



**Issue Date: 16 March 2007**

CASE No. 2007-TSC-1

HAROLD CLOSE,  
Complainant,

v.

DELTA PLATING, INC.,  
d/b/a OLYMPICO, INC.,  
Respondent.

RECOMMENDED ORDER APPROVING SETTLEMENT

This proceeding arises under the Toxic Substances Control Act (TSC), 15 U.S.C. § 2622; 29 CFR Part 24. This law was enacted to prevent unreasonable risks of injury to health or the environment associated with the manufacture, processing, distribution in commerce, use or disposal of chemical substances. Employee Protection Section 2622 provides for reinstatement of an employee discriminated against because of the employee's testimony, involvement or participation in any action or proceeding against the employer under this legislation.

On December 13, 2006, a Prehearing Order was issued, which assigned this matter to the undersigned for hearing in the Canton, Ohio area. On December 18, 2006, the parties informed the undersigned that they would like to have a settlement judge. On December 20, 2006, Judge Lesniak was assigned as settlement judge. On January 19, 2007, the undersigned was informed the parties had negotiated a settlement of this claim and that there was no need for a hearing.

On March 9, 2007, the undersigned received the original executed settlement agreement, mutual release and covenants not to sue from both the Complainant and Respondent. The agreement provided a one time payment to Complainant in settlement of all claims against Employer for compensatory damages, including compensation for medical expenses and insurance, for injuries suffered by Close. Each party shall be responsible for their own tax liabilities flowing from this payment.

Following due consideration of this matter, it is determined that the basis for settlement by Respondent's payment is recommended for approval by the Administrative Review Board, and the undersigned finds this settlement to be fair and reasonable. Therefore,

IT IS ORDERED that this matter is HEREBY DISMISSED with prejudice.

IT IS FURTHER ORDERED pursuant to 29 C.F.R. § 18.9(b) that:

1. This Order shall have the same force and effect as an Order made after a full hearing;
2. The parties have waived any further procedural steps before the undersigned; and
3. This Decision and Order is the final agency action in this matter.

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THOMAS F. PHALEN, JR.  
Administrative Law Judge

**NOTICE OF APPEAL RIGHTS:** To appeal, you must file a Petition for Review (“Petition”) that is received by the Administrative Review Board (“Board”) within ten (10) business days of the date of issuance of the administrative law judge’s Recommended Decision and Order. The Board’s address is: Administrative Review Board, U.S. Department of Labor, Room S-4309, 200 Constitution Avenue, NW, Washington, DC 20210. Once an appeal is filed, all inquiries and correspondence should be directed to the Board.

At the time you file your Petition with the Board, you must serve it on all parties to the case as well as the Chief Administrative Law Judge, U.S. Department of Labor, Office of Administrative Law Judges, 800 K Street, NW, Suite 400-North, Washington, DC 20001-8001. *See* 29 C.F.R. § 24.8(a). You must also serve copies of the Petition and briefs on the Assistant Secretary, Occupational Safety and Health Administration and the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor, Washington, DC 20210.

If no Petition is timely filed, the administrative law judge’s recommended decision becomes the final order of the Secretary of Labor. *See* 29 C.F.R. § 24.7(d).

