UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OFFICE OF THE CHIEF ADMINISTRATIVE HEARING OFFICER

Rafael Prieto, Complainant v. News World Communications Incorporated, a corporation, Noticias Del Mundo, a corporation, Philip Sanchez, Jose Cardinali, Richard Jones, John Martin, Respondents; 8 U.S.C. § 1324b Proceeding; Case No. 88200164.

FINAL DECISION AND ORDER
(May 23, 1990)

MARVIN H. MORSE, Administrative Law Judge

Appearances: **RAFAEL PRIETO**, Complainant.
ADELE P. KIMMEL, Esq., for Respondents.

Statutory and Regulatory Background:

The Immigration Reform and Control Act of 1986 (IRCA), Pub. L. No. 99-603, 100 Stat. 3359 (November 6, 1986), enacted a prohibition against unfair immigration-related employment practices at section 102, by amending the Immigration and Nationality Act of 1952 (INA § 274B), codified at 8 U.S.C. §§ 1101 et seq. Section 274B, codified at 8 U.S.C. § 1324b, provides that ``[I]t is an unfair immigration-related employment practice to discriminate against any individual other than an unauthorized alien with respect to hiring, recruitment, referral for a fee, or discharge from employment because of that individual's national origin or citizenship status . . .'' Discrimination arising either out of an individual's national origin or citizenship status is thus prohibited. Section 274B protection from citizenship status discrimination extends to an individual who is a United States citizen or qualifies as an intending citizen as defined by 8 U.S.C. § 1324b(a)(3).

Congress established new causes of action out of concern that the employer sanctions program enacted at INA § 274A, 8 U.S.C. § 1324a, might lead to employment discrimination against those who are ``foreign looking'' or ``foreign sounding'' and those who,

even though not citizens of the United States, are lawfully in the United States. See ``Joint Explanatory Statement of the Committee of Conference,'' Conference Report, IRCA, H.R. Rep. No. 99-1000, 99th Cong., 2d Sess., at 87 (1986). Title 8 U.S.C. § 1324b contemplates that individuals who believe that they have been discriminated against on the basis of national origin or citizenship may bring charges before a newly established Office of Special Counsel for Immigration Related Unfair Employment Practices (Special Counsel or OSC). OSC, in turn, is authorized to file complaints before administrative law judges who are specially designated by the Attorney General as having had special training ``respecting employment discrimination.'' 8 U.S.C. § 1324b(e)(2).

IRCA also explicitly authorizes private actions. Whenever the Special Counsel does not within 120 days after receiving a charge of national origin or citizenship status discrimination file a complaint before an administrative law judge with respect to such charge, the person making the charge may file a complaint directly before such a judge. 8 U.S.C. § 1324b(d)(2).

Procedural Summary:

Mr. Rafael Prieto (Prieto or Complainant) charges News World Communications, Inc., Noticias del Mundo, et al. (News World or Respondents) with knowing and intentional citizenship status discrimination for his dismissal as Assistant National Editor on or about June 17, 1987 in violation of 8 U.S.C. § 1324b. Prieto filed a charge of citizenship status discrimination with the Office of Special Counsel (OSC) on December 17, 1987.

On August 9, 1988 OSC determined that it would not bring Prieto's charge before an administrative law judge. OSC's August 9 determination letter to Complainant stated that ``[T]he investigation of our office does not reveal sufficient evidence that you were force [sic] to leave your work for citizenship reasons . . .'' That letter also notified Complainant that he might file a complaint directly with an administrative law judge within 90 days after OSC's 120-day investigation period, i.e., October 24, 1988.

On October 25, 1988 Prieto filed his Complaint dated October 20, 1988, with the Office of the Chief Administrative Hearing Officer (OCAHO). He filed an amended Complaint December 15, 1988, dated December 9, 1988. On December 20, 1988 Jose Roberto Juarez of the Mexican American Legal Defense Fund (MALDEF) entered his appearance as counsel for Prieto. OCAHO's Notice of Hearing to the parties dated December 22, 1988 advised, inter alia, that I was assigned the case.

On January 23, 1989, E. Richard Larson, a professor at New York University Law School, also entered his appearance as counsel for Complainant. On January 24 I granted the joint request of the parties to extend until February 9, 1989, the time for Respondents to answer or otherwise plead to the amended Complaint.

On February 9, 1989 Respondents filed a Motion to Dismiss the Amended Complaint, asserting that Complainant had failed to timely file his Complaint after notification of the filing deadline by OSC in its determination letter. I agreed on February 22 to the joint agreement of the parties to extend until March 6, 1990 Complainant's time to respond to the motion. On February 23, 1990 the parties filed an agreement in which I concurred, whereby Respondents withdrew their motion and agreed to answer the Complaint by March 21, 1989.

By Answer dated and filed March 21, 1989 Respondents denied the essential elements of the Complaint, defending also on the ground that Complainant was time barred ``by the applicable statute of limitations'' under IRCA. As a result of the first telephonic prehearing conference on April 21, 1989, Respondents clarified the matter of timeliness of Complainant's filing in OCAHO. Respondents and OSC had agreed on extending until August 8, 1988 the length of time OSC could have under IRCA to retain jurisdiction of the investigation of Prieto's charge, resulting in the February 23, 1989 stipulation which had recited the understanding of the parties that Prieto ``apparently had until on or about November 7, 1989 (sic] to file a complaint.''

On May 31, 1989 in lieu of a joint factual submission required of the parties as a result of the April 21 conference, Respondents filed a report which advised that a settlement had been reached subject only to execution by Complainant and his counsel. Pending finalization of settlement, a telephonic prehearing conference scheduled for June 12, 1989 aborted.

By letter pleading dated August 2, 1989 Respondents advised that Prieto refused to execute the settlement. Respondents requested that either I dismiss the case with prejudice or determine that the Settlement Agreement binds the parties. On August 4, 1989 I issued an Order denying Respondents' motion and requiring Complainant to Show Cause Why Proceeding Should Not Be Dismissed for Failure to Prosecute or Should Not Be Set for Hearing, requiring Complainant to reply by August 21, 1989. On August 9, 1989 Complainant's attorneys filed a Motion for Leave to Withdraw as Counsel, attaching an August 7 letter from Mr. Prieto discharging them from representing him based on ``our disagreement.''

Complainant's response dated August 21 to the Show Cause asserted that he had refused to execute the settlement agreement which ``was unjust and not in favor.'' Moreover, he said, ``I felt it would be best to be heard in a Court of Law, and that the decision should be made by that court.''

By Order issued September 13, 1989, satisfied that Complainant wished to proceed without counsel, I granted the withdrawal requested by his attorneys, and confirmed arrangements for the second telephonic prehearing conference to be held October 3. The day before the conference, Respondents filed a Motion to Enforce Settlement Agreement and Memorandum in Support. The conference adopted a schedule for filing of pleadings as the result of that motion, and a third conference was scheduled for November 21, 1989. Complainant filed a response dated October 30, 1989; Respondents filed a November 9 reply.

By Order issued November 17, 1989 I denied Respondents' Motion. That Order distinguished cases under Title VII of the Civil Rights Act of 1964, as amended, relied on by Respondents to support the request that I compel Complainant to adhere to the settlement. My ruling was substantially based on the conclusion that Section 102 of IRCA unlike Title VII is silent as to seeking conciliation as a precursor to obtaining judicial relief. That analysis concludes that IRCA affords greater discretion to the trial judge than does Title VII to decide whether to require the charging party to adhere to an executory settlement.

The third prehearing conference set the evidentiary hearing to be held as agreed between the parties in the metropolitan Washington, D.C. area, beginning March 5, 1990. On February 2, 1990, reflecting disputes arising out of discovery practice, Respondents filed a Motion for Sanctions seeking dismissal of the Complaint, or, alternatively, to compel further discovery, and to postpone the hearing. On February 13 I issued an order denying all requests. Respondents filed a Motion for Summary Decision dated February 12, 1990 which I denied by order issued February 16, 1990, holding that there were genuine issues of material fact not clearly resolved by Respondents' submission.

The evidentiary hearing, held in the hearing room of the Executive Office for Immigration Review, Falls Church, Virginia, began on March 5, 1990, concluded on March 6 when I granted Respondents' motion on the record for judgment at the conclusion of Complainant's direct case. The rationale for the ruling discussed in the transcript, volume II, pages 6-14, is more fully explained below.

Discussion:

The issue in this case is whether on or about June 17, 1990 Rafael Prieto was discharged as assistant national editor of the newspaper Noticias del Mundo [Noticias] by reason of his citizenship status in violation of the prohibition against unfair immigration-related employment practices. 8 U.S.C. § 1324b(a)(1)(B). As explained in Fayyaz v. The Sheraton Corporation, OCAHO Case No. 89200430, April 10, 1990, at 5, ``[J]urisdiction under Section 1324b is limited to charges which implicate hiring, recruitment or referral for a fee, or discharge. The broad range of compensation, terms, conditions, or privileges of employment are not covered by IRCA as they are, for example, under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e et seq.'' IRCA forbids discriminatory acts against covered individuals involving hiring, recruitment, referral or discharge to the exclusion of demotions, promotions, reassignments or other workplace related events and practices. Accordingly, if Prieto was not discharged as the result of prohibited conduct by Respondents, he cannot prevail.

Complainant's OSC charge describing the discrimination complained of recited that ``[O]n June 17, 1987 I received a memo from Sanchez [publisher of Noticias] which stated that I was demoted to the position of reporter for violating the company's conflict of interest rules.'' Prieto charged that Noticias, by whom he was employed as assistant national editor, demoted him ``in retaliation for my [his] public admission that I [he] was undocumented.'' According to the charge, Noticias took punitive action against him because an article in the New York Daily News concerning Prieto's participation on the mayor's action advisory committee on immigration had hurt its interests.

The Complaint, as amended, asserted that Prieto was demoted to reporter ``and terminated from his position'' on or about June 17, 1987. He alleged a concerted effort had begun to terminate his employment ``because of his citizenship status and because he spoke publicly about his citizenship status.'' The Complaint referred to an article which appeared in the New York Daily News dated June 11, 1987, where columnist Miguel Perez, interviewing Prieto, discussed Prieto's status as an illegal alien who had been appointed to the New York City mayoral immigration action advisory committee.

At hearing, both parties stated that they viewed the relevant date of discrimination as June 17, 1987. By his own admission, Prieto did not return to the office after June 17 nor as of the evidentiary hearing does he contend that the June 17, 1987 action constituted discharge. Prieto's testimony, including his cross examination, and exhibits received at hearing, make clear that his focus

had been on events culminating in the demotion notice of June 17, 1987. He asserted that June 17, 1987 marked the first action by Noticias to rebuke him, acknowledging that the final action did not take place until he was discharged on December 28, 1987. It is undisputed that while the demotion occurred on June 17, 1987, the date of Complainant's discharge from Noticias was December 28, 1987.

It became evident during the hearing that Complainant did not claim to have been discharged prior to December 28, 1987. As he characterized the sequence of events, ``[O]ne of the relevant events was June 17, 1987, but the final action the termination_if under the guns of the law, the law didn't contemplate any protection for a motion [sic ``demotion''], as I understand.'' Tr. II, 4/24-5/3.

What occurred on June 17, 1987 was a demotion or reassignment, which constituted a change in title from Assistant National Editor to Reporter. There was no change in salary. Most importantly, there was no discharge based on Prieto's citizenship status, or otherwise. When Prieto failed to show up for work after June 17, 1987, Noticias did not remove him from the payroll. At least until December 28, 1987, he was kept on the payroll and could have reported for duty at any time until that date. Only on the December date did Respondent take him off the books as an employee, basing the decision to do so on what was construed as a constructive resignation for failure to report to work.

I conclude that on or about June 17, 1987 Complainant was demoted or reassigned, not discharged. It would be appropriate and necessary to determine whether he was discharged in violation of 8 U.S.C. § 1324b were there reason to suppose that his discharge in December 1987 was a direct and inevitable consequence of prohibited conduct which occasioned the demotion. Nothing contained in Complainant's evidence, however, provides a basis for such an inference.

Certainly, Noticias knew of Prieto's illegal status well before the events of June 1987. At hearing, Prieto acknowledged that John Martin, counsel to Noticias, helped him in the legalization process only weeks before the events of June 17, 1987. Martin had knowledge of Prieto's illegal status while Prieto was employed at the newspaper's Los Angeles office even before he was transferred to New York. At that time Martin had been advised by the California Department of Revenue that Prieto had been using a false social security number. Moreover, Noticias has employed Prieto's sister, Patricia Prieto, whom it knew to be an illegal alien; Noticias assisted in her legalization process also.

Complainant had become an embarrassment to Noticias. I find and conclude that Respondents demoted him because of his public disclosure, while serving as Assistant National Editor, that as an undocumented alien he had become a member of the mayor's action advisory committee on immigration. Prieto's daring in speaking out about his citizenship status was not only Respondents' stated reason for the demotion but was the actual reason, leading to but not inevitably requiring his discharge. Respondents took action against Complainant not because he was an alien but because of the irony that he had gone public about his undocumented status in context of his service on the mayor's committee while serving as the Assistant National Editor. Accordingly, I hold that as a matter of law Respondents did not violate IRCA.

This Final Decision and Order confirms the decision made on the record of hearing on March 6, 1990, granting Respondent's motion for judgment. In view of this disposition of the case it is unnecessary to reach the other defenses raised by Respondents.

Respondents also moved on the record for award of attorneys' fees pursuant to 8 U.S.C. § 1324b(i). During extensive discussion of that request, Tr. vol. II at 15-21, I agreed that Respondents might file a post-hearing memorandum in support of that request, although I suggested I would need to be strongly persuaded that such an award ought to be forthcoming. The matter became moot, however, when by letter-pleading filed April 12, 1990, Respondents withdrew their request for attorneys' fees.

Ultimate Findings of Fact and Conclusions of Law:

I have considered the pleadings, testimony, evidence, memoranda and arguments submitted by the parties. Accordingly, and in addition to the findings and conclusions already stated, I find and conclude that Complainant has failed to prove discrimination based on his citizenship status. I find no evidence of discharge sounding in citizenship discrimination.

Whatever redress may be available to Mr. Prieto, his grievances against Respondents are not within the ambit of my jurisdiction under 8 U.S.C. § 1324b because they do not implicate citizenship status discrimination. Complainant, having failed to set forth a case of citizenship discrimination, has not sustained his burden of proving by a preponderance of the evidence that discrimination resulted from his citizenship status.

Respondents denominated their request which I granted on the record a ``motion for judgment.'' Such a motion is not explicitly provided for in our rules of practice and procedure. However, as contemplated at 28 C.F.R. § 68.1, in situations ``not provided for or

controlled by these rules, or by any statute, executive order, or regulation,'' the Federal Rules of Civil Procedure (FRCP) ``shall be used as a general guideline.'' FRCP 41(b), providing for involuntary dismissals is exactly on point:

> After the plaintiff, in an action tried by the court without a jury, has completed the presentation of evidence, the defendant, without waiving the right to offer evidence in the event the motion is not granted, may move for a dismissal on the ground that upon the facts and the law the plaintiff has shown no right to relief.

The decision reached on March 6, 1990, confirmed here, fits exactly within the scope of FRCP 41(b) which provides also that ``[T]he court as trier of the facts may then determine them and render judgment against the plaintiff. . . .''

I hold that where the case of the party who bears the burden of persuasion, i.e., Complainant, is so lacking that economy of resources dictates that it is unnecessary to put Respondents to their proof, the administrative law judge is authorized to enter judgment for Respondents without going through an evidentiary exercise.

Upon the basis of the whole record, consisting of all the pleadings filed by both parties, I am unable to conclude that a state of facts has been demonstrated by Complainant sufficient to satisfy the preponderance of the evidence standard required by Section 102 of IRCA, i.e., 8 U.S.C. § 1324b(g)(2)(A).

Respondents' motion for judgment, i.e., involuntary dismissal, is granted. All motions and all requests not previously disposed of are denied. The Complaint is dismissed. 8 U.S.C. § 1324b)(g)(3).

Pursuant to 8 U.S.C. § 1324b(g)(1), this Final Decision and Order is the final administrative order in this proceeding and ``shall be final unless appealed'' within 60 days to a United States court of appeals in accordance with 8 U.S.C. § 1324b(i).

SO ORDERED.
Dated this 23rd day of May, 1990.

MARVIN H. MORSE
Administrative Law Judge

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ORDER DENYING MOTION FOR ENFORCEMENT OF SETTLEMENT

(November 17, 1989)

Rafael Prieto filed a complaint on October 25, 1988, amended December 9, 1988, alleging as an unfair immigration related employment practice that he was unlawfully fired by respondents. After intermediate motion practice and an answer to the first amended complaint filed March 21, 1989, a telephonic prehearing conference was held on April 21, 1989. On May 31, a date established for certain prehearing submissions by both parties, respondent's counsel advised instead in writing that a settlement had been effected of the entire dispute. No executed settlement agreement was forthcoming.

On August 2, 1989, respondent filed a letter-leading advising that ``Mr. Prieto has refused to sign the Settlement Agreement and to cooperate in the resolution of this matter;'' respondent requested that I either dismiss the case with prejudice or order the settlement agreement enforced. Instead, on August 4, 1989, I issued an Order To Show Cause Why Proceeding Should Not Be Dismissed For Failure To Prosecute Or Should Not Be Set For Hearing. In response I received an August 8, 1989 motion for leave to withdraw by counsel for complainant, accompanied by counsel's affidavit and by an August 7 letter from complainant to his attorneys notifying them that he discharged them ``based on our disagreement.''

By response dated August 21 to the August 4 order, complainant reported that ``[A]fter analyzing and giving a lot of thought to the proposed settlement . . . I felt it would be best to be heard in a

Court of Law, and that the decision should be made by that court. I feel that justice should be served, and that the proposed settlement was unjust and not in my favor.'' On September 13, 1989, I granted the motion of counsel for complainant to withdraw, and scheduled a further telephonic prehearing conference to be held on October 3, 1989.

On October 2, the eve of that conference, I received respondent's motion to enforce the settlement agreement. The principal activity during that conference, as reflected in the October 6, 1989 report and order, was to schedule dates for filing of complainant's response, for respondent's to reply to such response and to schedule a third conference to be held at 3:00 p.m., November 21, 1989. By granting telephonic requests of the parties for extensions of time, complainant's pleading was received November 3, 1989, respondent's on November 9, 1989.

Upon consideration of all the pleadings, including the exhibits to respondent's motion, recognizing that Mr. Prieto has repudiated the settlement previously negotiated on his behalf to dispose of this case in full because he deems it important to obtain a favorable decision on the record, and because there appear to be substantial issues of material fact, the respondent's Motion To Enforce Settlement is denied.

So far as I am aware, this case presents an issue of first impression under Section 102 of IRCA, 8 U.S.C. § 1324b, i.e., whether an executory agreement to dispose of the entire proceeding may be enforced against a charging party over the party's objection. It is a commonplace that courts favor settlement of disputes. Moreover, since Section 102 creates federal causes of action only, federal law governing enforcement of settlement agreements, and not state law, is implicated. Relevant case law, including, e.g., Fulgence v. J. Ray McDermott & Co., 662 F.2d 1207 (5th Cir. 1981), which respondent relies on to indicate that under federal law a settlement agreement need not have to be reduced to writing to be enforced, also stands for another, more important principle, i.e., ``[U]nder Federal law, settlement of an equal opportunity claim must be entered into voluntarily and knowingly by plaintiff.'' Id. at 1209. See, particularly, Alexander v. Gardner-Denver Co., 415 U.S. 36 at 52 (1974).

Enforcement of an executory agreement which waives a Section 102 complainant's right to pursue his discrimination charge requires proof that the settlement was knowingly and voluntarily effected. At a minimum, therefore, apparent authority on the part of the former Prieto attorneys to bind their client notwithstanding, he is entitled to a hearing on that question prior to entry of an order to enforce the agreement. See e.g., Callie v. Near, 829 F.2d 888 (9th

Cir. 1987). In Callie, the Ninth Circuit acknowledged the district court's equitable power to enforce summarily an agreement to settle a pending case. It further emphasized, however, that ``. . . the district court may enforce only complete settlement agreements. . . .'' Id., at 890. Stating that ``[W]hether the parties intended only to be bound upon the execution of a written, signed agreement is a factual issue. . .,'' id., at 890-891, the court vacated the district court's decision to enforce the alleged settlement and remanded ``. . . for an evidentiary hearing on the existence and terms of the purported settlement agreement.'' Id. at 892.

Here, there is a substantial question whether Mr. Prieto ever acceded to the agreement tendered to him by former counsel. For example, he contends in his October 30, 1989 response to the motion that ``[T]he proposed terms of agreement presented by me through my former lawyer to respondents (February 23, 1989), are totally different than the ones that appear in the proposed Settlement Agreement (June 15, 1989).''

With due respect to the propensity of tribunals to clear their dockets, for the reasons stated below, I am not duty bound by the precedents to conduct a trial on the effectiveness of the parties' executory agreement, but rather can remit them to their posture as it existed prior to May 31, 1989, when I was first advised of the prospect of settlement.

First. It is undisputed that although the parties contemplated a written agreement, the putative settlement in the case at hand was never executed by complainant. Compare Fulgence, supra (an oral settlement) and Callie, supra (need to inquire whether the parties intended to be bound only upon execution of a written, signed agreement.)

Second. As a general matter, the analysis of an unfair immigration-related employment practice charge is substantially the same in many respects as that of a claim under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e et seq. See e.g., U.S. v. Mesa Airlines, Nos. 8820001 and 8820002 (OCAHO, decided July 24, 1989) (Morse, J.).

On the question, however, whether complainant as the charging party should be held to have waived his right to be heard on the merits of his claim of discrimination, by tying him irrevocably to a settlement he repudiated before affixing his signature, there is a critical difference between Title VII and Section 102 of IRCA. Congress enacted Section 102 of IRCA without mentioning settlement; Title VII requires the Equal Employment Opportunity Commission, whenever it finds reasonable cause to believe that a charge of discrimination is true, to ``. . . endeavor to eliminate any such alleged

unlawful employment practice by informal methods of conference, conciliation, and persuasion.'' 42 U.S.C. § 2000e-5(b). In Fulgence, supra, at 1207, the Fifth Circuit understood that subsection 5(b) ``. . . mandated a policy of encouraging voluntary settlement of Title VII claims.'' Title VII cases which reflect efforts to enforce putative settlements against unlawful employment practice adhere to the congressional mandate favoring settlements. Unlike Title VII, Section 102, because it is silent in this respect, implies broader discretion to reject executory agreements.

Significantly, even in the Title VII context, where a sex discrimination claimant repudiated an agreement she previously had indicated a willingness to accept, the court of appeals was unwilling to dislodge the district court's refusal to enforce the settlement. The district court had commented that the agreement, in a setting remarkably similar to the one in Prieto, `` `was not finalized,' '' Odomes v. Nucare, Inc., 653 F.2d 246, 253 (6th Cir. 1981). The Sixth Circuit recited as the sole basis for its holding that the district court ``did not abuse its discretion by overruling Nucare's motion for summary judgment,'' that she had rejected a previously agreed upon settlement. The court concluded that ``[T]he record in the present case establishes to our satisfaction that Mrs. Odomes did not knowingly and voluntarily agree to settle her claims against Nucare.'' Id. at 253.*

I adopt the conclusion of the Odomes court which, relying on the reasoning in Alexander v. Gardner-Denver Co., supra, at 52 instructs that courts are reluctant ``. . . to close their doors to litigants in discrimination cases . . . .'' Odomes, supra, at 252.

As discussed above, I have entertained respondent's motion for enforcement of settlement and have found it wanting. It is in the public interest, in the record to date, to permit complainant to be heard on the merit.

SO ORDERED.
Dated this 17th day of November, 1989.

MARVIN H. MORSE
Administrative Law Judge

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*B. Schlei and P. Grossman, in Employment Discrimination, 2d ed. (1983), chapter 40, at 1524, noting that although parties in cases arising under Title VII, 42 U.S.C. § 2000-e(5)(b), are encouraged to settle their disputes, citing Odomes, supra, comment that ``several courts have set aside settlement agreements where various factual contexts have indicated a lack of voluntariness or understanding. Settlements have also been set aside where the settlement was negotiated on behalf of the releasor who did not ratify the settlement.''

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ERRATA TO ORDER DENYING MOTION FOR ENFORCEMENT OF SETTLEMENT

(November 17, 1989)

The last sentence of text is corrected to read as follows: ``It is in the public interest, on the record to date, to permit complainant to be heard on the merits.''

SO ORDERED.
Dated this 17th day of November, 1989.

MARVIN H. MORSE
Administrative Law Judge