BEFORE THE NORTH CAROLINA

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

RALEIGH, NORTH CAROLINA

FILED
OCT 15 2026
NC Occupational Safety & Health
Review Commission

COMMISSIONER OF LABOR FOR THE STATE OF NORTH CAROLINA	)	**DOCKET NO: 2025 - 6730**
Complainant,	)	**INSPECTION NO: 318298973**
v.	)	
DARYL FLOOD LOGISTICS, INC. DBA NXT HOME DELIVERY and its successors	)	**CSHO ID: Y3077**
Respondent.	)	**CONSENT ORDER**

THIS CAUSE coming on pursuant to the Notice of Hearing ("Hearing Notice") on October 15, 2026 at 10 a.m. before Hearing Examiner R. Joyce Garrett, via Lifesize teleconferencing platform. Rory Agan, Special Deputy Attorney General, North Carolina Department of Justice, Raleigh, North Carolina appeared for Complainant. D. Erik Albright, attorney with Fox Rothschild in Greensboro, North Carolina, appeared for Respondent.

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 is a Texas corporation, which was authorized to do business in North Carolina on June 26, 2021. It is active and current and maintains a place of business in Highpoint, North Carolina. Respondent had an agreement with Home Depot to serve as a transportation broker and logistics facilitator arranging for independent motor carriers to provide 'final mile' delivery services for Home Depot appliances from the Home Depot facility on Pegg Road in High Point. 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). Respondent, however, denies that either the decedent or the driver of the vehicle involved in the accident which was the basis for the Citation were the employees of Respondent.

4. During the period between December 13, 2024 and June 10, 2025 Compliance Safety and Health Officer Lisa Rayborn, employed by the North Carolina Department of Labor, inspected Respondent's worksite located at Home Depot located at 780 Pegg Road, High Point, North Carolina (the "Inspection").

5. As a result of the Inspection, on June 12, 2025, Complainant issued a citation, carrying the following proposed abatement dates and penalties:

CITATION NUMBER ONE (Serious)

Item	Standard	Abatement Date	Penalty
001	NCGS 95-129(01)	Corrected During Inspection	$ 12,904.80

TOTAL PROPOSED PENALTY $ 12,904.80

6. Respondent submitted a timely Notice of Contest dated July 31, 2025. On August 20, 2025 "Employer's/Respondent's Statement of Position" was filed, which statement requested that formal pleadings be served. Complainant's Amended Complaint was filed September 30, 2025. Respondent's Answer To Amended Complaint was timely filed February 13, 2025.

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.

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 violation alleged in the Original Citation as amended pursuant to Complainant's Motion has been abated.

Complainant confirms that no additional documentation of abatement is required from Respondent.

11. The parties agree that upon granting of Complainant's Motion that the proposed penalty for the Item designated in the Original Citation has been calculated in accordance with the standard Field Operations Manual procedure; and the new proposed penalty for the Item 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:

a) to train its employees on a safe method to access the office from the parking lot and the hazards associated with that crossing.

b) To pay the penalty of $10,323.84 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. 318298973) 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 Consent 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 Nonserious;
b) Reduce the penalty associated with Citation 1, Item 1 to $10,323.84;
c) Change the standard cited for Citation 1, Item 1 to 29 CFR 1910.9(b);
d) Rewrite the AVD for Citation 1, Item 1 to state:
    a. Jobsite-where the employer failed to train the employer's employees on a safe method to access the office from the parking lot and the hazards associated with that crossing.

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.

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.

October 15, 2026.

SO ORDERED

Signature: R. Joyce Garrett
R. Joyce Garrett (Oct 15, 2026 18:32:59 EDT)
Email: rjg.rjg@aol.com

R. Joyce Garrett
Hearing Examiner

CONSENTED TO:

Signature: Rory Agan
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Counsel for Respondent

CERTIFICATE OF SERVICE

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

D ERIK ALBRIGHT
FOX ROTHSCHILD LLP
ealbright@foxrothschild.com

RORY AGAN
NC DEPARTMENT OF JUSTICE
LABOR SECTION
ragan@ncdoj.gov

NC DEPARTMENT OF LABOR
GENERAL COUNSEL'S OFFICE

Via email.

THIS THE 16th DAY OF OCTOBER 2026.

PAUL E. SMITH
CHAIRMAN

KB Sluss

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