

**FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION**

OFFICE OF ADMINISTRATIVE LAW JUDGES  
601 NEW JERSEY AVENUE, N.W., SUITE 9500  
WASHINGTON, D.C. 20001

February 8, 2006

XAVIER F. GONZALEZ, : DISCRIMINATION PROCEEDING  
Complainant :  
 :  
 : Docket No. WEST 2005-288-DM  
v. : RM MD 05-05  
 :  
 :  
RINKER MATERIALS CORPORATION, : Rinker Green Valley  
Respondent : Mine ID: 02-02643

**DECISION**  
**AND**  
**ORDER PARTIALLY SEALING RECORD**

Appearances: Steven G. Sandoval, Esq., Law Offices of Steven G. Sandoval, P.C., 177 N. Church Avenue, Suite 1008, Tucson, Arizona 85701, for Petitioner  
Katherine Shand Larkin, Esq., Jackson Kelly, PLLC, 1099 18<sup>TH</sup> Street, Suite 2150, Denver, Colorado 80202, for Respondent

Before: Judge Bulluck

This case concerns a discrimination complaint filed pursuant to Section 105(c) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 815(c)(3). Xavier Gonzalez alleges that he was unlawfully terminated from employment by Rinker Materials on December 9, 2004, due to a work-related injury that he incurred on December 8, 2004. He seeks reinstatement with back pay, damages for emotional distress and attorney's fees.

A hearing on the merits was convened on November 29, 2005, in Tucson, Arizona, during the course of which the parties engaged in discussions and negotiated a settlement. Under the essential terms of the agreement, Rinker Materials is required to make a lump-sum payment to Gonzalez in consideration of Gonzalez's withdrawal of his discrimination complaint, with prejudice, and release of Rinker Materials from all other related claims and causes of action. I tentatively approved the settlement on the record pending filing of the written, executed agreement.

**ORDER**

The settlement is appropriate and is in the public interest. **WHEREFORE**, the approval of settlement is **GRANTED**, and it is **ORDERED** that the record is **PARTIALLY SEALED**, i.e., the hearing transcript of November 29, 2005, Settlement and Mutual Release Agreement, executed on January 6, 2006, and Withdrawal of Claim, dated January 6, 2006, and this case is **DISMISSED WITH PREJUDICE**.

Jacqueline R. Bulluck  
Administrative Law Judge  
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Distribution:

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/ej