

FILED
HARRISBURG, PA
JUL 06 2016
PETER WELSH
MARIA E. ELKINS, CLERK
Per *[Signature]*

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

THOMAS E. PEREZ, SECRETARY OF)
LABOR, UNITED STATES)
DEPARTMENT OF LABOR,)
)
)
Plaintiff,)
)
)
v.)
)
)
IFCO SYSTEMS N.A., INC.,)
)
)
Defendant.)
)

CIVIL ACTION NO. 1:16-CV-386
(CHIEF JUDGE CONNER)

CONSENT JUDGMENT

Plaintiff, Thomas E. Perez, Secretary of Labor, United States Department of Labor (“Secretary”), filed a Complaint in this action on March 3, 2016, alleging that Defendant IFCO Systems, N.A., Inc. violated Section 11(c) of the Occupational Safety and Health Act of 1970, as amended, 29 U.S.C. §§ 651-678 (“Act”), when it discharged Debra Walters (“Complainant”) from employment. Defendant has not filed an Answer to the Complaint. The parties agree that “IFCO Systems N.A., Inc.” includes CHEP Recycled Pallet Solutions, LLC (“CHEP”) f/k/a Pallet Companies, LLC, and that any reference made to “IFCO” or “Defendant” in this

document and in the Complaint filed in this matter also refers to, applies to, and binds CHEP.

Counsel for the Secretary and counsel for Defendant have agreed to resolve this case without further litigation, and hereby agree to the entry of this Consent Judgment without contest. Therefore, upon motion of the Secretary and with the consent of Defendant, this Consent Judgment is presented to the Court for its approval.

1. Defendant admits that the Court has jurisdiction over it and the subject matter of this action.

2. The parties consent to the entry of this Consent Judgment without trial or adjudication of any issue of fact or law.

3. This Consent Judgment is entered without restricting the Secretary's right to investigate and redress matters within his jurisdiction under the Act not arising out of or relating to the transactions and occurrences alleged in the Complaint, including the Secretary's right to institute further enforcement actions with respect to any such other matter.

Accordingly, it is hereby ORDERED, ADJUDGED, AND DECREED that:

1. This Court has jurisdiction over this action pursuant to § 11(c) of the Act, 29 U.S.C. § 660(c).

2. Defendant will make Complainant whole through the combination of the monetary settlement reached in Complainant's Worker's Compensation claim, WCAIS Claim No. 7322399, and a secondary agreement, which are both related to Complainant's termination. The aforementioned settlements will require payment of \$105,000.00 to Complainant and will satisfy the Secretary's request for back pay, front pay, and reimbursement for out-of-pocket medical costs in this matter.

3. If Defendant fails to pay the \$105,000.00 agreed to as part of the settlements referenced in paragraph two (2) within ten (10) days of the Workers Compensation Court's approval of the compromise and release, which will take place at a hearing scheduled for July 6, 2016, this failure will constitute a violation of the terms of this Consent Judgment.

4. Defendant shall provide counsel for the Plaintiff with proof that the payment agreed to in Complainant's Worker's Compensation claim has been made, within seven (7) days of the transfer of funds.

5. Within thirty (30) days from entry of this Consent Judgment, Defendants shall post the OSHA document entitled "Job Safety and Health, It's the Law," in a place where it is prominently displayed to Defendants' employees at Defendant's worksite located at 3177 Biglerville Rd, Biglerville, PA 17307. Defendant shall also distribute to each of its

employees at the Biglerville worksite a two (2) page OSHA factsheet entitled "Filing Whistleblower Complaints under Section 11(c) of the OSH Act of 1970," within thirty (30) days of the entry of this Consent Judgment. Plaintiff will provide Defendant with copies of the afore-mentioned factsheet in both Spanish and English, and Defendant will consult with its employees to determine their language preference when distributing these materials.

6. Within six (6) months of the entry of this Consent Judgment, Plaintiff shall provide Defendant with an informational OSHA video regarding whistleblower rights in the workplace. Within six (6) months of receipt of these training materials, Defendant shall schedule a screening of this video for all of its employees and managers at its Biglerville worksite. If OSHA fails to provide these training materials to Defendant within six (6) months of the entry of this Consent Judgment, Defendant will no longer be required to perform this action.

7. Within seven (7) days from the entry of this Consent Judgment, Defendant shall permanently remove from all records in its possession all documents, whether in hard copy or electronic or other format, relating or referring in any way to Complainant's involuntary discharge from employment at IFCO Systems N.A., Inc. Defendant shall place in its official records a document or documents reflecting that Complainant voluntarily

resigned from employment on July 1, 2014. Such document(s) shall be in or on a form typically used to memorialize Defendant's employees' voluntary terminations.

8. Within seven (7) days from the entry of this Consent Judgment, Defendant shall permanently remove from all records in their possession all documents regarding any disciplinary action it took or considered taking against Complainant, as well as any other negative information relating to Complainant's performance of her duties during the course of her employment, that may be contained in Complainant's personnel file or anywhere else in Defendant's records.

9. Defendant shall respond to all inquiries regarding Complainant's work history and performance by providing to the requesting employer or third party only the dates of Complainant's employment, the position she held, Complainant's last salary or hourly wage while employed by Defendant, and a statement that Complainant's performance throughout her employment was satisfactory.

10. Defendant and Defendant's officers, agents, servants, and employees are hereby permanently enjoined and restrained from violating the provisions of § 11(c) of the Act.

11. The Complaint herein is dismissed with prejudice, but this Court retains jurisdiction of this action for purposes of enforcing compliance with the terms of this Consent Judgment.

12. This Consent Judgment shall operate as a final disposition of all claims arising out of or relating to all transactions and occurrences alleged in the Complaint.

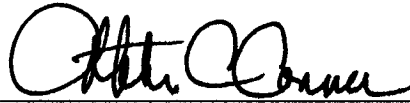
13. Nothing in this Consent Judgment is binding on any governmental agency other than the United States Department of Labor.

14. By entering into this Consent Judgment, Defendant does not admit that it has violated any provisions of the Act. Defendant represents that it has settled this case solely for the purpose of avoiding the costs and uncertainties of litigation.

15. Each party shall bear its own attorneys' fees, costs and other expenses incurred by such party in connection with any stage of this proceeding, including but not limited to attorneys' fees which may be available under the Equal Access to Justice Act, as amended.

16. The Court directs the entry of this Consent Order as a final order.

SO ORDERED this 6th day of July, 2016.



Christopher C. Conner, Chief Judge
U.S. District Court
Middle District of Pennsylvania

Plaintiff, through counsel, moves for the entry of this Consent Judgment.

M. Patricia Smith
Solicitor of Labor

Oscar L. Hampton III
Regional Solicitor

/s/ Jennifer L. Bluer
Jennifer L. Bluer
Attorney
PA 307299
U.S. Department of Labor
170 S. Independence Mall West
The Curtis Center - Suite 630 East
Philadelphia, PA 19106
(215) 861-5146
bluer.jennifer.l@dol.gov

U.S. DEPARTMENT OF LABOR
Attorneys for Petitioner

Defendant, through counsel, consents to entry of this Consent Judgment.

BAKER & HOSTETLER LLP

/s/ M. Mitchell Oates

M. Mitchell Oates (PA Bar No. 315691)
2929 Arch Street
Cira Centre, 12th Floor
Philadelphia, PA 19104-2891
Tel.: (215) 564-2917
Fax: (215) 568-3439
moates@bakerlaw.com

*Attorney for Defendant IFCO Systems
N.A., Inc.*