

EDWARD A. SLAVIN, JR.  
35 SE 8th Terrace  
Deerfield Beach, Florida 33441  
(954) 725-0094

May 11, 1996

Hon. Shirley Jackson, Chairwoman,  
Nuclear Regulatory Commission  
11555 Rockville Pike  
Rockville, Maryland 20852 Via Fax

Re: Thomas H. Smith v. EBASCO Constructors, DOL No. 93-ERA-16:  
Deception of DOL Regarding Successorship to EBASCO and  
Chilling Effects on Workers at South Texas Plant of Failure to  
Post Secretary of Labor Decision or Punish Those Found Guilty of  
Intimidation and Harassment of Mr. Smith

Twenty pages follow

EDWARD A. SLAVIN, JR.  
35 SE 8th Terrace  
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Hon. Shirley Jackson, Chairwoman,  
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**Re: Thomas H. Smith v. EBASCO Constructors, DOL No. 93-ERA-16:  
Chilling Effects on Workers at South Texas Plant, Failure to Post  
Secretary of Labor Decision, and Deception of DOL Regarding  
Successorship to EBASCO**

Dear Dr. Jackson:

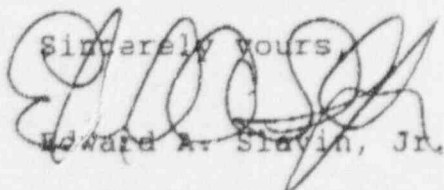
I am the attorney for Mr. Thomas H. Smith, who won a landmark Secretary of Labor decision in his favor on March 13, 1996. Chilling effects continue at the South Texas Plant. Workers fear to raise nuclear safety concerns. Nothing has changed. What is NRC going to do about it?

Meanwhile, it appears that EBASCO lawyers in Texas and New York deceived the Secretary of Labor in order to let Raytheon escape DOL whistleblower remedies, such as the Secretary's order to post copies of the Secretary of Labor decision at the South Texas Plant. The decision is still not posted at the South Texas Plant, although EBASCO's work has been taken over by Raytheon.

It appears that Raytheon constructed its acquisition to leave ESI with certain "assets" and "liabilities," including litigation Raytheon did not want. This artifice should not be allowed to trump Mr. Smith's rights to have the Secretary of Labor decision posted at the South Texas Plant, as ordered by Secretary Reich. Please order the NRC staff to investigate and let us know the results.

Enclosed in support are a letter that I sent Raytheon counsel today, requesting that Raytheon post the decision, and related DOL filings from this past week. Mr. Smith and I look forward to hearing from you.

With kindest regards, I am,

Sincerely yours,  
  
Edward A. Slavin, Jr.

cc: Mr. Thomas H. Smith

EDWARD A. SLAVIN, JR.  
35 SE 8th Terrace  
Deerfield Beach, Florida 33441  
(954) 725-0094

May 11, 1996

Mr. Woods Abbott, Esquire  
Office of General Counsel  
Raytheon Corporation  
141 Spring Street  
Lexington, Massachusetts 02173                      Via Fax

**Re: Thomas H. Smith v. EBASCO Constructors, 93-ERA-16:**

Dear Mr. Abbott:

I received your voice mail message from yesterday afternoon, disassociating Raytheon Corporation from Mr. Callan's conduct on May 8, 1996. Thank you. I look forward to talking with you further on Monday about this landmark nuclear whistleblower case, on remand from the Secretary of Labor for a hearing on remedies.

Mr. Smith and I both understand and appreciate that Raytheon may not have purchased "all" of the EBASCO assets. Yet Raytheon continues EBASCO's business, both at the South Texas Plant and in the rest of the world, and tells the world about it. See Raytheon's Home Page and other postings on the World Wide Web:

**During 1993, Raytheon Engineers and Constructors acquired the infrastructure, power and construction operations of Ebasco Services, Inc.**

See Raytheon Engineers and Constructors' current World Wide Web Home Page (Exhibit 1, enclosed)(Emphasis added). Raytheon continues EBASCO's "power and construction operations" at the South Texas Plant (STP). This entitles Mr. Smith to posting of the Secretary's decision by Raytheon there at STP. ENSERCH's Ms. Ginsburgh (at best) seriously misrepresented the facts to Secretary Reich in a December 2, 1994 letter to Mr. Gresham Smith, then Acting Director of DOL OAA, stating that:

EBASCO Services Incorporated sold substantially all of its assets on December 22, 1993 and ceased to be engaged in the engineering and construction business.

Nothing was ever mentioned by Ms. Ginsburgh about Raytheon. Why? Nor was Raytheon mentioned by Ms. Ginsburgh's predecessor in this case, Ms. Karen Geraghty in her letter. Why? Did material misrepresentation induce Secretary Reich into substituting something called "ESICORP" for EBASCO as the lead Respondent, because of Ms. Ginsburgh's not identifying Raytheon? The ESICORP letters are a possible badge of fraud, which could have deprived Mr. Smith of DOL remedies: posting Secretary Reich's decision at

STP. Mr. Smith asks Raytheon to kindly post a copy of Labor Secretary Reich's decision of March 13, 1996 at STP promptly.

Raytheon has not yet posted the decision at STP. Why not? Was Raytheon ever informed by ESICORP/ENSERCH/Lone Star Gas of the decision, discussing misconduct by persons who are now Raytheon managers and supervisors? If not, why not?

Posting the decision at STP will help remove the chilling effects of EBASCO's cruel mistreatment of Mr. Smith, which Secretary of Labor Robert Reich has condemned in clear and unmistakably blunt terms. See Smith v. ESICORP, Inc., f/k/a EBASCO Services, Inc., 93-ERA-16 (March 13, 1996), slip op. 8-11, 23-29, regarding the elements of a hostile working environment in a nuclear powerplant. "Any reasonable employee concerned in the least with nuclear safety would have found" EBASCO's intimidation and harassment of Mr. Smith to be "offensive." Id, Sec'y slip op. at 26. Mr. Smith's concerns focused on dangerous scaffolding that could kill and maim workers and cause damage to the nuclear powerplant. EBASCO's intimidation had serious effects on safety:

**The destructive impact on such harassment, created and/or condoned by management, on the workplace environment is apparent. It is tantamount to intimidation, having a chilling effect on open communication between EBASCO employees and the NRC, and counteracts the purpose of the ERA... Any reasonable employee would have ... perceiv[ed] additional retaliation.**

Id. 26-27. (Emphasis added). Harassment by EBASCO at STP was "sufficiently severe or pervasive as to alter the conditions of his employment and create a hostile work environment." Id. at 26-27. It matters not that EBASCO managers thought the intimidation was humorous. EBASCO management, "had notice and did not attempt to remedy the abuse. Instead, they laughed about it." Id. (Emphasis added).

Current Raytheon personnel still working at STP were involved in posting the large color cartoons mocking Mr. Smith's reports to the NRC, posting them upon a management drawing board for all to see. Will those personnel receive coaching, counseling, sensitivity training and/or disciplinary actions?

In short, may Mr. Smith "expect great things" from Raytheon? See Raytheon Home Page on World Wide Web (Exhibit 2).

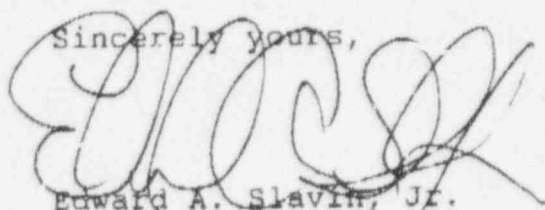
Mr. Smith requests **prompt** posting of the March 13, 1996 decision by Raytheon at the South Texas Plant. Otherwise, Mr. Smith requests that Raytheon **promptly**:

- (A) answer the discovery requests served May 8, 1996; and
- (B) answer the motions, e.g. to add Raytheon as a party and to shorten time for responding to discovery.

Please let me know Raytheon's intentions as soon as possible on Monday morning so that Mr. Smith and I can decide whether to call for a conference call and ask for subpoenas for management personnel to testify at trial regarding the Raytheon takeover of EBASCO.

With kindest regards, I am,

Sincerely yours,



Edward A. Slavin, Jr.

- cc Honorable James W. Kerr, Jr., Administrative Law Judge
- Mr. Thomas H. Smith
- Honorable Dr. Shirley Jackson, Chairwoman, NRC
- Mr. Thomas M. Callan Esquire
- Ms. Alice R. Ginsburgh, Esquire
- Honorable Robert Reich, Esquire, Secretary of Labor
- Honorable David A. O'Brien, Esquire
- Honorable Joyce Claro, Esquire

CERTIFICATE OF SERVICE

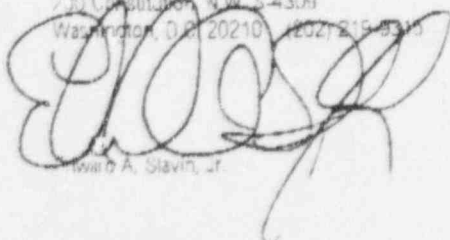
Edward A. Slavin, Jr. do hereby certify that the foregoing document was faxed and mailed as follows this 11th day of May 1996, along with a copy of the fax cover sheet to DOL Headquarters:

Mr. Woods Abbott, Esquire  
Office of General Counsel  
Raytheon Corporation  
41 Spring Street  
Wilmington, Massachusetts 02173 (617) 860-2599 or (617) 860-2172 (fax); (617) 860-3435 (voice)

Mr. Thomas M. Callan, Esquire  
Ms. Alice R. L. Ginsburgh, Esquire  
300 South St. Paul  
Suite 450 EC  
Dallas, Texas 75201; (214) 670-2919 (fax)

Hon. James W. Kerr, Jr.  
Administrative Law Judge  
U.S. Department of Labor  
111 Veterans Mem. Blvd, Suite 530  
Metairie, Louisiana 70005 (504) 589-6766 (fax)

Hon. David O'Brien, Esquire  
Ms. Joyce Claro, Esquire  
Honorable Robert Reich, Secretary of Labor  
Administrative Review Board  
Department of Labor  
720 Constitution, N.W. 5-4309  
Washington, D.C. 20210 (202) 215-9315



Edward A. Slavin, Jr.

# Raytheon Engineers & Constructors



## Engineering and Construction

Raytheon Engineers & Constructors is one of the largest engineering, construction, and operations and maintenance organizations in the world, with more than 15,000 employees. It offers a full range of program management capabilities, including project planning, financing, process development, engineering, design, construction, start-up, operations, and maintenance services.

Raytheon Engineers & Constructors' diverse markets include fossil and nuclear power, petroleum and gas, polymers and chemicals, pharmaceuticals and biotechnology, metals, mining, and light industry, food and consumer products, environmental services, including chemical munitions destruction, infrastructure and transportation, test range, base, and facilities management and maintenance, and air traffic control support services.

Raytheon Engineers & Constructors was formed in 1993 through the consolidation of Raytheon's United Engineers & Constructors and The Badger Company subsidiaries, along with Raytheon Service Company and Cedarapids, Inc. During 1993, Raytheon Engineers & Constructors acquired the infrastructure, power, and construction operations of Ebasco Services, Inc., as well as assets of Gibbs & Hill and Harbert Construction Company. In July 1995, RE&C purchased the assets of Houston-based Luwin Engineers & Constructors, adding to the company's refining, petrochemical, polymer, specialty chemical, and environmental capabilities.

Raytheon Engineers & Constructors is also one of the nation's leading government technical contractors. It provides operations and maintenance services for many critical U.S. defense systems, including SSPARS and BMEWS early warning radars, the U.S. Air Force's Eastern Test Range, and the Army's Kwajalein Missile Range in the Pacific. Raytheon also provides technical support services to the Federal Aviation Administration.

The company offers rock-crushing, asphalt-mixing, and asphalt-paving equipment under the Cedarapids name to customers in the U.S. and internationally. It also markets on-site remediation systems that rid soil of gasoline and diesel fuel contaminants, eliminating the need for transportation to remote clean-up locations.

## LOCATIONS

### Engineering and Construction

**Raytheon Engineers & Constructors**, Lexington, Mass. (headquarters)

Offices in Santa Ana, Calif.; Denver, Colo.; Tampa, Fla.; Atlanta, Ga.; Cambridge, Mass.; New York City; Philadelphia, Penn.; Houston, Texas; Bellevue, Wash.; London, England; and The Hague, The Netherlands.

**Harbert-Yeargin, Inc.**, Greenville, S.C.

**Raytheon Constructors, Inc.**, Lyndhurst, N.J.

**Cedarapids, Inc.**, Cedar Rapids, Iowa

**Raytheon Service Company**, Burlington, Mass.



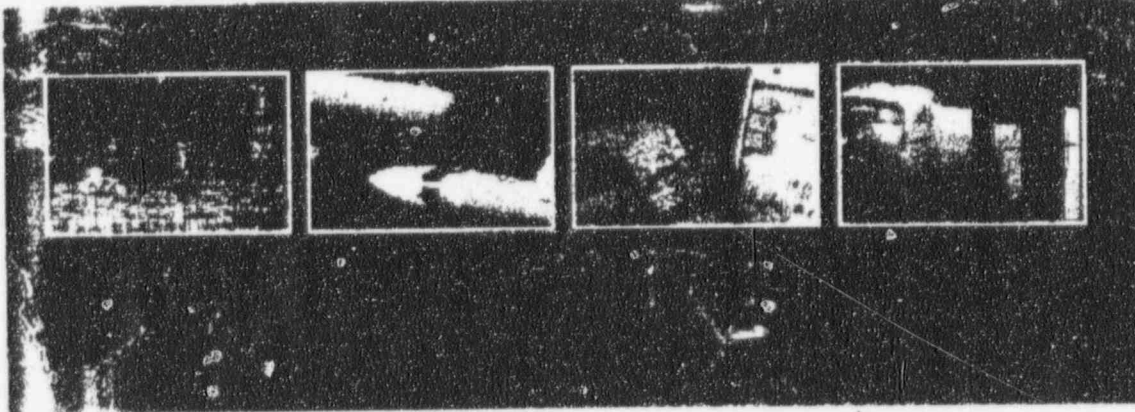
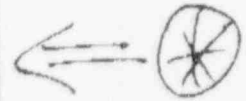
Click here to return to the home page

Last updated: February 1996

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# Raytheon *EXPECT GREAT THINGS*



## Welcome to Raytheon Company's Home Page



Raytheon Company, headquartered in Lexington, Mass., is a \$12 billion international, high technology company which operates in four businesses: commercial and defense electronics, engineering and construction, aviation, and major appliances

Raytheon is pleased to report that its home page has been rated among the top five percent of all sites on the Internet by Point Survey

News Flash: A Statement of Intent for the Medium Extended Air Defense System was signed by Germany, Italy and the United States

Visit our SIVAM Home Page

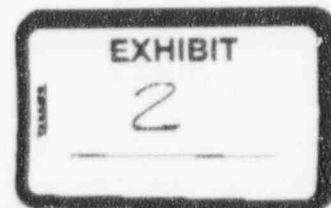
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- [Raytheon - International Overview](#)
- [Raytheon - Key Business Areas](#)
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News media that would like more information can contact Corporate Communications

For public inquiries, please call 508-440-2100, or send email to [webmaster@raytheon.com](mailto:webmaster@raytheon.com)

Last updated May 10, 1996

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EDWARD A. SLAVIN, JR.  
35 SE 8th Terrace  
Deerfield Beach, Florida 33441  
(954) 725-0094

FAX COVER SHEET

May 11, 1996

Hon. David O'Brien, Esquire  
Ms. Joyce Claro, Esquire  
Honorable Robert Reich, Secretary of Labor

202-219-9315

Re: Thomas H. Smith v. EBASCO Constructors, 93-ERA-16

URGENT FYI: it now appears that you were intentionally deceived about the current ownership of EBASCO, whose successor is in fact Raytheon, the Nation's 107th largest corporation, with \$12 billion in annual sales.

Mr. Smith has taken the matter up in front of the ALJ by motion, seeking to add Raytheon as a party in the ALJ's next RDO to assure that the Secretary's decision is posted at the plant as ordered and intended by the Secretary.

Thank you.

  
Ed Slavin

cc: Mr. Todd Smyth, Esquire, DOL OALJ

5 pages follow



EDWARD A. SLAVIN, JR.  
35 SE 8th Terrace  
Deerfield Beach, Florida 33441  
(954) 725-0094

May 8, 1996

Hon. James W. Kerr, Jr.  
Administrative Law Judge  
U.S. Department of Labor  
111 Veterans Mem. Blvd, Suite 530  
Metairie, Louisiana 70005 Via Fax

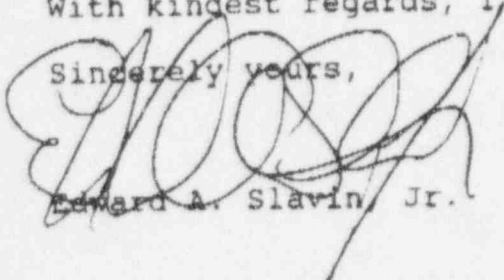
Re: Thomas H. Smith v. ERASCO Constructors, 93-ERA-16  
Motion to Amend Caption  
Motion to Shorten Time For Short Interrogatories

Dear Judge Kerr:

Enclosed is Mr. Smith's Motion to Amend Caption and Motion to Shorten Time for Short Interrogatories. The Smiths and I look forward to the hearing on May 28, 1996.

With kindest regards, I am,

Sincerely yours,



Edward A. Slavin, Jr.

cc: Mr. Thomas H. Smith  
Mr. Thomas M. Callan Esquire  
Ms. Alice R.L. Ginsburgh, Esquire

Enclosures

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

THOMAS H. SMITH  
Complainant,

v.

EBASCO CONSTRUCTORS, INC.  
Respondent.

)  
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)  
)  
) No. 93-ERA-16  
) Hon. James Kerr

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COMPLAINANT'S MOTION TO AMEND CAPTION

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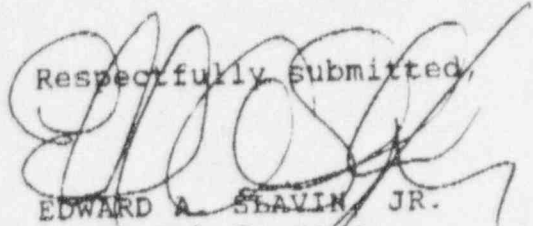
Complainant moves to amend the caption in this action to substitute Raytheon Corporation for ESICORP as the lead respondent in this action. Despite the Secretary's order in this landmark hostile working environment case, the Secretary's Decision and Order of Remand has ~~not~~ yet been posted at the South Texas Plant. ESICORP is a hollow corporate shell, a shallow pocket assigned some of the liabilities of EBASCO as part of the acquisition of EBASCO by Raytheon. The caption should be amended to name Raytheon to assure that posting requirements (and other remedies) are carried out, to help end chilling effects on workers at the plant created by Respondents' hostile working environment directed at Mr. Smith. Testimony at the hearing will show that Raytheon is the company conducting the day-to-day business at the South Texas Plant formerly conducted by EBASCO. Under the Secretary of Labor's decision in Rowland v. Easy Rest Bedding, Inc., 93-STA-19 (Sec'y Nov. 21, 1994), the Secretary announced nine factors relevant to determining successorship and successorship liability in labor-related cases, to wit:

1. whether the successor company had notice of the charge;
2. the ability of the predecessor to provide relief;
3. whether there has been substantial continuity of business operations;
4. whether the new employer uses the same plant;
5. whether the new employer uses the same or substantially the same work force;
6. whether the new employer uses the same or substantially the same supervisory personnel;
7. whether the same jobs exist under substantially the same working conditions;
8. Whether the new employer uses the same machinery, equipment and methods of production, and
9. whether the new employer produces the same products.

See also Secretary of Labor on behalf of Keene v. Mullins, 888 F.2d 1448, 1453-54 (D.C. Cir. 1989); EEOC v. MacMillan Bloedel Containers, Inc., 503 F.2d 1086, 1094 (6th Cir. 1974).

Therefore, Mr. Smith respectfully requests that Raytheon be named as the lead Respondent in the ALJ's Recommended Order upon Remand and that Raytheon be required to comply with the posting requirements set forth in the Secretary of Labor decision dated March 13, 1996 and the Secretary's Final Order, as well as assuming financial responsibility for any judgment beyond the resources of ESICORP.

Respectfully submitted,



EDWARD A. SLAVIN, JR.  
35 SE 8th Terrace  
Deerfield Beach, Florida 33441  
(954) 725-0094

COUNSEL FOR COMPLAINANT  
THOMAS H. SMITH

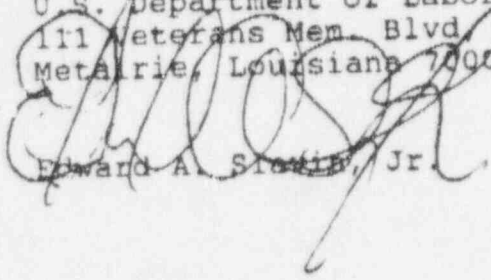
MAY 8, 1996

**CERTIFICATE OF SERVICE**

I, Edward A. Slavin, Jr. do hereby certify that the foregoing document was faxed and mailed as follows this 8th day of May 1996:

Mr. Thomas M. Callan, Esquire  
Ms. Alice R. L. Ginsburgh, Esquire  
300 South St. Paul  
Suite 450 EC  
Dallas, Texas 75201 (214) 670-2919 (fax)

Hon. James W. Kerr, Jr.  
Administrative Law Judge  
U.S. Department of Labor  
111 Veterans Mem. Blvd. Suite 530  
Metairie, Louisiana 70005 (504) 589-6268 (fax)



Edward A. Slavin, Jr.

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

THOMAS H. SMITH  
Complainant,

v.

EBASCO CONSTRUCTORS, INC.  
Respondent.

)  
)  
)  
)  
)  
) No. 93-ERA-16  
) Hon. James Kerr

---

COMPLAINANT'S MOTION TO SHORTEN TIME FOR SHORT  
INTERROGATORIES, REQUESTS FOR ADMISSIONS,  
AND REQUESTS FOR PRODUCTION OF DOCUMENTS

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Complainant moves to shorten time for answers to the following short interrogatories, such that answers are faxed or sent by Federal Express to Mr. Smith's counsel in a manner that will assure receipt before May 25, 1996.

**REQUESTS FOR ADMISSIONS**

1. Raytheon had notice of the complaint in this case.
2. EBASCO no longer exists as a going concern and has no funds to pay judgments.
3. There has been substantial continuity of business operations between EBASCO and Raytheon at the South Texas Plant.
4. Raytheon still conducts business at the South Texas Plant that was formerly conducted by EBASCO.
5. Raytheon uses the same or substantially the same work force that EBASCO used at the South Texas Plant.
6. Raytheon uses the same or substantially the same supervisory personnel that EBASCO used at the South Texas Plant.
7. Raytheon at the South Texas Plant has many of the same jobs

exist under substantially the same working conditions that EBASCO had at the South Texas Plant.

8. Raytheon uses substantially the same machinery, equipment and methods of "production" (e.g., performing work) that EBASCO used at the South Texas Plant.
9. Raytheon produces the same "products" (e.g., engineering, construction and maintenance work for an operating nuclear powerplant), that EBASCO formerly produced at the South Texas Plant.
10. There is no phone listing for ESICORP., Inc. or its legal office in Dallas, Texas.
11. There are several ESI listings in Dallas, including (214) 855-5063: according to the voice mail, this ESI sells "blinds, shades and shutters to the interior design trade" and is not the same as the Respondent in this action.
12. The telephone number for Ms. Alice R.L. Ginsburgh, Esq. set forth in the December 2, 1994 letter to Mr. Gresham Smith of DOL OAA, (214)670-2536, is identified as a voice mail number for Ms. Ginsburgh in the Legal Department of Lone Star Gas in Dallas, Texas.
13. The telephone number for Mr. Thomas Callan, Esquire provided by Respondents to the chambers of the Honorable James W. Kerr, Jr., (214) 670-2535 was identified earlier this afternoon as being located in the Legal Department of ENSERCH, which has "some connection" to Raytheon.
14. ESICORP has only a few million dollars in assets.

15. ESICORP was set up as part of the acquisition of EBASCO by Raytheon.
16. Only certain select assets and claims of EBASCO were assigned to ESICORP as part of the Raytheon-EBASCO merger/acquisition.
17. ESICORP is not a going concern with customers, business or revenues of a normal corporation.
18. ESICORP was established to spare Raytheon the embarrassment, publicity and exposure of judgments against EBASCO.
19. It is improper as a matter of law for the caption in this case to name ESICORP but not Raytheon Corporation.
20. No copies of the Secretary of Labor's March 13, 1996 Decision and Order of Remand have been posted at the South Texas Plant.
21. Raytheon management hopes it might be able to avoid Secretary of Labor Robert Reich's mandatory bulletin board posting order at the South Texas Plant in this action by virtue of its creation of ESICORP.
22. Failure to post copies of the Secretary's March 13, 1996 Order would increase chilling effects upon South Texas Plant employees of the intimidation and harassment of Mr. Smith.

#### INTERROGATORIES

1. For any of the preceding requests for admissions that you do not admit, please describe all facts and identify all documents and witnesses that support or contradict your position, including job descriptions, copies of merger and

acquisition agreements, government approvals and conditions to mergers and acquisitions, canceled checks, corporate charters, corporate bylaws, corporate minutes, budgets, contracts, contract modifications, etc.

2. If you can rewrite any of the preceding requests for admissions into a stipulation that you believe more accurately reflects the facts -- saving the Court and the parties' time -- kindly set forth each such stipulation and discuss it with counsel for Mr. Smith. If you are unable to propose such stipulations, please say why, setting forth all facts that support your inability to stipulate to well-known facts.
3. Please explain how the decision was made to place this case under the auspices of ESICORP rather than Raytheon, identifying all documents discussing and implementing this decision.

#### **REQUESTS FOR PRODUCTION OF DOCUMENTS**

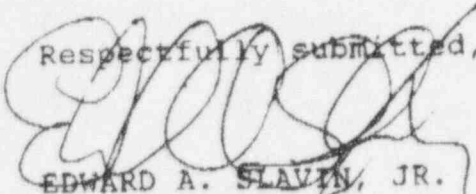
1. Please produce for inspection and copying in Houston, Texas or at the South Texas Plant in Bay City, Texas any documents identified in response to Interrogatories 1,2 & 3.

#### **CONCLUSION**

Mr. Smith respectfully requests that Raytheon, ESICORP and EBASCO counsel call upon the undersigned with any questions about the forgoing requests for admissions, interrogatories and requests for production of documents.



Respectfully submitted,



EDWARD A. SLAVIN, JR.  
35 SE 8th Terrace  
Deerfield Beach, Florida 33441  
(954) 725-0094

COUNSEL FOR COMPLAINANT  
THOMAS H. SMITH

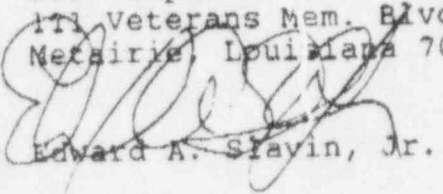
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300 South St. Paul  
Suite 450 EC  
Dallas, Texas 75201 (214) 670-2919 (fax)

Hon. James W. Kerr, Jr.  
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171 Veterans Mem. Blvd, Suite 530  
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Edward A. Slavin, Jr.

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May 8, 1996

Hon. James W. Kerr, Jr.  
Administrative Law Judge  
U.S. Department of Labor  
111 Veterans Mem. Blvd, Suite 530  
Metairie, Louisiana 70005 Via Fax

Re: Thomas H. Smith v. EBASCO Constructors, 93-ERA-16:  
Legal Ethics; Motion to Shorten Time for Answer to Motion to  
Shorten Time for Short Interrogatories

Dear Judge Kerr:

Enclosed is Mr. Smith's Motion to Shorten Time for Answer to  
Motion to Shorten Time for Short Interrogatories.

The putative new counsel for Respondent, Mr. Callan, has not  
entered an appearance in this matter. Should he do so, the Court  
should consider whether he should be excluded or cautioned about  
his demeanor, which appears most unprofessional.

This afternoon, counsel for Respondents, Mr. Thomas M.  
Callan, called me and amid voice-raising and shrieking, proceeded  
to interrogate me as to the "source" of the information appearing  
in the Motions filed earlier today. I informed him that Mr. Smith  
had at least one confidential source, but that the basic  
information about the acquisition of EBASCO by Raytheon was in  
the Wall Street Journal and other publications. Upon attempting  
to answer his question after returning his second unfriendly  
message, Mr. Callan proceeded to interrupt, berate and insult  
me, saying "consider yourself insulted." Mr. Callan said I  
should have called him before filing the motions. I informed him  
neither my clients nor I have any duty to ask corporate America  
for permission before filing motions or discovery requests. I  
further advised him it was unbecoming for EBASCO -- in light of  
the Secretary of Labor's landmark ruling in this case -- to  
threaten monetary sanctions in this case as its first action  
after the March 13, 1996 Decision and Order of Remand. I told  
Mr. Callan I thought he would be calling to discuss settlement in  
light of the Secretary's ruling, not to make wrongful threats to  
seek monetary sanctions, where such sanctions do not lie. See Rex  
v. EBASCO, 87-ERA-6,40 (Sec'y, March 4, 1994). By copy of this

---

Mr. Callan had earlier left an unfriendly voice mail  
message after I returned his first call, stating, "if all I am  
going to get is your machine, Slavin, then forget it." The  
message has been preserved.

letter, I am faxing the Motions served earlier today and the attached Motion to Raytheon.

In the case at bar, EBASCO corporate lawyers showed an unwillingness to follow legal ethics and common decency before your honor in the trial of this case. Such rude, crude corporate lawyers do a disservice to both their clients and our system of justice. See e.g., Sol M. Linowitz, The Betrayed Profession (regarding corporate lawyers' current unwillingness to follow Elihu Root's advice and tell clients when they are "damned fools" and should "stop" their illegal or immoral activities). House counsel shows even less independence than counsel from corporate law firms. Referring to defense contractor corporate lawyers in a whistleblower case (who caterwauled for dozens of pages about an amicus brief filed by the Solicitor in support of the whistleblower), the Secretary of Labor held:

the adversary process does not require attorneys to be clothed in a suit of armor and fight to the bitter end. The parties, the profession and the public all lose when the attorneys fail to [act] with common courtesy.

Dr. William K. Reid, M.D. v. Methodist Medical Center of Oak Ridge, Martin Marietta Energy Systems, et. al., 93-CAA-4 (Sept. 27, 1993 Order at 14-15), quoting Miller v. Bittner, 985 F.2d 935, 941 (8th Cir. 1993).

With kindest regards, I am,

Sincerely yours,

  
Edward A. Slavin, Jr.

cc: Mr. Thomas H. Smith  
General Counsel, Raytheon Corporation  
Mr. Thomas M. Callan Esquire  
Ms. Alice R.L. Ginsburgh, Esquire

Enclosure

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

THOMAS H. SMITH  
Complainant,

v.

EBASCO CONSTRUCTORS, INC.  
Respondent.

)  
)  
)  
)  
)  
) No. 93-ERA-16  
) Hon. James Kerr

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COMPLAINANT'S MOTION TO SHORTEN TIME  
TO RESPOND TO MOTION TO SHORTEN TIME

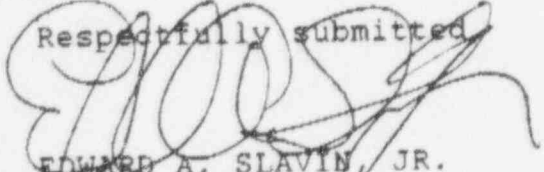
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Pursuant to 29 C.F.R. § 18.6, your Complainant moves to shorten the time for response to the Motion to Shorten Time filed earlier today to require a response by Monday, May 13, 1996 to the motion requiring response to short discovery requests before the day of trial, which is set for May 28, 1996.

CONCLUSION

Mr. Smith respectfully requests that Raytheon, ESICORP and EBASCO counsel call upon the undersigned with any questions about Mr. Smith's requests for admissions, interrogatories and requests for production of documents.

Respectfully submitted,



EDWARD A. SLAVIN, JR.  
35 SE 8th Terrace  
Deerfield Beach, Florida 33441  
(954) 725-0094

COUNSEL FOR COMPLAINANT  
THOMAS H. SMITH

MAY 8, 1996

**CORRECTED CERTIFICATE OF SERVICE**

I, Edward A. Slavin, Jr. do hereby certify that the foregoing document was faxed and mailed as follows this 8th day of May 1996:

Mr. Thomas M. Callan, Esquire  
Ms. Alice R. L. Ginsburgh, Esquire  
300 South St. Paul  
Suite 450 EC  
Dallas, Texas 75201 (214) 670-2919 (fax)

Hon. James W. Kerr, Jr.  
Administrative Law Judge  
U.S. Department of Labor  
111 Veterans Mem. Blvd, Suite 530  
Metairie, Louisiana 70005 (504) 589-6268 (fax)

General Counsel\*  
Raytheon Corporation  
141 Spring Street  
Lexington, Massachusetts 02173 (617) 860-2172 (fax)

  
Edward A. Slavin, Jr.

\* For Raytheon Corporation, this fax and mailing includes copies of the motions served by fax on EBASCO and the Court earlier today.