



**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Issued by the Department of Transportation
On the 10th day of December, 2008

Complaint of

**Tim Maddox
Xiomara Osorio**

Under 49 U.S.C. § 41705 and 14 CFR Part 382

**Docket OST-2008-0082
Served: December 10, 2008**

ORDER OF DISMISSAL

On June 28, 2007, Tim Maddox and Xiomara Osorio (collectively referred to as "Complainants") filed a complaint under 14 CFR Part 382, the rule implementing the Air Carrier Access Act ("ACAA"). The Complainants allege that the airlines located at the Los Angeles International Airport, Tom Bradley International Terminal ("LAX") failed to provide safe and adequate wheelchair assistance to passengers with disabilities by allowing their employees to utilize improperly maintained equipment and by failing to provide adequate operational training for workers employed by Aero Port Services ("APS") as required by 14 CFR 382.61.¹

On March 27, 2008, the Office of the Assistant General Counsel for Aviation Enforcement and Proceedings (Aviation Enforcement Office) notified Complainants Maddox and Osorio that they had failed to properly file their "formal" complaint with the U.S. Department of Transportation Dockets Office (DOT Dockets Office) as required under the formal complaint procedures outlined in 14 CFR Part 302. It advised the Complainants that their complaint was procedurally defective in the following ways: (1) the complaint fails to sufficiently verify that all relevant parties have been properly served; and (2) the allegations in the complaint are against the carriers' contract provider rather than the carriers, which are the entities over which the Aviation Enforcement Office has authority. It further explained that the Complainants have an obligation to correct the procedural defects described above before the complaint could be processed. In addition, the Complainants were advised that as a courtesy the Aviation Enforcement Office filed the complaint in the DOT Dockets Office in docket DOT-OST-2008-0082, and contacted representatives of many of the airlines at the Los Angeles International

¹ The complaint alleges that Aero Port Services is a company that provides services for disabled travelers under contract with air carriers.

Airport, Tom Bradley International Terminal to inform them of the existence of the complaint. The Aviation Enforcement Office also contacted disability rights and workers' rights organizations identified as interested organizations by the Complainants. The Complainants were informed that the steps taken by the Aviation Enforcement Office to contact the interested parties did not relieve them of their obligation to properly serve the relevant parties.

Neither Complainants Maddox nor Osorio have replied to the Aviation Enforcement Office's letter of March 27, 2008, nor have Complainants corrected the procedural defects contained in their complaint, as described above.² The efforts of staff in the Aviation Enforcement Office to contact the Complainants by telephone have also been unsuccessful.

ACCORDINGLY, I dismiss without prejudice Complainants Maddox and Osorio's complaint in this docket.

This order is issued under authority assigned in 14 CFR 302.406(a) (2) and shall be effective as the final action of the Department within 30 days after service. A copy will be served on the Complainants.

BY:

Samuel Podberesky
Assistant General Counsel for
Aviation Enforcement and Proceedings

² Two certified return mail receipts show that Complainants Maddox and Osorio received the Aviation Enforcement Office's letter of March 27, 2008.