

**U.S. Department of Labor**

Office of Administrative Law Judges  
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**Issue Date: 23 December 2014**

Case No: 2010-SWD-00001

In the Matter of:

**WILLIAM CLINT JOYNER,**

Complainant,

v.

**GEORGIA PACIFIC GYPSUM, LLC,**

Respondent.

**ORDER APPROVING SETTLEMENT AGREEMENT AND GENERAL RELEASE  
AND  
ORDER DISMISSING COMPLAINT WITH PREJUDICE**

The above matter is a complaint of employment discrimination under Section 7001(A) of the Solid Waste Disposal Act (SWDA), 49 USC §6971, et. seq., as implemented by federal regulations set forth in 29 CFR Part 24. The case was referred to the Office of Administrative Law Judges for formal hearing upon the March 19, 2010 request of the Complainant regarding the Occupational Safety and Health Administration February 18, 2010, determination denying the complaint.

A formal hearing was held on November 8, 9 and 10, 2010, in Savannah, Georgia, with all Parties present and represented by counsel. By Order of December 9, 2011, the Complaint was dismissed. The Complainant timely appealed to the Administrative Review Board. By Order of April 24, 2014 the Administrative Review Board reversed the Order dismissing the complaint and remanded the case “for a determination by the ALJ of appropriate relief.” The record of trial was received in this Office on May 6, 2014.

On December 23, 2014 the Parties jointly filed a “Motion for Approval of Settlement Agreement.” The supporting document to the Motion was the “Confidential Settlement Agreement, General Release, Covenant Not to Sue and Confidentiality Statement.”

Implementing Federal regulations at 29 CFR §24.111(d)(2) provides that “At any time after the filing of objections to the Assistant Secretary’s findings and/or order, the case may be settled if the participating parties agree to a settlement and the settlement is approved by the ALJ, if the case is before the judge, or by the ARB if the ARB has accepted the case for review. A copy of the settlement agreement must be filed with the administrative law judge or the ARB, as the case may be.” In reviewing the settlement agreement, the Administrative Law Judge must determine whether the terms of the agreement fairly, adequately and reasonably settle the Complainant’s allegations that the Respondent violated the SWDA and are not against public policy. See Comments to Final Rule 29 CFR Part 24, 76 Fed. Reg. 2808, 2817-1818 (Jan. 18, 2011); *Bunn v. Foley*, NO. 89-ERA-5, 1989 WL 549902 (Secy, Sep. 29, 1989); *Fuchko and Yunker v. Georgia Power Co.*, Nos. 89-ERA-9, 89-ERA-10 at \*2 (Secy, Mar. 23, 1989); Once the settlement agreement is approved, it becomes the final action of the Secretary and may be enforced in United States district court pursuant to 29 CFR §24.111(e).

The Parties have jointly requested that the supporting “Confidential Settlement Agreement, General Release, Covenant Not to Sue and Confidentiality Statement” be designated as confidential commercial information to restrict access to that portion of the record pursuant to federal regulations of the Department of Labor implementing the Freedom of Information Act (FOIA), as amended, 5 U.S.C. 552 and Executive Order 12600. Federal regulations at 29 CFR §18.56 provide that “the administrative law judge may direct that there be a restricted portion of the record to contain any material in the record to which public access is restricted by law or by the terms of a protective order entered in the proceedings. Federal regulations at 29 CFR §70.26 provide for the manner in which confidential business information may be disclosed by the Department of Labor.

After review of the supporting documents to the “Motion for Approval of Settlement Agreement” and the administrative record, this Administrative Law Judge finds that the terms of the agreement fairly, adequately and reasonably settle the issues in this case; are not against public policy; and comply with the standards required under the SWDA, and is accordingly approved. Additionally, the joint request that the “Confidential Settlement Agreement, General Release, Covenant Not to Sue and Confidentiality Statement” be designated as confidential commercial information pursuant to 29 CFR §70.26(b) is granted.

In view of the foregoing, it is hereby **ORDERED** that –

1. The **Settlement Agreement is APPROVED**;
2. **The document marked as “Confidential Settlement Agreement, General Release, Covenant Not to Sue and Confidentiality Statement” is designated CONFIDENTIAL COMMERCIAL INFORMATION** in its entirety and is to be marked and segregated as required by 20 CFR §18.56; and,

3. The Complaint is **DISMISSED WITH PREJUDICE**.

ALAN L. BERGSTROM  
Administrative Law Judge

ALB/jcb  
Newport News, VA