

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) Docket Nos. 11-0180 & 11-0252
)
Corey Lea,)
)
Petitioner)

**Rulings Granting Motion to Withdraw First Motion for Summary Judgment
and Dismissing Second Motion for Summary Judgment**

PROCEDURAL HISTORY

At 10:08 a.m., December 28, 2016, Corey Lea filed a “Motion for Summary Judgment.”¹
At 2:22 p.m., December 28, 2016, Mr. Lea filed a “Motion Strike First Entry for Summary
Judgment as Inadvertently Entered and Renew for Summary Judgment.” On December 28, 2016,
the Hearing Clerk, Office of Administrative Law Judges, United States Department of Agriculture
[Hearing Clerk], transmitted the record to the Office of the Judicial Officer for consideration of,

¹ Mr. Lea captions his first December 28, 2016 motion for summary judgment: “Corey Lea For Dissolved Corporations Corey Lea Inc. Start Your Dreams Inc. and Cowtown Foundation Inc.” Administrative Law Judge Janice K. Bullard captioned Docket Nos. 11-0180 and 11-0252: “Corey Lea, Corey Lea Inc., Start Your Dream Inc., and Cowtown Foundation, Inc.” *See* Lea, Docket Nos. 11-0180 & 11-0252, 2011 WL 2854039 (U.S.D.A. June 2011) (Order Den. “Motion to Review and Reconsider” and Redirecting Pet’r’s Mot. to Office of Assistant Secretary for Civil Rights). I caption Docket Nos. 11-0180 and 11-0252 “Corey Lea” because Mr. Lea filed the first December 28, 2016 motion for summary judgment on his own behalf only and because I infer, based on the caption of Mr. Lea’s first December 28, 2016 motion for summary judgment, the corporate charters for Corey Lea, Inc., Start Your Dream, Inc., and Cowtown Foundation, Inc., have terminated.

and rulings on, Mr. Lea's first December 28, 2016 motion for summary judgment, Mr. Lea's December 28, 2016 motion to strike, and Mr. Lea's second December 28, 2016 motion for summary judgment.

DISCUSSION

Mr. Lea's December 28, 2016 motion to strike constitutes a motion to withdraw his first December 28, 2016 motion for summary judgment. A party does not have the power, as a matter of right, to withdraw a motion filed with the Hearing Clerk.² However, based upon a careful consideration of the record and Mr. Lea's assertion that he inadvertently filed his first December 28, 2016 motion for summary judgment, I find no reason to deny Mr. Lea's December 28, 2016 motion to withdraw his first December 28, 2016 motion for summary judgment.

As for Mr. Lea's second December 28, 2016 motion for summary judgment, I issued a final Decision and Order in this proceeding on December 1, 2016.³ Therefore, Mr. Lea's second December 28, 2016 motion for summary judgment is moot and must be dismissed.

For the foregoing reasons, the following Rulings are issued.

² Stew Leonard's, 59 Agric. Dec. 95, 96 (U.S.D.A. 2000) (Order Granting Pet'r's Mot. to Withdraw Mot. to Stay) (holding, under the Rules of Practice Governing Proceedings on Petitions To Modify or To Be Exempted From Marketing Orders, a party does not have the right to withdraw a motion filed with the Hearing Clerk); Apex Meat Co., Inc., 46 Agric. Dec. 14, 16-17 (U.S.D.A. 1987) (holding, under the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes, a party does not have the right to withdraw a motion filed with the Hearing Clerk).

³ Lea, Docket Nos. 11-0180 & 11-0252, 2016 WL _____ (U.S.D.A. Dec. 1, 2016).

RULINGS

1. Mr. Lea's December 28, 2016 motion to withdraw his first December 28, 2016 motion for summary judgment is granted.
2. Mr. Lea's second December 28, 2016 motion for summary judgment is dismissed.

Done at Washington, DC

January 5, 2017

William G. Jenson
Judicial Officer