

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

JARED N. CALDWELL,

Plaintiff,

vs.

No. CIV 07-955 MCA/ACT

ACME TOWING and ,  
RECOVERY, INC., and EDDIE  
RAY, INC.,

Defendants.

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**STIPULATION AND ORDER OF COMPROMISE SETTLEMENT**

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It is hereby stipulated by and between the undersigned Plaintiff, Jared N. Caldwell ("Mr. Caldwell"), and the Defendants Acme Towing and Recovery Inc., ("Acme") and Eddie Ray, Inc. ("Eddie Ray"), by and through their respective attorneys, as follows:

1. Plaintiff Mr. Caldwell and Defendants Acme and Eddie Ray (collectively the "Parties") do hereby agree to settle and compromise each and every claim of any kind whether known or unknown, arising directly or indirectly from the acts or omissions arising out of the Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. § 4301 et. seq. ("USERRA") complaint that gave rise to the above-captioned action (USERRA Case Number 06-NM-2-005-00016-10-R), under the terms and conditions set forth in this Stipulation and Order of Compromise Settlement ("Stipulation of Settlement"). This Stipulation of Settlement is entered into by the

Parties for the purposes of compromising the disputed claims arising out of the above-referenced USERRA complaint and avoiding the expenses and risks of further litigation.

2. Defendant Eddie Ray, Inc., shall pay Mr. Caldwell within five (5) days of receipt of Mr. Caldwell's W-4, the sum of Nineteen Thousand Dollars (\$19,000) in back pay, less the required employee withholdings and contributions, in a certified check. In addition, Defendant Eddie Ray, Inc., shall pay to the appropriate governmental agencies all employer contributions on the back pay award and shall not deduct the employer contribution payments from Mr. Caldwell's back pay award. Defendant shall mail the certified check to Mr. Caldwell by Federal Express (or other standard overnight delivery service) addressed as follows:

Jared N. Caldwell  
11146 Chester Garden Circle  
Chester, VA 23831

At the same time as mailing the payment to Mr. Caldwell, Defendants shall provide documentary evidence of having paid Mr. Caldwell the above amount by providing copies of such via facsimile and Federal Express (or other standard overnight delivery service) to:

Robert L. Galbreath, Esq.  
Employment Litigation Section  
United States Department of Justice  
950 Pennsylvania Avenue, NW  
Civil Rights Division  
Employment Litigation Section, PHB, Room 4028  
Washington, DC 20530  
Facsimile No: 202-514-1005

3. Defendants Acme and Eddie Ray shall within five (5) days after the entry of this Stipulation of Settlement immediately remove from Mr. Caldwell's employment file at Acme any reference to the reason for Mr. Caldwell's departure from Acme. If, in the future, either Acme or Eddie Ray is contacted by a prospective employer that requests a reference or verification of employment for Mr. Caldwell, the Defendant contacted (either Acme or Eddie Ray) shall provide the prospective employer a neutral reference regarding Mr. Caldwell's employment history at Acme. Specifically, neither Acme nor Eddie Ray will indicate that Mr. Caldwell was terminated or provide any information detailing the reason or circumstances of Mr. Caldwell's departure from Acme and shall provide the prospective employer with only Mr. Caldwell's dates of employment with Acme, his salary and his job title.

4 Upon receipt of documentation from Plaintiff's financial institution that the entire sum of money paid to Mr. Caldwell by certified check pursuant to this Stipulation of Settlement has been deposited into Mr. Caldwell's bank account and is available to Mr. Caldwell, Plaintiff's attorneys agree to move for a dismissal of the above-captioned action with prejudice.

5. Plaintiff for himself and his guardians, heirs, executors, administrators or assigns hereby agree to accept the sums and other actions set forth in this Stipulation of Settlement in full settlement and satisfaction of any and all claims, demands, rights, and causes of action whatsoever kind and nature and the consequences thereof which he or any of them they may have or hereafter acquire against the Defendants, their

agents, servants and employees on account of the same subject matter contained in USERRA Case Number 06-NM-2-005-00016-10-R that gave rise to the above-captioned action, including any future claim or lawsuit of any kind or type whatsoever, whether known or unknown.

6. This Stipulation of Settlement is not, is in no way intended to be, and should not be construed as, an admission of liability or fault on the part of the Defendants, their agents, servants, or employees, and it is specifically denied that they are liable to the Plaintiff.

7. It is agreed, that the Parties shall bear their own costs, fees, and expenses of this litigation, including attorneys fees.

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PAGE 05/09

8. The persons signing this Stipulation of Settlement warrant and represent that they possess full authority to bind the persons on whose behalf they are signing to the terms of the Stipulation of Settlement.

9. The Parties agree that this Stipulation of Settlement, including all the terms and conditions of this compromise settlement and any additional agreements relating thereto, may be made public in its entirety, and Defendants expressly consent to such release and disclosure pursuant to 5 U.S.C. § 552a(b).


10. If any provision of this Stipulation of Settlement is found to be unlawful, only the specific provision in question shall be affected and all other provisions will remain in full force and effect.

11. This Stipulation of Settlement constitutes the entire agreement between and commitments of the Parties. Any modifications to this Decree must be mutually agreed upon and memorialized in a writing signed by Acme, Eddie Ray, and Mr. Caldwell.

APPROVED and ORDERED this 16<sup>th</sup> day of May, 2008

  
M. CHRISTINA ARMIJO  
UNITED STATES DISTRICT JUDGE

BY:

  
JOHN M. GADZICHOWSKI (WI BAR No. 1014294)  
Acting Chief

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KAREN D. WOODARD (MD Bar, no number issued)

ROBERT L. GALBREATH (DC Bar No. 460389)

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JARED N. CALDWELL, Plaintiff

*ON BEHALF OF PLAINTIFF JARED CALDWELL*

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PAGE 06/09



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ROBERT L. GALBREATH (DC Bar No. 460389)

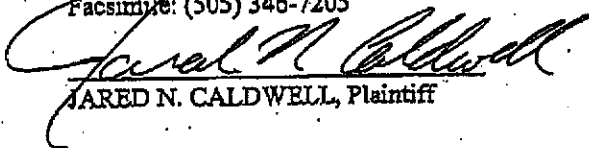
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JARED N. CALDWELL, Plaintiff

ON BEHALF OF PLAINTIFF JARED CALDWELL

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Acme Towing and Recovery, Inc.  
8705 Broadway, SE  
Albuquerque, NM 87105

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Eddie Ray  
Eddie Ray, Inc.

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WAYNE E. BINGHAM  
Bingham, Hurst & Apodaca

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ON BEHALF OF DEFENDANTS