

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES
7 PARKWAY CENTER, SUITE 290
875 GREENTREE ROAD
PITTSBURGH, PA 15220
TELEPHONE: 412-920-7240

December 23, 2025

SECRETARY OF LABOR,
MINE SAFETY AND HEALTH
ADMINISTRATION (MSHA) obo
JAMES SUMMERS,
Complainant,

v.

CALLENDER CONSTRUCTION
COMPANY, INC.,
Respondent

TEMPORARY REINSTATEMENT PROCEEDING

Docket No. LAKE 2026-0045
MSHA No. VINC-CD-2025-05

Mine: Thomas Quarry
Mine ID: 11-00214

ORDER GRANTING JOINT MOTION TO APPROVE AGREEMENT FOR ECONOMIC REINSTATEMENT OF JAMES SUMMERS

Before: Judge Lewis

Pursuant to Section 105(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. § 801, *et. seq.*, and Commission Procedural Rule 45, 29 C.F.R. § 2700.45, the Secretary of Labor (Secretary) on December 16, 2025, filed an Application for Temporary Reinstatement (Application) of miner James Summers (Complainant) to his former position as a haul truck operator with Callender Construction Company (Respondent), at the Thomas Quarry mine pending a final hearing and disposition of this discrimination case. I was assigned this temporary reinstatement case by Order dated December 22, 2025.

On December 16, 2025, the parties entered an Agreement providing for economic temporary reinstatement of Complainant, effective December 16, 2025, to “remain in effect until the entry of a final order of the Federal Mine Safety [and] Health Review Commission . . . regarding Summers underlying discrimination complaint (MSHA Case No. VINC-CD-2025-05) or until [the entry of an order issued by an Administrative Law Judge] approving [the parties’ Agreement] is dissolved, whichever shall occur first.” Agreement at ¶ 2.¹ The Agreement was signed by Counsel for the Secretary, Counsel for Complainant, and Counsel for Respondent. *Id.*

¹ The Agreement further provided that “[i]f the Secretary notifies Summers that she has decided not to prosecute Summers’ case on the merits, [Respondent] will file a motion with the presiding [Administrative Law Judge] to dissolve [the] Agreement, and neither Summers or the Secretary will oppose said motion.” *Id.* at ¶ 2.

at 3. On December 19, the parties filed a Joint Motion to Approve Agreement for Economic Reinstatement (Joint Motion), which is presently before me.²

I have reviewed the Joint Motion as well as the Agreement and the file in general and do hereby **ORDER** that the Joint Motion is **GRANTED**.³



John Kent Lewis
Administrative Law Judge

Distribution:

Travis W. Gosselin, Esq., Office of the Solicitor, U.S. Department of Labor, 230 Dearborn Street, Room #844, Chicago, IL 60604, gosselin.travis@dol.gov

H. Allen Yow, Esq., Rammelkamp Bradney, P.C., P.O. Box 550, Jacksonville, IL 62651, ayow@rblawyers.net

Tony Oppegard, Esq., P.O. Box 22446, Lexington, KY 40522, tonyoppegard@gmail.com

Wes Addington, Esq., Appalachian Citizen's Law Center, 317 Main Street, Whitesburg, KY, 418858, wes@aclc.org

² The Joint Motion contained a signature block signed by the Complainant, whereas the Certificate of Service attached to the Joint Motion listed only Counsel for Respondent and Counsel for Complainant. Joint Motion at 3-4.

³ By separate Order issued this same day, I granted temporary reinstatement of Complainant James Summers, subject to the Agreement referred to herein.