

**STATE OF NEW MEXICO
BEFORE THE
OCCUPATIONAL HEALTH AND SAFETY REVIEW COMMISSION**

**NEW MEXICO ENVIRONMENT DEPARTMENT,
OCCUPATIONAL HEALTH AND SAFETY BUREAU,**

Complainant,

v.

Case No.: OSHA-

O'REILLY AUTOMOTIVE STORES, INC.,

Respondent.

SETTLEMENT AGREEMENT

Complainant, New Mexico Environment Department, Occupational Health and Safety Bureau ("NMED"), and Respondent, O'Reilly Automotive Stores, Inc. ("Respondent"), hereby agree to the following terms for full and complete settlement of the citation at issue in this case, subject to the provisions of 11.5.5.503 NMAC.

1. The Citation and Notification of Penalty is amended as follows:

a. Citation 1, Item 1 issued to Respondent on September 1, 2020 was classified as a willful-serious violation and provided for a proposed penalty of \$72,000.00. Citation 1, Item 1 is hereby reclassified from willful-serious to serious with a penalty of \$72,000.00. The alleged violation was abated on July 6, 2020 by enforcing the use of face coverings by employees.

b. Citation 2, Item 1 issued to Respondent on September 1, 2020 was classified as a serious violation and provided for a proposed penalty of \$7,200.00. Citation 2, Item 1 remains classified as issued with a penalty of \$7,200.00. The alleged violation was abated on July 6, 2020 by posting signage for the use of face coverings.

2. Respondent has objected to both Citations and Notice of Penalty Notwithstanding, rather than continue to contest and litigate the Department's allegations, Respondent agrees to pay a total penalty of \$79,200.00 on or before February 1, 2021 in full and final settlement of this contested

matter. Payment shall be made to "State of New Mexico General Fund" by corporate check, certified check, or other guaranteed negotiable instrument, and shall be sent to the Department at the following address:

New Mexico Environment Department
Occupational Health and Safety Bureau
525 Camino de los Marquez, Suite 3
Santa Fe, New Mexico 87505

3. Respondent hereby withdraws its contest of the citation and consents to the entry of a Final Order by the Occupational Health and Safety Review Commission that incorporates the terms of this Settlement Agreement.

4. Neither this Settlement Agreement nor Respondent's consent to entry of a Final Order by the Occupational Health and Safety Review Commission pursuant to this Settlement Agreement constitutes any admission by Respondent of a violation of the New Mexico Occupational Health and Safety Act or regulations or standards promulgated thereunder in any proceedings other than proceedings brought directly under the provisions of the Act. The parties acknowledge that the agreements, statements, stipulations, and actions herein are made solely for the purpose of settling this matter fairly, economically, and without litigation or further expense.

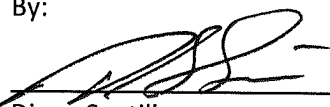
5. If no timely objection to this Settlement Agreement is filed within twenty (20) days after its filing, then without further action, it shall become a Final Order of the Occupational Health and Safety Review Commission pursuant to Subsection G of Section 503 of 11.5.5 NMAC.

Respectfully submitted,

NEW MEXICO ENVIRONMENT DEPARTMENT
By:

Sandra Ely, Director
Environmental Protection Division
P.O. Box 5469

O'REILLY AUTOMOTIVE STORES, INC.
By:



Diego Santillana
O'Reilly Automotive Stores, Inc.
233 S. Patterson Ave.

Santa Fe, NM 87502

Springfield, MO 65802

Date: _____

Date: 1/4/21