

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VII
11201 RENNER BOULEVARD
LENEXA, KANSAS 66219

2015 DEC -2 PM 3: 04

BEFORE THE ADMINISTRATOR

IN THE MATTER OF:

Matthew Andersen
d/b/a Andersen Painting
Omaha, Nebraska

Respondent.

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Docket No. TSCA-07-2014-0033

**AMENDED MOTION FOR LEAVE TO FILE OUT OF TIME COMPLAINANT'S SECOND
AMENDED MOTION TO WITHDRAW
COMPLAINANT'S MOTION FOR DEFAULT ORDER AND ALL EXHIBITS THERETO**

Comes now Complainant and moves this Court to grant Complainant's Motion for Leave to File Out of Time Complainant's Second Amended Motion for Withdrawal of Default Order and All Exhibits Thereto. Since the filing of Complainant's Motion for Default Order, Complainant and Respondent have re-engaged in negotiations and have reached agreement upon the terms of a Consent Agreement and Final Order (CA/FO). Although Complainant inadvertently missed the Court's deadline of November 20, 2015, for the filing of the relevant Second Amended Motion to Withdraw Complainant's Motion for Default Order and Exhibit 5 thereto, this late filing will not result in prejudice to either party. Complainant has contacted Respondent and Respondent is in agreement with the request to withdraw the motion for default order, in favor of allowing the CA/FO to be filed in this matter. In support hereof, Complainant has attached an Affidavit in accordance with 40 C.F.R. § 22.5(b)(2).

Respectfully submitted,



Lucretia A. Myers
Assistant Regional Counsel
EPA, Region VII
Attorney for Complainant

CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of December, 2015, I filed the foregoing Amended Motion for Leave to File Out of Time Second Amended Motion to Withdraw Complainant's Motion for Default Order and All Exhibits Thereto, by the method indicated.

ORIGINAL plus ONE
BY EPA Internal Mail:

Karina Borromeo
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219

COPY
BY USPS
DELIVERY:

Matthew Andersen
d/b/a Andersen Painting
8020 North 31st Street
Omaha, Nebraska 68112

AFFIDAVIT

Comes now Affiant and attests and states as follows:

1. My name is Lucretia A. Myers and I am an attorney employed by the U.S. Environmental Protection Agency, Region 7. I represent EPA Region 7, Complainant, in the Matter of Matthew Andersen, d/b/a Andersen Painting, Docket No. TSCA-07-2014-0033.
2. On April 27, 2015, Complainant filed a Motion for Default Order with the Court. Prior to any ruling on said Motion, Complainant and Respondent engaged in discussions that resulted in a signed Consent Agreement and Final Order (CA/FO) in this matter. This CA/FO is currently in the possession of the Regional Hearing Clerk, awaiting presentation to the Regional Judicial Officer for signature.
3. Complainant has contacted Respondent and the parties agree that as a result of the settlement reached by the parties, there is no longer a need for the Court to rule on a Motion for Default Order in this matter. Complainant is filing a Second Amended Motion to Withdraw Complainant's Motion for Default Order and All Exhibits Thereto simultaneously herewith and Respondent has no objection to this filing or the granting of Complainant's Motion by the Court.



Lucretia A. Myers
Affiant

Subscribed and sworn to before me, a Notary Public, this 2nd day of December, 2015.



Notary Public

