

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

TEXO ABC/AGC, INC.; ASSOCIATED
BUILDERS AND CONTRACTORS, INC.;
NATIONAL ASSOCIATION OF
MANUFACTURERS; AMERICAN FUEL &
PETROCHEMICAL MANUFACTURERS;
GREAT AMERICAN INSURANCE
COMPANY; ATLANTIC PRECAST
CONCRETE, INC.; OWEN STEEL
COMPANY; and OXFORD PROPERTY
MANAGEMENT, LLC;

Plaintiffs,

v.

THOMAS E. PEREZ, Secretary of Labor,
United States Department of Labor; DAVID
MICHAELS, Assistant Secretary of Labor,
Occupational Safety and Health
Administration; and OCCUPATIONAL
SAFETY AND HEALTH
ADMINISTRATION, United States
Department of Labor,

Defendants.

Civil Action No. 3:16-cv-1998

**DEFENDANTS' MOTION TO DISMISS OR,
IN THE ALTERNATIVE, FOR SUMMARY JUDGMENT**

Defendants Thomas E. Perez, David Michaels, and the Occupational Safety and Health Administration respectfully move this Court to dismiss Plaintiffs' Complaint pursuant to Federal Rule of Civil Procedure 12(b)(1). Alternatively, Defendants move the Court to grant them summary judgment as to all of Plaintiffs' claims pursuant to Federal Rule of Civil Procedure 56. The grounds for the instant motion are set forth in Defendants' accompanying memorandum. *See* L.R. 56.3(b); L.R. 56.5(a).

Dated: January 18, 2016

Respectfully submitted,

BENJAMIN C. MIZER
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JOHN R. PARKER
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JUDRY L. SUBAR
Assistant Director, Federal Programs Branch

/s/ Spencer E. Amdur
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CERTIFICATE OF SERVICE

I hereby certify that on January 18, 2016, I electronically filed a copy of the foregoing. Notice of this filing will be sent via email to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's CM/ECF System.

/s/ Spencer E. Amdur
SPENCER E. AMDUR