

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

<b>COMMISSIONER OF LABOR FOR</b>	)	<b>DOCKET NO: 2024-6680</b>
<b>THE STATE OF NORTH CAROLINA</b>	)	<b>INSPECTION NO: 318279544</b>
	)	<b>CSHO ID: U6109</b>
<b>Complainant,</b>	)	
<b>v.</b>	)	
	)	
<b>ZIPS CAR WASH, LLC</b>	)	<b><u>CONSENT ORDER</u></b>
	)	<b>FILED</b>
<b>and its successors</b>	)	<b>DEC 8 2025</b>
<b>Respondent.</b>	)	

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NC Occupational Safety & Health  
Review Commission

THIS CAUSE coming on pursuant to the Notice of Pre-Hearing Conference (“Hearing Notice”) on November 20, 2025 at 10 a.m. before Hearing Examiner Brian Clarke, via Lifesize teleconferencing platform and continued to December 8, 2025 at 10 a.m. before Hearing Examiner R. Joyce Garrett. Rory Agan, Special Deputy Attorney General, North Carolina Department of Justice, Raleigh, North Carolina appeared for Complainant. Aaron T. Vance and Jeffrey S. Beck, attorneys with Faegre Drinker Biddle & Reath LLP, Indianapolis, IN, appeared Pro Hac Vice sponsored by North Carolina licensed attorney Jonathan Todt with Faegre Drinker Biddle & Reath LLP, Washington, DC, for Respondent.

Pursuant to the Hearing Notice a pre-hearing conference (the “Hearing”) was held for the purpose of considering matters which would simplify the issues and expedite the proceedings in the above referenced case including considering such matters that may be necessary or advisable for the completion of the case, and if possible, to reach a resolution without the necessity of further hearing. No affected employee of Respondent attended to have a say in, or participate as a party in, the Hearing.

At the Hearing, Complainant and Respondent (i) notified the Undersigned that the parties agree upon certain stipulations (“Stipulations”) and wish to make certain motions (“Motions”), and (ii) requested that the Stipulations and Motions be made part of the Hearing record and that a Consent Order be issued. The Stipulations and Motions are as follows:

### **STIPULATIONS**

1. The Complainant as Commissioner of Labor of the State of North Carolina is charged by law with compliance with and enforcement of the provisions of the Occupational Safety and Health Act of North Carolina, Article 16, Chapter 95 of the General Statutes of North Carolina (hereinafter “the Act”), including making inspections and issuing citations and other pleadings, and brings this action pursuant to N.C.G.S. §§95-133 et seq.
2. Pursuant to N.C.G.S. §95-135 the Review Commission has jurisdiction over the parties and the subject matter of this action.
3. Respondent at the time of the Citation and Notification of Penalty was duly authorized as a foreign limited liability company in North Carolina which did business in North Carolina and had a place of business at 1 Gill Road in Weaverville, North Carolina. Respondent operated a tunnel car wash. Respondent is an “employer” within the meaning of N.C.G.S. Section 95-127(11); Respondent’s employees referred to in this matter are “employees” within the meaning of N.C.G.S. Section 95-127(10). Since the time of the inspection, Respondent has restructured and reorganized as Zips Car Wash Holdings, LLC organized in Delaware. Respondent is subject to the jurisdiction of this proceeding and for future proceedings and matters arising under the Act and Article 21, Chapter 95 of the North Carolina General Statutes based on this Order.
4. During the period of January 13-14, 2024, a Compliance Safety and Health Officer, employed by the North Carolina Department of Labor, conducted an inspection of Respondent’s worksite located at 1 Gill Road, Weaverville, North Carolina, pursuant to a reported fatality (the “Inspection”).
5. As a result of the Inspection, on July 12, 2024, Complainant issued the three following Citation and Notification of Penalty (herein referred to collectively as the “Original Citation”):

#### **CITATION 01 (Willful Serious)**

<u>Item No.</u>	<u>Standard</u>	<u>Abatement Date</u>	<u>Penalty</u>
001	29 CFR 1910.147(c)(4)(i)	Immediately Upon Receipt	\$ 161,310.00

#### **CITATION 02 (Serious)**

<u>Item No.</u>	<u>Standard</u>	<u>Abatement Date</u>	<u>Penalty</u>
001	29 CFR 1910.22(d)(1)	Immediately Upon Receipt	\$ 5,850.00
002	29 CFR 1910.147(c)(7)(i)(A)	Immediately Upon Receipt	\$ 16,131.00

**CITATION 03 (NonSerious)**

<u>Item No.</u>	<u>Standard</u>	<u>Abatement Date</u>	<u>Penalty</u>
001	29 CFR 1910.305(b)(1)(iii)	Immediately Upon Receipt	\$ 2,700.00

**TOTAL PROPOSED PENALTY \$185,991.00**

6. Respondent submitted a timely Notice of Contest. On or about October 17, 2024, Complainant received “Employer’s/Respondent’s Statement of Position”.

7. The Hearing in this matter was scheduled pursuant to the Rules of Procedure of the Safety and Health Review Commission of North Carolina (the “Rules”).

8. Complainant and Respondent have no objection, either procedural or otherwise, to this Hearing; both parties consent to the conduct of this Hearing by the Undersigned, and to entry of this Consent Order. Complainant and Respondent confirm that there has been no employee objection in this matter to the reasonableness of any abatement period.

9. Respondent posted the Original Citation and the Hearing Notice as required by the Rules. Neither Complainant nor Respondent have received notification from any affected employee that such employee, or its representative, wishes to have a say in, or participate as a party in, this matter, or has any objections in connection with this matter including without limitation objection to the reasonableness of any abatement time.

10. Respondent confirms that the violations alleged in the Original Citation as amended pursuant to Complainant’s Motion have been abated.

Complainant confirms that no additional documentation of abatement is required. Provided however that Respondent agrees to provide the documentation in paragraph 12 where requested during a subsequent inspection.

11. The parties agree that upon granting of Complainant’s Motion that the proposed penalty for the Items designated in the Original Citation has been calculated in accordance with the standard Field Operations Manual procedure; and the new proposed penalty for the Items designated in the Original Citation as amended pursuant to Complainant’s Motion has been derived in consideration of the standard mitigating factors and specific factors applicable to Respondent.

12. Respondent agrees to the following:

a) Revise the lockout and tagout (LOTO) procedures to include complete isolation and deenergization of equipment inside the tunnel as required by 29 CFR 1910 lockout tagout standards prior to employees entering to clean, service and maintain the equipment. These procedures will be provided to the OSH Division as part of this Agreement and will be made available to the OSH Division upon request.

b) Implement a general safety rule to specifically prohibit any employee(s) from entering the tunnel area without utilizing LOTO procedures and/or the equipment completely being isolated and deenergized first to complete cleaning procedures. Respondent agrees that this general safety rule shall apply wherever the LOTO standard in 29 CFR 1910 would be applicable.

c) Conduct an unexpected/unannounced LOTO audit on a quarterly basis over the next two years to ensure LOTO procedures are being adhered to and enforced at the Weaverville location. These audits will be documented and made available to the OSH Division upon request.

d) Conduct additional training on the revised LOTO procedures to all the employees within ninety (90) days of signing this agreement.

e) Implement the foregoing items a), b), and d) at all of Respondent's North Carolina locations within six months of signing this agreement.

f) To pay the penalty of \$150,700.00 assessed in this matter within 30 days of the date of this Consent Order.

In the event Respondent does not pay the penalty as stated above, all unpaid amount shall become immediately due and payable, and the Complainant retains the right to institute collection proceedings as allowed by law. Respondent agrees to pay attorney's fees to Complainant in the event that the Complainant institutes collection proceedings to collect the debt.

Payment is to be by check payable to the North Carolina Department of Labor, OSHA Division (identifying Inspection No. 318279544) and mailed to North Carolina Department of Labor Financial Services Division, ATTN: Collections Division, 1101 Mail Service Center, Raleigh, North Carolina 27699-1101. Credit card payment may also be arranged.

13. The parties agree to bear their own fees, costs and other expenses, including attorney's fees if any, that have been incurred in connection with any stage of these proceedings up to and including the filing of this Final Order.

14. Complainant and Respondent agree that provided the respective Motion of each party is granted:

a) there are no other matters that remain to be decided, and that other than a ruling with respect to the Motions no outstanding issues remain to be resolved by an evidentiary hearing of this matter;

b) this Consent Order is a full and final resolution of the claims set out in the underlying Original Citation, as amended pursuant to Complainant's Motion;

c) the modification of any portion of the Original Citation by Complainant shall not be deemed to be an admission by Complainant that any such portion was alleged without merit;

d) none of the agreements, statements, stipulations and actions taken by Respondent shall be deemed an admission by the Respondent of any of the allegations contained in the Original Citation as amended or a waiver of any defense, provided however, that in any subsequent proceeding with respect to matters covered by this Consent Order brought directly under the Act by Complainant, this Consent Order shall have the full force and effect of a final order;

e) the agreements, statements, stipulations and actions herein by Complainant and by Respondent are solely for the purpose of resolving this matter economically and amicably without further litigation and shall not be used for any other purposes except for proceedings and matters arising under the Act and Article 21, Chapter 95 of the North Carolina General Statutes.

### **MOTIONS**

Complainant moved to do the following (“Complainant’s Motion”):

- a) Reclassify Citation 1, Item 1 to Serious and modify the penalty to \$140,000.00;
- b) Delete Citation 2, Item 1 and associated penalty;
- c) Reclassify Citation 2, Item 2 to non-serious and change the penalty to \$8,000.00; and,
- d) Citation 3, Item 1 shall be maintained as issued.

Except as set forth in this motion, the Original Citation shall remain unmodified or amended.

Respondent did not object to Complainant’s Motion.

Respondent requested that upon the granting of Complainant’s Motion that the Undersigned consider the following motion by the Respondent (“Respondent’s Motion”):

- a) To withdraw Respondent’s Notice of Contest to the Original Citation as amended pursuant to Complainant’s Motion set forth above.

Complainant did not object to Respondent’s Motion.

### **FINDINGS OF FACT**

Based on the Stipulations at the time of the Hearing and the record, the Undersigned makes the following Findings of Fact:

1. Complainant, Commissioner of Labor of the State of North Carolina, is an agency of the State of North Carolina charged with the administration and enforcement of the provisions of the Act.
2. Respondent is subject to the provisions of the Act and jurisdiction of the Safety and Health Review Commission of North Carolina.

3. This Court has jurisdiction over the parties and the subject matter of this Hearing.
4. Neither party has any objection, procedural or otherwise, to this Hearing.
5. The Stipulations are incorporated by reference as Findings of Fact to the extent necessary to give effect to the provisions of this Order.

### **CONCLUSIONS OF LAW**

1. The foregoing Findings of Fact are incorporated by reference as Conclusions of Law to the extent necessary to give effect to the provisions of this Order.
2. Respondent is an “employer” within the meaning of N.C.G.S. §95-127(11); Respondent’s employees referred to in the Complaint are “employees” within the meaning of N.C.G.S. §95-127(10).
3. This Court has jurisdiction over the parties and the subject matter of this Hearing.
4. Respondent is subject to the provisions of the Act and jurisdiction of the Safety and Health Review Commission of North Carolina.

Based on the foregoing Findings of Fact and Conclusions of law, **NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED:**

1. That Complainant's Motion is hereby **GRANTED**;
2. That Respondent's Motion is hereby **GRANTED**;
3. That Respondent shall meet the requirements of Stipulation 12 as set out above; and
4. That the parties shall comply with the terms and conditions set forth in the Stipulations and in this Consent Order.

Effective December 8, 2025.

**SO ORDERED**

**Signature:** R. Joyce Garrett  
R. Joyce Garrett (Dec 8, 2025 07:56:21 EST)  
**Email:** rjg.rjg@aol.com

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R. Joyce Garrett  
Hearing Examiner

CONSENTED TO:

JEFF JACKSON, Attorney General

**Signature:** Rory Agan  
Rory Agan (Dec 8, 2025 10:59:17 EST)  
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ATTORNEY FOR COMPLAINANT

ATTORNEY FOR RESPONDENT

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I have this date served a copy of the foregoing ORDER upon:

RORY AGAN  
NC DEPTMEN OF JUSTICE  
LABOR SECTION  
mbeveridge@ncdoj.gov

JEFFREY S BECK  
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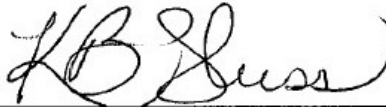
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NC DEPARTMENT OF LABOR  
LEGAL AFFAIRS DIVISION

Via email.

THIS THE 9th DAY OF DECEMBER 2025.

PAUL E. SMITH  
CHAIRMAN

A handwritten signature in black ink, appearing to read 'KB Sluss', is written over a horizontal line.

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