

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

**THOMAS E. PEREZ, UNITED STATES  
SECRETARY OF LABOR,** )

**Plaintiff,** )

**UNITED STEEL, PAPER AND FORESTRY,  
RUBBER, MANUFACTURING, ENERGY,  
ALLIED INDUSTRIAL AND SERVICE  
WORKERS INTERNATIONAL UNION,** )

**Intervenor,** )

**v.** )

**CIVIL NO. 1:16-92-RGA**

**UNITED STATES STEEL CORPORATION,** )

**Defendant.** )

\_\_\_\_\_ )

**SECRETARY OF LABOR’S NOTICE  
OF VOLUNTARY DISMISSAL OF COMPLAINT**

On July 15, 2016, Plaintiff Secretary of Labor, Defendant United States Steel Corporation, and Intervenor United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO, CLC, agreed to and signed a final settlement in this civil action. The final, signed settlement agreement is attached to this Notice for the convenience of the Court.

Because the parties have negotiated and signed a final settlement agreement, and the defendant not having yet filed an answer, the Secretary of Labor notifies the Court that he is voluntarily dismissing the complaint with prejudice under Federal Rule of Civil Procedure 41(a).

The settlement agreement provides that the parties will bear their own attorney’s fees, costs, and other expenses incurred by each party in connection with this litigation. As there are

no pending issues or motions before the Court, this case may be dismissed.

Respectfully submitted this 19th day of July, 2016:

M. PATRICIA SMITH  
Solicitor of Labor

OSCAR L. HAMPTON III  
Regional Solicitor of Labor

s/ Geoffrey Forney  
GEOFFREY FORNEY  
Senior Trial Attorney  
United States Department of Labor  
Office of the Solicitor  
170 South Independence Mall West  
Suite 630E, The Curtis Center  
Philadelphia, PA 19106-3306  
215-861-5137/ forney.geoffrey@dol.gov

Attorneys for the Secretary of Labor

**CERTIFICATE OF SERVICE**

I certify that on July 19, 2016, I electronically filed the foregoing SECRETARY OF LABOR'S NOTICE OF VOLUNTARY DISMISSAL OF COMPLAINT with the Clerk of Court by using the CM/ECF system, which will provide notice and an electronic link to this document to the following attorneys of record:

Susan E. Kaufman  
skaufman@skaufmanlaw.com

Keren Wheeler  
kwheeler@usw.org

David A. Felice  
dfelice@baileyglasser.com

Edwin G. Foulke, Jr.  
efoulke@laborlawyers.com

s/ Geoffrey Forney  
GEOFFREY FORNEY  
Senior Trial Attorney  
United States Department of Labor

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

**THOMAS E. PEREZ, UNITED STATES  
SECRETARY OF LABOR,** )

**Plaintiff,** )

**UNITED STEEL, PAPER AND FORESTRY,  
RUBBER, MANUFACTURING, ENERGY,  
ALLIED INDUSTRIAL AND SERVICE  
WORKERS INTERNATIONAL UNION,** )

**Intervenor,** )

**v.** )

**CIVIL NO. 1:16-92-RGA**

**UNITED STATES STEEL CORPORATION,** )

**Defendant.** )

\_\_\_\_\_ )

**SETTLEMENT AGREEMENT**

This Settlement Agreement (“Agreement”) is made and entered into as of the date the last Party signs the Agreement (the “Effective Date”) by and between the United States Secretary of Labor (“Secretary”) and the United States Steel Corporation (“US Steel”), an entity organized under the laws of Delaware, and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial & Service Workers International Union, AFL-CIO, CLC (the “Union”). The Secretary, US Steel, and the Union are referred to individually as a “Party” and collectively as the “Parties” to this Agreement.

**RECITALS**

1. Before the Effective Date of this Agreement, US Steel published and enforced a general safety and plant conduct rule requiring all employees to report immediately all injuries to a supervisor (the “Immediate Reporting Policy”).

2. On February 17, 2016, the Secretary filed a complaint (the “Complaint”) in the United States District Court for the District of Delaware under Section 11(c) of the Occupational Safety

and Health Act (the “Act”), 29 U.S.C. § 660(c), against US Steel (the “Civil Action”).

3. The Secretary alleged in the Complaint that US Steel’s Immediate Reporting Policy discourages reasonable employees from reporting injuries as soon as they realize they have been injured because they risk violating US Steel’s temporally stringent requirement under the Immediate Reporting Policy. The Secretary also alleged that US Steel’s Immediate Reporting Policy violates the implementing regulations under the Act that establish a recordkeeping system for recording workplace injuries and illnesses by creating a barrier for reasonable employees to report workplace injuries and illnesses.

4. The Secretary further alleged in the Complaint that US Steel’s stringent temporal reporting requirement under its Immediate Reporting Policy made it impossible or impracticable in many instances for employees to comply with the Immediate Reporting Policy because there are necessarily many situations where an employee will be unaware at the time of an incident that he or she sustained an injury, especially where the nature of the work at issue involves physically strenuous activity.

5. The Secretary further alleged in the Complaint that US Steel disciplined employees Jeff Walters, John Armstrong, and other employees under the Immediate Reporting Policy for reporting workplace injuries when the employees become aware that they sustained workplace injuries after the “event” or “incident” causing the later-known injury.

6. US Steel denies all allegations with respect to the Immediate Reporting Policy or any disciplines related thereto, whether made in the Complaint or elsewhere, denies that the Immediate Reporting Policy violated the Act or is otherwise contrary to law or regulation, and denies that it has otherwise violated the Act or any laws or regulations in any respect.

7. On June 6, 2016, the Court granted the Union’s motion to intervene, limited to the remedies aspect of this Civil Action.

8. The Parties have determined that it is in their best interest, and to avoid additional or further expenses associated with litigation, to settle the allegations, claims, and causes of action set forth in the Complaint.

NOW, THEREFORE, in consideration of the mutual agreements and promises entered into between the Parties and intending to be legally bound, the Parties agree as follows:

#### **TERMS OF AGREEMENT**

A. US Steel’s Agreements. (i) As of the Effective Date of this Agreement, US Steel agrees to and will rescind the discipline of John Armstrong that is the subject of the Complaint. Within thirty (30) calendar days of the Effective Date of this Agreement, US Steel will pay John

Armstrong \$877.23 in back wages, which includes interest, lost in connection with the discipline that is the subject of the Complaint. This payment will be subject to applicable and other usual and customary payroll deductions, including but not limited to union dues.

(ii) As of the Effective Date of this Agreement, US Steel agrees to and will rescind the discipline of Jeff Walters that is the subject of the Complaint. Within thirty (30) calendar days of the Effective Date of this Agreement, US Steel will pay Jeff Walters \$471.84 in back wages, which includes interest, lost in connection with the discipline that is the subject of the Complaint. This payment will be subject to applicable and other usual and customary payroll deductions, including but not limited to union dues.

(iii) As of the Effective Date of this Agreement, US Steel agrees to and will rescind the discipline of Derrick Marbley, an employee at US Steel's Lorain Tubular facility, in connection with the complaint that Derrick Marbley filed with the Occupational Safety and Health Administration ("OSHA") under Section 11(c) of the Act, 29 U.S.C. § 660(c), which complaint is still pending review by OSHA, identified as complaint number 5-8120-14-026. Specifically, US Steel agrees to and will rescind the disciplinary suspension issued to Marbley on February 28, 2014, and agrees to and will rescind the disciplinary suspension issued to Marbley on June 30, 2014, and agrees to and will issue in its place a written warning, contingent on Marbley withdrawing any grievances filed with respect to the aforementioned disciplinary suspensions.

(iv) As of the Effective Date of this Agreement, US Steel agrees immediately to rescind the Immediate Reporting Policy. After the Effective Date of this Agreement, US Steel agrees never to reinstate or enforce the Immediate Reporting Policy or any injury or incident reporting policy containing a temporally restrictive reporting requirement that makes it impossible or impracticable for an employee to comply when he or she is unaware at the time of an incident that he or she sustained an injury or illness.

(v) As of the Effective Date of this Agreement, US Steel, with the concurrence of the Union, agrees immediately to adopt, publish, and implement at all locations and worksites operated or controlled by US Steel or any of its subsidiaries the Occupational Illness and Injury Reporting Policy, the full and complete text of which is attached hereto as Exhibit A. As of the Effective Date of this Agreement, US Steel agrees that the Occupational Illness and Injury Reporting Policy, attached hereto as Exhibit A, will immediately replace and supersede the Immediate Reporting Policy in effect prior to the Effective Date of this Agreement. As of the Effective Date of this Agreement, US Steel agrees that the Occupational Illness and Injury Reporting Policy, attached hereto as Exhibit A, immediately replaces and supersedes any other or additional injury or illness reporting rule or policy, whether published or not, that US Steel has imposed, enforced, or implemented in any way or manner.

(vi) As of the Effective Date of this Agreement, US Steel, with the concurrence of the Union, agrees immediately to adopt, publish, and implement at all locations and worksites

operated or controlled by US Steel or any of its subsidiaries the Incident Without Injury Reporting Policy, the full and complete text of which is attached hereto as Exhibit B. As of the Effective Date of this Agreement, US Steel agrees that the Incident Without Injury Reporting Policy, attached hereto as Exhibit B, immediately replaces and supersedes any other or additional incident reporting rule or policy, whether published or not, that US Steel has imposed, enforced, or implemented in any way or manner.

(vii) Within seven (7) calendar days of the Effective Date of this Agreement, US Steel agrees to post prominently for sixty (60) calendar days the Occupational Illness and Injury Reporting Policy, attached hereto as Exhibit A, and the Incident Without Injury Reporting Policy, attached hereto as Exhibit B, at all locations and worksites operated or controlled by US Steel or any of its subsidiaries.

B. The Secretary's Agreement. In exchange for US Steel's agreements and promises, as stated in Paragraph A above, within seven (7) calendar days after the Secretary's representative receives this Agreement signed by all Parties to this Agreement, the Secretary agrees voluntarily to withdraw with prejudice the Complaint under Federal Rule of Civil Procedure 41(a). In addition, the complaint filed by Derrick Marbley with OSHA under Section 11(c) of the Act (Complaint No.: 5-8120-14-026) will be immediately dismissed by OSHA on the Effective Date of this Agreement.

C. Statute Law and Regulation Control. The Parties agree that the Department of Labor will not prosecute or pursue any administrative enforcement action or civil action under the Act in connection with US Steel's adoption and implementation under this Agreement of the Occupational Illness and Injury Reporting Policy, attached hereto as Exhibit A, and the Incident Without Injury Reporting Policy, attached hereto as Exhibit B, provided US Steel complies with the terms of this Agreement. US Steel agrees that it shall not change, revise, interpret, implement, or otherwise give effect to the Occupational Illness and Injury Reporting Policy, attached hereto as Exhibit A, and the Incident Without Injury Reporting Policy, attached hereto as Exhibit B, in any way or manner that violates or contravenes the Act or any standard or rule published by OSHA under the Act. Any disputes relating to or arising out of the application of the Occupational Illness and Injury Reporting Policy, attached hereto as Exhibit A, or the Incident without Injury Reporting Policy, attached hereto as Exhibit B, shall be subject to the dispute resolution procedures (Adjustment of Grievances) of the applicable Basic Labor Agreement between the US Steel and the Union; provided, however, that the foregoing clause is not intended to prevent or interfere with any person's right to engage in any future activities protected under the Act. Notwithstanding any other provision in this Agreement, the Secretary may enforce the terms or conditions of this Agreement at any time by bringing a civil action, as provided in Paragraph H.

D. No Admission of Fault. This Agreement is entered into by the Parties for the sole purpose of settling any and all disputes relating to or arising from this Civil Action. No Party to

this Agreement admits fault or liability in connection with the allegations or claims in the Complaint. This Agreement shall not be construed or interpreted as a confession of guilt or liability by any Party.

E. Successors. This Agreement shall be binding upon and inure to the benefit of the Parties, their respective successors, and assigns.

F. Integrated Agreement. The Parties intend this Agreement to constitute the complete, exclusive, and fully integrated statement of their agreement. As such, this Agreement is the sole repository of the Parties' agreement and they are not bound by any other agreements, promises, statements, representations, or writings of any kind or nature. The Parties also intend that this complete, exclusive, and fully integrated statement of the Parties' agreement may not be supplemented, explained, or interpreted by any evidence of trade usage or course of dealing.

G. Attorney's Fees and Costs. The Parties agree to bear their own attorney's fees, costs, and other expenses incurred by each Party in connection with any part or stage of this Civil Action, including, but not limited to, any attorney's fees and costs that may be available under the Equal Access to Justice Act, as amended.

H. Governing Law and Venue. Any and all matters of dispute between the Parties to this Agreement, whether arising from the Agreement itself or arising from any alleged extra-contractual facts prior to, during, or subsequent to the Agreement, including, without limitation, fraud, misrepresentation, negligence, or any other alleged tort or violation of the Agreement, shall be governed by, construed, and enforced in accordance with the laws of the Commonwealth of Pennsylvania, regardless of the legal theory upon which such matter or matters are asserted, except that this Agreement shall not be interpreted in any way to conflict with the Act or any standard or rule published by OSHA under the Act. Any action to enforce this Agreement shall be brought only in the United States District Court for the District of Delaware.

I. Exhibits. Exhibit A contains the full and complete text of the Occupational Illness and Injury Reporting Policy, and Exhibit B contains the full and complete text of the Incident Without Injury Reporting Policy, both of which are incorporated into and made a part of this Agreement.

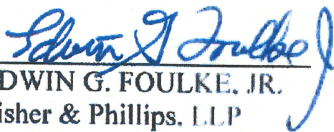
J. Headings. Any headings or titles preceding any of the sections or provisions of this Agreement are inserted solely for the convenience of reference, shall not constitute a part of this Agreement, and shall not otherwise affect the meanings, content, effect, or construction of this Agreement.

K. Counterparts. This Agreement may be signed in multiple counterparts and transmitted by facsimile or by electronic mail or by any other electronic means intended to preserve the original graphic and pictorial appearance of a Party's signature, each of which shall




be deemed an original, but all of which taken together shall constitute one and the same instrument.

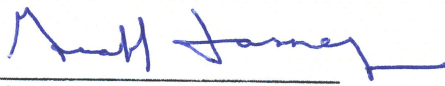
IN WITNESS WHEREOF, and intending to be legally bound, each of the Parties hereto has caused this Agreement to be executed by their duly authorized representatives as of the dates set forth below.

  
EDWIN G. FOULKE, JR.  
Fisher & Phillips, LLP  
1075 Peachtree Street, NW, Ste. 3500  
Atlanta, GA 30309  
404-231-1400  
efoulke@laborlawyers.com

M. PATRICIA SMITH  
Solicitor of Labor

OSCAR L. HAMPTON III  
Regional Solicitor of Labor

  
DAVID A. FELICE  
Bailey & Glasser, LLP  
2961 Centerville Road, Ste. 302  
Wilmington, DE 19808  
302-504-6333  
dfelice@baileyglasser.com

  
GEOFFREY FORNEY  
Senior Trial Attorney  
Office of the Solicitor  
170 South Independence Mall West  
Suite 630E, The Curtis Center  
Philadelphia, PA 19106-3306  
215-861-5137  
forney.geoffrey@dol.gov

Attorneys for Defendant

Attorneys for Plaintiff

15 July 2016  
Date

15 July 2016  
Date

[Signatures for Union-Intervenor Appear on Following Page]

//

//

//



SUSAN E. KAUFMAN  
(DSB# 3381)  
919 North Market Street, Suite 460  
Wilmington, DE 19801  
302-472-7420  
skaufman@skaufmanlaw.com



KEREN WHEELER  
Assistant General Counsel  
United Steel, Paper and Forestry, Rubber,  
Manufacturing, Energy, Allied Industrial  
and Service Workers International Union  
Five Gateway Center, Room 807  
Pittsburgh, PA 15222  
(412) 562-2413

Attorneys for Intervenor

  
Date

**Exhibit A to Settlement Agreement**

**Civil No. 1:16-92-RGA**

## **OCCUPATIONAL ILLNESS AND INJURY REPORTING POLICY**

The Company and the USW agree that it is important that all workplace injuries and illnesses are reported to management as soon as reasonably possible after they occur. Prompt reporting allows for prompt identification and correction of hazards and prompt medical attention for injuries. In some instances an employee may not immediately realize that s/he has been injured or made ill. In such circumstances, the employee must report the injury or illness as soon as reasonably possible after becoming aware of the injury or illness.

Therefore, the following policy applies to work-related injury and illness reporting:

1) An employee who is at work when s/he becomes aware of an injury or illness must report it as soon as reasonably possible, but in no event later than leaving the plant or 8 hours after becoming aware of the injury or illness, whichever is earlier. The report must be made to the employee's supervisor, or, if prompt medical attention is needed, to Emergency Services.

2) An employee who is not at work when s/he becomes aware of an injury or illness must report it as soon as reasonably possible, but in no event later than 8 hours after becoming aware of the injury or illness. The employee must report the injury or illness by calling his/her supervisor or the applicable "Call Off" telephone number explaining that s/he is reporting a work-related injury or illness.

3) No employee who complies with this policy will be disciplined for not promptly reporting an injury or illness.

Supervisors must not interfere with, or attempt to discourage, reporting under this policy.

**Exhibit B to Settlement Agreement**  
**Civil No. 1:16-92-RGA**

## INCIDENT WITHOUT INJURY REPORTING POLICY

The Company and the USW agree that it is important that workplace incidents that do not involve injury or illness, as defined in this policy, are reported to management as soon as reasonably possible after they occur. Prompt reporting of such workplace incidents, as provided in this policy, allows for prompt identification and correction of hazards.

The following policy applies to workplace incidents:

### Workplace Incident without Injury Defined

A Workplace Incident without Injury is defined as "an unexpected and undesirable workplace event that results in damage to equipment or facilities or which could have resulted in injury, illness or death." A Workplace Incident without Injury does not include any incident involving a workplace injury or illness.

This policy does not apply to the reporting of workplace injuries or illnesses. The requirements for reporting workplace injuries and illnesses are exclusively governed by the Occupational Illness And Injury Reporting Policy.

### Reporting Requirement

Employees are required to report all Workplace Incidents without Injury in which they are involved, which they observe, or which they are aware of. Such Workplace Incidents without Injury must be reported as soon as reasonably possible, but in no event later than leaving the plant.

Reports must be made to the employee's supervisor, or, if prompt emergency response is needed, to Emergency Services.

### No Retaliation

No employee who makes a good-faith effort to comply with this policy will be disciplined for not promptly reporting a Workplace Incident without Injury.

No employee will be disciplined under this policy for not reporting a Workplace Incident Without Injury if another employee has reported the same Workplace Incident Without Injury.

Supervisors must not interfere with, or attempt to discourage, reporting under this policy.