

**U.S. Department of Labor**

Office of Administrative Law Judges  
36 E. 7th St., Suite 2525  
Cincinnati, Ohio 45202

(513) 684-3252  
(513) 684-6108 (FAX)



**Issue Date: 31 January 2007**

CASE No. 2006-STA-41

JEAN-PERRIE F. CARPENTIER,  
Complainant,

v.

GROUNDED AIR, INC.  
J & J WAREHOUSING,  
NICK EHRET AND DAVE HERZOG,  
Respondents.

RECOMMENDED ORDER APPROVING SETTLEMENT

The above-captioned case arises under the Surface Transportation Assistance Act (STAA), as amended, 49 U.S.C. Section 31105 and the Regulations found at 29 C.F.R. Part 1978. This matter is before me on Complainant's request for hearing and objection to findings issued on behalf of the Secretary of Labor by the Area Director of the Department of Labor Occupational Safety and Health Administration ("OSHA") after investigation of the complaint.

On September 22, 2006, a Notice of Hearing and Prehearing Order was issued, which set this matter for hearing on March 20, 2007 in the Minneapolis, Minnesota area. The parties informed the undersigned on January 25, 2007 that they had negotiated a settlement of this claim and requested that the hearing be cancelled. The undersigned will also cancel the hearing.

The undersigned has received the original executed settlement agreement and release from both the Complainant and Respondent. The agreement provided a one time payment to Complainant in settlement of all claims against Employer including, but not limited to his claim for damages for back wages, emotional distress damages, interest, attorney fees and costs. The Employer will provide the Complainant and Taylor & Associates, Ltd. with separate IRS Form 1099's for all payments made pursuant to this settlement which must be reported to the IRS.

Following due consideration of this matter, it is determined that the basis for settlement by Respondent's payment is recommended for approval by the Administrative Review Board, and the undersigned finds this settlement to be fair and reasonable. Therefore,

IT IS ORDERED that this matter is HEREBY DISMISSED with prejudice.

IT IS FURTHER ORDERED pursuant to 29 C.F.R. § 18.9(b) that:

1. This Order shall have the same force and effect as an Order made after a full hearing;
2. The parties have waived any further procedural steps before the undersigned;
3. The parties request the dollar amount of this agreement not be disclosed to any person or entity except that Complainant and Employer may disclose the dollar amount of this agreement to their respective attorneys, respective tax advisors, agents of the government taxing authorities acting in their official capacities, etc.; to defend the attorneys for either party against claims for professional negligence, malpractice or misconduct; and with express, written permission of the other party; Employer may disclose, on a “need to know” basis, the dollar amount of this Agreement to its board members, officers, agents, and employees; and Complainant may disclose the dollar amount of this Agreement to Complainant’s immediate family and to anybody with whom he/she has a relationship that the law recognizes as “confidential” or “fiduciary”, and
4. This Decision and Order is the final agency action in this matter.

A

THOMAS F. PHALEN, JR.  
Administrative Law Judge

**NOTICE OF REVIEW:** The administrative law judge’s Recommended Order Approving Settlement, along with the Administrative File, will be automatically forwarded for review to the Administrative Review Board, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210. *See* 29 C.F.R. § 1978.109(a); Secretary’s Order 1-2002, ¶4.c.(35), 67 Fed. Reg. 64272 (2002).

Within thirty (30) days of the date of issuance of the administrative law judge’s Recommended Order Approving Settlement, the parties may file briefs with the Administrative Review Board (“Board”) in support of, or in opposition to, the administrative law judge’s order unless the Board, upon notice to the parties, establishes a different briefing schedule. *See* 29 C.F.R. § 1978.109(c)(2). All further inquiries and correspondence in this matter should be directed to the Board.

