

UNITED STATES OF AMERICA  
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SECRETARY OF LABOR,

Complainant,

v.

UNITED STATES POSTAL SERVICE,

Respondent,

and

NATIONAL ASSOCIATION OF LETTER  
CARRIERS (NALC),

Authorized Employee Representatives,

and

NATIONAL RURAL LETTER CARRIERS'  
ASSOCIATION (NRLCA),

Authorized Employee Representatives.

OSHRC Docket Nos. 16-1813

STIPULATION AND SETTLEMENT AGREEMENT

The Secretary of Labor, United States Department of Labor, hereinafter referred to as the “Secretary,” and United States Postal Service, hereinafter referred to as “Respondent,” stipulate and agree as follows:

1. Based on a reevaluation of the evidence, the Secretary hereby amends Citation 1, Item 1 as follows: Citation 1, Item 1, shall be reclassified as a “serious” violation of section 5(a)(1) of the OSH Act. Additionally, the AVD for Citation 1, Item 1, shall be amended as follows:

*OSH Act of 1970 Section (5)(a)(1): The employer did not furnish employment and a place of employment which were free from recognized hazards that were causing*

*or likely to cause death or serious physical harm to employees, in that employees were exposed to the following recognized hazards when it failed to fully train all supervisory staff in the recognition of the symptoms of heat related illnesses and the appropriate response to report symptoms of heat related illness:*

*(a) On or about June 9, 2016, employees performing their mail delivery duties to customers were exposed to an outdoor temperature of approximately 84.9 degrees Fahrenheit at about 9:54 a.m., with a humidity level of 51%, creating a heat index of 86.6 degrees Fahrenheit, and an outdoor temperature of approximately 93.0 degrees Fahrenheit at about 1:54 p.m., with a humidity level of 35%, creating a heat index of 93.0 degrees Fahrenheit.*

*(b) On or about July 21, 2016, employees performing their mail delivery duties to customers were exposed to an outdoor temperature of approximately 84.9 degrees Fahrenheit at about 8:54 a.m., with a humidity level of 69%, creating a heat index of 92.1 degrees Fahrenheit, and an outdoor temperature of approximately 95.0 degrees Fahrenheit at about 1:54 p.m., with a humidity level of 58%, creating a heat index of 111.4 degrees Fahrenheit.*

*Feasible and acceptable means of hazard abatement include fully training all supervisory staff in the recognition of the symptoms of heat-related illnesses and in the appropriate response to reported symptoms of heat-related illness.*

The Citation and Notification of Penalty is deemed amended accordingly.

2. Respondent hereby withdraws its notice of contest to the Citation and Notification of Penalty, as amended herein. In support of its withdrawal, Respondent states:

(a) The abatement of Item 1 of Citation number 1 will be accomplished within thirty (30) calendar days from the parties signing this Agreement, which shall be the final abatement date for said items. Respondent will comply with all applicable abatement verification provisions of 29 C.F.R. § 1903.19, including but not limited to, all certification, documentation, and posting requirements. Abatement certification shall be accomplished within ten (10) calendar days after the abatement date by e-mailing the Omaha Office of the Occupational Safety and Health Administration, at [complaints.fl64@dol.gov](mailto:complaints.fl64@dol.gov), stating that abatement has been completed, the date and method of abatement, and that affected

employees and their representatives have been informed of the abatement. Any required abatement documentation shall be submitted along with the abatement certification.

(b) Affected employees are represented by National Association of Letter Carriers, and a copy of this Stipulation and Settlement Agreement has been served on Peter D. DeChiara, Cohen, Weiss and Simon LLP , attorney for NALC, on May 30, 2023. Additionally, a copy of this Stipulation and Settlement Agreement will be posted on June 6, 2023, at Respondent's workplace at 2323 Forest Avenue, Des Moines, Iowa 50311, where it may be viewed by its employees. The Agreement will remain posted for 14 days.

(c) Within sixty (60) calendar days from Respondent signing this Agreement, Respondent shall tender payment of \$12,471 to OSHA's Omaha Area Office or electronically at [www.pay.gov](http://www.pay.gov). The parties agree that any unpaid balance under this Agreement is a debt owing to the United States and is subject to the Debt Collection Act of 1982 (Public Law 97-365) and the Debt Collection Improvement Act of 1996, 31 U.S.C. §§ 3701-3719.

3. The Secretary and Respondent agree that based on the foregoing representations of Respondent, an Order Terminating Proceedings of the Commission may be entered of record. Respondent withdraws its notice of contest and agrees that the citation and penalty (as set forth and amended herein by this Agreement) shall become a final order of the Commission on the same date that the Order Terminating Proceeding becomes a final order, as set forth in the Notice of Docketing issued by the Executive Secretary of the Commission.

4. Further, each party hereby agrees to bear its own fees and other expenses incurred by such party in connection with any stage of this proceeding, including but not limited to,

attorney's fees, costs, and other expenses which may be available under the Equal Access to Justice Act (5 U.S.C. § 504), as amended.

Dated this 2d day of June, 2023.

Seema Nanda  
Solicitor of Labor

Christine Z. Heri  
Regional Solicitor

Evert H. Van Wijk  
Associate Regional Solicitor

/s/ Traci Martin  
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*Attorneys for Secretary of Labor*

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*Attorney for Respondent USPS*

NOTICE TO EMPLOYEES AND EMPLOYEE REPRESENTATIVE

The attached Stipulation and Settlement Agreement has been entered into by the parties hereto. The parties will file a joint Notification of Settlement to the Occupational Safety and Health Review Commission requesting an Order Terminating Proceeding. The Agreement will remain posted until the Court issues an Order Terminating Proceedings of the Commission or for 14 days from signing. If you have any comments on the Stipulation and Settlement Agreement, you may submit them within 14 days of service or posting to:

Judge Sharon D. Calhoun  
Occupational Safety and Health Review Commission  
1924 Building - Room 2R90  
100 Alabama Street, S.W.  
Atlanta, Georgia 30303-3104

A copy of such comments should also be sent to:

Evert H. Van Wijk  
Associate Regional Solicitor  
U.S. Department of Labor  
2300 Main Street, Suite 10100  
Kansas City, Missouri 64108

Posted this 6th day of June, 2023.