

**U.S. Department of Labor**

Administrative Review Board  
200 Constitution Ave. NW  
Washington, DC 20210-0001



**IN THE MATTER OF:**

**ASSISTANT SECRETARY FOR  
OCCUPATIONAL SAFETY  
AND HEALTH,**

**PROSECUTING PARTY,**

**and**

**MICHAEL BECKER,**

**COMPLAINANT,**

**v.**

**SMITHSTONIAN MATERIALS, LLC,**

**RESPONDENT.**

**ARB CASE NO. 2021-0048**

**ALJ CASE NO. 2013-STA-00050**

**ALJ PAUL R. ALMANZA**

**DATE: August 21, 2023**

**Appearances:**

***For the Prosecuting Party:***

**Seema Nanda, Esq.; Edmund Baird, Esq.; Heather Phillips, Esq.;**  
**Mark Lerner, Esq.; U.S. Department of Labor, Office of the Solicitor;**  
**Washington, District of Columbia**

***For the Respondent:***

**Mark P. Murphy, Esq.; Milwaukee, Wisconsin**

**Before PUST and WARREN, Administrative Appeals Judges**

**NOTICE OF INTENT TO  
RECONSIDER ISSUED DECISION AND ORDER**

The Administrative Review Board (Board) issued its Decision and Order (D. & O.) in this case on August 10, 2023. On August 16, 2023, it was discovered that the issued D. & O. contained an inaccurate mathematical calculation of interest. Specifically, the Board attached and relied upon an Updated DOL Ex. 146 based on the record facts that the parties had agreed to the interest rates and embedded calculation formulas in the document. As stated in the D. & O., the exhibit was updated to the date of the issued D. & O. plus the Secretarial Review period and used to calculate the interest to the dates specified.

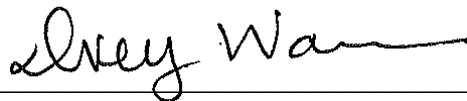
On August 16, 2023, it came to the attention of the Board that the Updated DOL Ex. 146 does not accurately show the full and relevant interest calculations. In the interest of justice and in an attempt to ensure accuracy and therefore fairness to all parties, the Board has *sua sponte* determined it is appropriate to reconsider its Decision and Order with respect only to the calculation of interest. In the reconsideration, the Board intends only to remand the matter to the ALJ for a proper mathematical computation of interest.

If any party objects to the Board proceeding in this manner, within seven calendar days of the date of this Notice of Intent to Reconsider, the party should file a Notice of Objection identifying the legal basis for objection and citing appropriate legal authority. If no party files a written objection, the Board will proceed to reconsideration as indicated herein.



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**TAMMY L. PUST**  
**Administrative Appeals Judge**



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**IVEY S. WARREN**  
**Administrative Appeals Judge**