

BEFORE THE NORTH CAROLINA
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION
RALEIGH, NORTH CAROLINA

FILED
JUL 25 2023

COMMISSIONER OF LABOR OF THE)
STATE OF NORTH CAROLINA)
)
COMPLAINANT,)
)
v.)
)
LAGLE CRANE & STEEL, LLC)
and its successors)
)
RESPONDENT.)

DOCKET NO.: OSHANC 2021-6411
INSPECTION NUMBER: 318225281
CSHO ID: W2054

STIPULATION AND
NOTICE OF
SETTLEMENT

NOW COME the parties in the above-captioned action, pursuant to Rule .0701 of the Rules of Procedure adopted by the North Carolina Occupational Safety and Health Review Commission, and respectfully show unto the Hearing Examiner as follows:

FACTS

1. Respondent is a corporation duly organized and existing under the laws of the State of North Carolina and maintains a place of business in Mocksville, North Carolina.
2. Complainant is an agency of the State of North Carolina charged by law with the administration and enforcement of the provisions of the North Carolina Occupational Safety and Health Act.
3. On July 29, 2021, Jennifer Boone (formerly Busick) and Warren Lutz, Occupational Safety and Health Officers with the North Carolina Department of Labor, conducted an inspection of the worksite located at 5665 Cedarmere Drive, Winston-Salem, North Carolina.

4. As a result of the inspection, on August 25, 2021, Complainant issued two citations, carrying the following abatement dates and penalties:

CITATION NUMBER ONE (Serious)

<u>Item No.</u>	<u>Standard</u>	<u>Abatement Date</u>	<u>Penalty</u>
1	29 CFR 1926.1425(c)(2)	Corrected During Inspection	\$1,000.00

CITATION NUMBER TWO (Nonserious)

<u>Item No.</u>	<u>Standard</u>	<u>Abatement Date</u>	<u>Penalty</u>
1	29 CFR 150 (c)(1)(viii)	Corrected During Inspection	\$0.00

5. The Respondent submitted a timely Notice of Contest, dated October 5, 2021.
6. The parties having reached a Settlement Agreement now seek approval of said Agreement by the Hearing Examiner.

STIPULATIONS

Effective upon approval of this Stipulation and Notice of Settlement, the parties to this action hereby agree and stipulate to the following settlement of the matters at issue herein:

1. Respondent agrees that the violations alleged in the Citation and Notification of Penalty, as amended, have been abated, and agrees to continue to use its best efforts to comply with the requirements of the Occupational Safety and Health Act of North Carolina (hereinafter referred to as the "Act").
2. Complainant agrees to make the following amendments to the Citations:
 - a. **Delete Citation 1, Item 1, and the penalty associated therewith; and**
 - b. **Keep Citation 2, Item 1, as issued.**
3. Respondent agrees to the following:

- a. The Respondent will conduct frequent and regular safety and health inspections for the identification of worksite hazards. Hazards observed shall be immediately corrected and employees provided with training and information on those hazards observed within their work areas.
 - b. The Respondent agrees to conduct retraining within six months for all of Respondent's crane operators related to pre-planning routes for the loads to ensure employees and other individuals are kept outside of the fall zone when flying a load except the employees necessary for the hooking or unhooking of the load. Respondent will make documentation of that retraining available to North Carolina Department of Labor personnel upon request.
4. The parties agree to bear their own attorney's fees, costs and other expenses that have been incurred in connection with any stage of these proceedings up to and including the filing of this Stipulation and Notice of Settlement.
5. Respondent agrees that by signing this Stipulation and Notice of Settlement and upon approval of said Stipulation and Notice of Settlement by the Hearing Examiner, its Notice of Contest is withdrawn as a matter of law. In any subsequent proceeding with respect to matters covered by this Stipulation and Notice of Settlement brought directly under the Act by Complainant, this Agreement shall have the full force and effect of a final order.
6. The parties agree that there are no other matters that remain to be decided, and there has been no employee objection to the reasonableness of any abatement period.
7. The posting requirements of Notice of Settlement are waived as the matter came on for hearing during a properly noticed hearing, no affected employees were present and the agreement was reached during the hearing.

WHEREFORE, the parties to this action hereby respectfully request approval of this Stipulation and Notice of Settlement.

NOTICE OF FILING
BY WAY OF ELECTRONIC MEANS

Under current safety measures taken in light of the COVID 19 pandemic, it is difficult to gather original signatures on a single document. Accordingly, the parties have agreed that all documents filed with the Review Commission related to this settlement may be filed through electronic means, in accordance with the Review Commission's temporary submission process with original hard copies to follow as soon as it is possible to do so.

Jul 25, 2023
This the ___ day of July, 2023.

APPROVED BY:

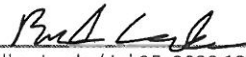
Kevin McGuire
Digitally signed by Kevin McGuire
Date: 2023.07.25 10:30:18
-04'00'

Kevin McGuire
District Supervisor
Occupational Safety and Health Division

JOSHUA H. STEIN
Attorney General

Madison Beveridge
Digitally signed by Madison Beveridge
DN: cn=Madison Beveridge, o=North Carolina Department of Justice, email=Madison.Beveridge@ncdoj.gov, c=US
Date: 2023.07.25 12:45:00
+04'00'

Madison L. Beveridge
Assistant Attorney General
North Carolina Department of Justice
Post Office Box 629
Raleigh, NC 27602
ATTORNEY FOR RESPONDENT


Bradley Lagle (Jul 25, 2023 12:45 EDT)

Brad Lagle
Owner
Lagle Crane & Steel, LLC
207 Dulin Road
Mocksville, NC 27028

BEFORE THE NORTH CAROLINA

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

RALEIGH, NORTH CAROLINA

COMMISSIONER OF LABOR OF THE)	DOCKET NO.: OSHANC 2021-6411
STATE OF NORTH CAROLINA)	INSPECTION NUMBER: 318225281
)	CSHO ID: W2054
COMPLAINANT,)	
)	
v.)	
)	<u>CONSENT ORDER</u>
)	
LAGLE CRANE & STEEL, LLC)	
<i>and its successors</i>)	
)	
RESPONDENT.)	

THIS CAUSE came on for hearing before the undersigned, Mary-Ann Leon, Hearing Examiner for the North Carolina Occupational Safety and Health Review Commission, July 25, 2023 at 10 a.m., via the Lifesize teleconferencing platform, pursuant to a Notice of Hearing. Madison Beveridge, Assistant Attorney General, North Carolina Department of Justice, appeared for Complainant. Brad Lagle, owner of Lagle Crane & Steel, LLC, appeared for Respondent. No affected employee of Respondent, or its representative, attended to have a say in, participate as a party in, the Hearing.

At the time of the hearing the parties agreed upon and consented to the following:

FINDINGS OF FACT

1. That the Agreement is reasonable and supported by the underlying facts.
2. That no outstanding issues remain to be resolved by a hearing of this matter.

3. That the posting requirements for a notice of settlement were waived as the matter came on and the agreement was reached during a properly noticed Hearing.

CONCLUSIONS OF LAW

1. This Court has jurisdiction over the parties to this action and over the subject matter.
2. That the Agreement is consistent with the purpose and objectives of the Occupational Safety and Health Act of North Carolina (The Act), and complies with Rule .0701 of the Rules of Procedure of the North Carolina Occupational Safety and Health Review Commission.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED:

1. That the Agreement is approved.
2. That both parties are hereby required to comply with the terms and conditions stipulated in the agreement.

This the _____ day of Jul 25, 2023, 2023.

Mary-Ann Leon
Mary-Ann Leon (Jul 25, 2023 13:03 EDT)
Mary-Ann Leon
Hearing Examiner

BY CONSENT:

JOSHUA H. STEIN
Attorney General

Madison Beveridge
Madison L. Beveridge
Assistant Attorney General
North Carolina Department of Justice
Post Office Box 629
Raleigh, NC 27602
ATTORNEY FOR RESPONDENT

Brad Lagle
Bradley Lagle (Jul 25, 2023 12:45 EDT)
Brad Lagle
Owner
Lagle Crane & Steel, LLC
207 Dulin Road
Mocksville, NC 27028

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this date served a copy of the foregoing Stipulation & Notice of Settlement & Consent Order upon:

BRAD LAGLE
LAGLE CRANE & STEEL, LLC
207 DULIN RD
MOCKSVILLE, NC 27028

MADISON BEVERIDGE
NC DEPARTMENT OF JUSTICE
LABOR SECTION
PO BOX 629
RALEIGH NC 27602

By depositing a copy of same in the United States Mail, First Class, postage prepaid at Raleigh, North Carolina, and upon:

NC DEPARTMENT OF LABOR
LEGAL AFFAIRS DIVISION
1101 MAIL SERVICE CENTER
RALEIGH, NC 27699-1101
carla.rose@labor.nc.gov

By email.

THIS THE 28 DAY OF July, 2023.



Karissa B. Sluss
Docket and Office Administrator
NC Occupational Safety & Health Review Commission
1101 Mail Service Center
Raleigh, NC 27699-1101
NCOSHRC@labor.nc.gov
TEL.: (919) 733-3589