complainant seeks reversal of the Decision and Order dismissing his initial Department of Labor complaint, and a remand to the ALJ with guidance on the ARB's expectations for consideration of evidence on the preliminary Section 211(g) issue, consistent with the authority and guidance of the D.C. Circuit in the *Otherson* case.

Dated: November 6, 2009

Respectfully submitted,


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Certificate of Service

I hereby certify that copies of Complainant's Statement of No Response Brief were sent to the following, by the means indicated, this 6th day of November, 2009:

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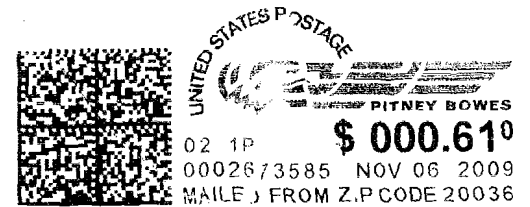
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