

**U.S. Department of Labor**

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**Issue Date: 02 February 2010**

**CASE NO: 2009-ERA-00016**

***In the Matter of:***

SAPORITO ENERGY CONSULTANTS and  
THOMAS SAPORITO,  
*Complainants,*

*v.*

U.S. NUCLEAR REGULATORY COMMISSION,  
*Respondent.*

**ORDER DENYING MOTION TO STRIKE**


On December 10, 2009, I issued an Order directing Complainants to show cause why their Complaint should not be dismissed. In that Order, I required Complainants to file and serve their response no later than January 8, 2010, and Respondent to file and serve its response no later than January 22, 2010. Complainants' response to the Order was dated December 28, 2009 and received in this Office on January 4, 2010. Respondent's response was dated January 20, 2010 and was received in this Office on January 21, 2010. On January 25, 2010, I issued an Order partially dismissing the Complaint and permitting additional briefing on the remaining allegations.

By way of a document dated January 26, 2010 and received in this Office on February 1, 2010, Complainants objected to and moved to strike Respondent's January 20 submission on the grounds that it was untimely. In their motion, Complainants argue that under the rules of practice and procedure of this Office, Respondent's submission was due no later than January 12, 2010. Complainants presumably are referring to 20 CFR § 18.6(b), which generally requires that responses to motions be filed no later than 10 days after the motion is filed.

Complainants' objections must be overruled, and their motion to strike denied, for several reasons. First, 20 CFR § 18.6(b) is, on its face, not applicable to this matter; Complainants' submission of December 28, 2009 was not a motion but was a response to my Order to Show Cause. Second, even if that rule is applicable to this matter, the deadline for response is modified by the language "or within such other period as the administrative law judge may fix...." In my Order to Show Cause, I fixed a deadline of January 22, 2010, and Respondent met that deadline. Finally, Complainants' objection and motion to strike were not written or received until after my Order of January 25, 2010 was issued, and therefore was submitted too late to affect my decision.

Based on the foregoing, Complainants' objection to Respondent's response to my Order to Show Cause is OVERRULED, and their motion to strike that response is DENIED.

**SO ORDERED.**

A handwritten signature in black ink, appearing to read "Paul C. Johnson, Jr." with a stylized, cursive script.

**PAUL C. JOHNSON, JR.**  
Administrative Law Judge

## SERVICE SHEET

Case Name: SAPORITO\_THOMAS\_v\_US\_NUCLEAR\_REGULATOR\_

Case Number: **2009ERA00016**

Document Title: **ORDER DENYING MOTION TO STRIKE**

I hereby certify that a copy of the above-referenced document was sent to the following this 2nd day of February, 2010:

  
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