

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

NORTHEASTERN LAND SERVICES, LTD.,
d/b/a/ THE NLS GROUP

AND

CASE 01-CA-039447

JAMISON JOHN DUPUY, an Individual

**REGIONAL DIRECTOR'S RESPONSE TO CHARGING PARTY'S REQUEST
FOR RECONSIDERATION OR CLARIFICATION**

The Region respectfully requests the Board to adhere to its Order upholding the Compliance Determination at issue in this case. The substantive reasons underlying the Region's action have been set forth in previous filings to the Board, and the Region adheres to them. The Region briefly addresses the points made in Charging Party's Request for Reconsideration of Clarification below.

First, Charging Party is mistaken in his assertion that the settlement agreement is in material default. The Respondent has, in fact, met its obligations under the agreement, to the extent that it can do so while Charging Party is challenging the legal validity of the settlement. Charging Party seeks all the benefits of the settlement while asserting its invalidity. Such a result is inconsistent with the intent underlying the parties' entry into the settlement agreement, which was to reach a reasonable, final compromise figure for a contested backpay liability.

Second, the Board's Order is well within its statutory authority. While Charging Party correctly observes that the United States Court of Appeals for the First Circuit enforced the Board's Order requiring Respondent make Charging Party whole for lost backpay, Respondent seems not to understand that it is the Board's statutory obligation to determine the amount of backpay. The Board has done so here. The Region has previously conceded that the backpay called for in the settlement agreement represents a reasonable compromise of a contested claim. The sole legal issue raised by Charging Party at this stage of the proceeding is whether the Charging Party has an absolute right to litigate its position as to backpay owed, notwithstanding the reasonable compromise reached by the Respondent and the Region to liquidate that claim. For the reasons previously stated to the Board, the Region asserts that Charging Party has no such absolute right and has stated no objections to the settlement agreement warranting its rejection.

Third, Charging Party's objection to the waiver of rights language in the settlement agreement is unfounded. These proceedings before the Board are themselves

evidence that Charging Party retains, and has exercised, his rights to challenge the validity of the Settlement Agreement.

Finally, in previous submissions, the Region has set forth the considerations warranting a compromise settlement of complex backpay issues in preference to extended, costly litigation of numerous issues, all laden with substantial litigation risk.

For all of the reasons stated, the Region urges the Board to adhere to its previous order.

Dated: October 22, 2013

Respectfully submitted,

/s/ Scott F. Burson

Scott F. Burson
Deputy Regional Attorney

CERTIFICATE OF SERVICE

I hereby certify that I served copies of Regional Director's Response To Charging Party's Request For Reconsideration Or Clarification on the parties listed below, by electronic mail, on this date.

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Secretary to the Regional Director
October 22, 2013