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**THE DISTRICT OF COLUMBIA**  
**BEFORE**  
**THE OFFICE OF EMPLOYEE APPEALS**

In the Matter of:	)	
	)	
MARIE PIERRE-LOUIS	)	OEA Matter No. 1601-0065-15
Employee	)	
	)	
v.	)	Date of Issuance: February 8, 2016
	)	
DISTRICT OF COLUMBIA OFFICE OF THE	)	
CHIEF MEDICAL EXAMINER	)	Lois Hochhauser, Esq.
Agency	)	Administrative Judge
	)	

Rahsaan Dickerson, Esq., Agency Representative  
Joseph Creed, Esq., Employee Representative

**INITIAL DECISION**

INTRODUCTION AND PROCEDURAL BACKGROUND

Dr. Marie Pierre Louis, Employee, filed a petition with the Office of Employee Appeals (OEA) on April 24, 2015, appealing the decision of the District of Columbia Office of the Chief Medical Examiner, Agency, to terminate her employment, effective March 27, 2015. At the time the petition was filed, Employee had been employed with Agency as Medical Examiner or Acting Chief Medical Examiner for approximately 29 years.

The matter was assigned to this Administrative Judge (AJ) on June 19, 2015. The prehearing conference (PHC) initially scheduled for October 25, 2015, took place on November 16, 2015; and was attended by Employee; Joseph Creed, Esq., her attorney; and Rahsaan Dickerson, Esq., Agency counsel.<sup>1</sup> At the PHC, the parties agreed to mediation, and the matter was referred for mediation by Order dated November 17, 2015. The Order also directed that the parties to file a status report by February 1, 2016.

On December 27, 2015, the file was returned to the AJ by the Mediator with a notification that the matter was settled. On December 28, 2016, the AJ issued an Order stating that she had been advised the matter had settled. She directed that Employee request dismissal of the appeal, submit the executed settlement agreement if it provided for the immediate dismissal of the appeal, or state good cause why the matter should not be dismissed, by January 13, 2016. The Order stated that if Employee did not file her response by the 5:00 p.m. deadline, the record would close, and the appeal would be dismissed without further notice. On December 30, 2015, Agency

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<sup>1</sup> In addition, Francoise Nelson was present as observer on behalf of Employee.

filed a report stating that the matter was settled and the parties were drafting the settlement agreement. Employee did not respond to the Order. The record therefore closed at 5:00 p.m. on January 13, 2016.

### JURISDICTION

The Office has jurisdiction pursuant to D.C. Official Code §1-606.03 (2001).

### ISSUE

Should the petition be dismissed?

### FINDINGS OF FACT, ANALYSIS AND CONCLUSIONS

D.C. Official Code §1-606.06(b) (2001) provides that a petition for appeal should be dismissed when the parties enter into a voluntary settlement of the matter. *See e.g., Rollins v. District of Columbia Public Schools*, OEA Matter No. J-0086-92, *Opinion and Order on Petition for Review* (December 3, 1990). In this matter, the parties successfully resolved this matter as a result of mediation. Employee was directed to advise the AJ if the matter was not resolved and therefore should not be dismissed. She failed to do so. The reasonable assumption is that the matter had been settled; and that therefore Employee did not consider it necessary to respond to the Order because she was not opposed to the dismissal of the appeal. The AJ finds that the matter has been resolved, and concludes that appeal should therefore be dismissed. The AJ commends the parties on the successful resolution of this matter.

In the alternative, 59 DCR 2129 (March 16, 2012) provides, in pertinent part, that the Administrative Judge, in the exercise of sound discretion, may dismiss an appeal if the employee who filed the appeal fails to take reasonable steps to prosecute the action. The failure to file a timely response to an Order with a stated deadline, is considered a failure to prosecute. The December 28, 2015 Order stated that if Employee did not file her response by the deadline of January 13, 2016, and the record would close and the appeal would be dismissed without further notice. Employee did not file a response. The AJ determines that this failure to respond constitutes a failure to prosecute. She concludes, in an exercise of “sound discretion” that dismissal of the appeal is an appropriate penalty.

### ORDER

This petition for appeal is dismissed.

FOR THE OFFICE:

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Lois Hochhauser, Esq.  
Administrative Judge