

UNITED STATES DEPARTMENT OF LABOR
BEFORE THE OFFICE OF ADMINISTRATIVE LAW JUDGES

In the matter of:

SAPORITO ENERGY CONSULTANTS, INC.
and THOMAS SAPORITO

ALJ NO. 2009-ERA-00016

Complainants,

DATE: 26 JAN 2010

v.

U.S. NUCLEAR REGULATORY COMMISSION,

Respondent.

COMPLAINANTS' OBJECTION AND MOTION TO STRIKE
RESPONDENT U.S. NUCLEAR REGULATORY COMMISSION
RESPONSE TO COMPLAINANTS' REPLY TO SHOW CAUSE

Thomas Saporito, Complainant pro se, on behalf of [himself]
and Saporito Energy Constants, Inc. (Complainants), hereby file
Complainants' Objection and Motion to Strike Respondent U.S.
Nuclear Regulatory Commission Response to Complainants' Reply
to Show Cause (Reply), and state as follows:

On January 26, 2010, Complainants took receipt of U.S.
Nuclear Regulatory Commission's (Respondent's) *Response* to
(Complainants' Reply to Show Cause) (hereinafter "Response")
which was apparently filed in response to Complainants' Reply to
the Court's December 10, 2009 Order to Show Cause in the above-
captioned matter. Complainants timely filed their Reply on

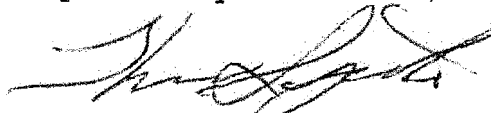
December 28, 2009. *See, Respondent's Response* at p.4.

Complainants aver here that Respondent's Response is untimely filed with this Court and should be stricken from the record and not considered by this Court in reaching a decision in this matter. As Respondent is represented by qualified, trained, experienced, and polished legal counsel, the government is fully aware of the rules of practice and procedure before the U.S. Department of Labor (DOL), Office of Administrative Law Judges (OALJ) which require, in relative part, that the government's Response be made within 10-days of receipt of Complainant's Reply and no later than January 12, 2010. However, as clearly indicated on the government's Response, the document was filed on January 20, 2010 and some 8-days late.

CONCLUSION

FOR ALL THE ABOVE STATED REASONS, and because Respondent filed an untimely Response which is significantly prejudicial to *pro se* Complainants and a denial of [their] "due process" right to a fair and just ruling in this matter, this Court should grant Complainants' motion to strike Respondent's Response as a matter of law.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that a copy of the foregoing document was provided to those identified below by means indicated:

Hon. Paul C. Johnson, Jr.
Administrative Law Judge
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Office of Administrative Law Judges
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By: _____



Thomas Saporito