

## RELEASE AND SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (“Agreement”) is made and entered into by and among:

The Secretary of Labor, United States Department of Labor (“Secretary”), and Deere & Company (“Defendant” or “Deere”), a corporation with a place of business at 909 River Drive, Moline, Illinois, collectively (“Parties”).

WHEREAS, the Secretary is responsible for the administration and enforcement of Section 11(c) of the Occupational Safety and Health Act of 1970 (the “Act”), 29 U.S.C. § 660(c).

WHEREAS, [REDACTED] (“Complainant”) filed a discrimination complaint under Section 11(c) of the Act alleging a violation of the Act.

WHEREAS, after investigating, the Secretary determined that Complainant was terminated from his employment in retaliation for engaging in protected activity under the Act in violation of Section 11(c).

WHEREAS the Secretary has filed a Complaint (“Complaint”) in the United States District Court for the Central District of Illinois styled *Perez v. Deere & Company (dba John Deere)*, Case No. 4:15-cv-04079-SLD-JEH.

WHEREAS, Defendant denies and continues to deny any and all allegations contained in the Complaint under Section 11(c) of the Act.

WHEREAS, consistent with Defendant’s obligations under the OSH Act, Defendant agrees to not discharge or in any other manner discriminate against any employee or applicant because of activity protected by Section 11(c) of the Act.

WHEREAS, the Parties have agreed to resolve the matters in controversy.

NOW THEREFORE, in consideration of the mutual covenants recited herein and other

good and valuable consideration, the Parties agree as follows:

1. In exchange for the agreement of Defendant to comply with the terms set forth in this Agreement and for the Defendant complying with said Agreement, the Secretary covenants and agrees not to pursue Case No. 4:15-cv-04079-SLD-JEH or any other civil action relating to the allegations in the Secretary's Complaint. The Secretary and the Department of Labor expressly waive, release, and forever discharge any and all claims that they have or may have against the Defendant, or any of its respective owners, officers, directors, agents, attorneys, employees or representatives, or their successors in interest, arising out of or in connection with the investigation and litigation of the Secretary's Complaint and the settlement relating thereto.

2. Defendant shall pay the sum of Two-Hundred Seventy-Five Thousand Dollars (\$275,000.00), representing wages for back payment and compensatory damages, on the following terms:

- a. Deere will pay [REDACTED] two hundred and seventy-five thousand dollars (\$275,000.00), comprised of \$204,315 in W2 damages and \$70,685 in 1099 damages.
- b. Payments shall be made individually payable to [REDACTED] via direct deposit and check, as specified below, and mailed by certified return receipt mail to [REDACTED]. Defendant agrees to make the first payment to [REDACTED] by direct deposit within 10 days of the revocation period; agrees to make the second payment by direct deposit on or before January 31, 2017, and agrees to make the third payment to [REDACTED] by check on or before January 31, 2018.
- c. Defendant shall provide the Regional Administrator for OSHA, U.S. Department of Labor – OSHA, 230 S. Dearborn St. Room 3244, Chicago, Illinois, 60604, with a copy of the direct deposits and check payments and proof of delivery to [REDACTED] within five (5) calendar days of each payment. In the event Defendant fails to timely make any of the payments to [REDACTED], the Secretary reserves the right to refile the Complaint in this matter.
- d. Defendant shall file with the Social Security Administration all forms necessary to ensure that the back pay is allocated to the 2012 calendar year

in which Complainant would have earned the compensation. Refer to IRS Publication 957: Reporting Back Pay and Special Wage Payments to the Social Security Administration, as discussed in <http://www.irs.gov/pub/irs-pdf/p957.pdf>.

3. This compromise settlement shall not be construed as an admission of liability by Defendant. Deere expressly denies any violation of any of its policies or procedures, or violation of any federal, state or local laws or regulations. Although this Agreement resolves all issues between the parties relating to the allegations outlined in the Complaint, this Agreement does not constitute an adjudication or finding on the merits of any claims by the Department of Labor and will not be construed as an admission by Deere of any violation. This Agreement and any discussions about this Agreement shall not be admissible in any proceeding as evidence or an admission by Deere of any violation of any policies, law or regulation. This Agreement may be introduced in any proceeding to enforce the Agreement.

4. Within seven (7) days of the effective date of this Agreement, Defendant shall post OSHA Job Safety and Health: It's the Law (OSHA 3165) and OSHA Fact Sheet: Your Rights as a Whistleblower in a conspicuous place at all workplaces, in compliance with 29 C.F.R. § 1903.2.

5. If in the future any prospective employer requests a job reference for Complainant, Defendant agrees to provide a neutral job reference. Defendant will provide, if requested, the starting and ending dates of Complainant's employment, job title, and/or rate of pay, as requested by the person or entity seeking said employment reference. Defendant agrees that it will not release any information or records pertaining to Complainant's disciplinary history to any third party unless expressly authorized to do so pursuant to a valid subpoena or other court order.

6. Defendant expressly waives, releases and forever discharges any and all claims that it has or may have against the Secretary and/or the Department of Labor, or any of its officers, agents, attorneys, employees or representatives relating to, arising out of or in connection with OSHA's investigation regarding Complainant's complaint of discrimination or the litigation of the Secretary's Complaint and the settlement relating thereto. In particular, Defendant expressly waives any and all claims under the Equal Access to Justice Act (Pub.Law No. 96-481 [1980], reenacted at Pub.Law No. 99-80 [1985] and amended at Pub.Law No. 104-121 [1996] that it has or may have against the Secretary and/or the Department of Labor, or any of their officers, agents, attorneys, employees or representatives, relating to, arising out of or in connection with the Secretary's Complaint and settlement relating thereto.

7. The Secretary agrees to execute and file a voluntary request under Rule 41(a)(2) for dismissal of Case No. 4:15-cv-04079-SLD-JEH without prejudice within the time allowed by the Court for such submission. This dismissal will automatically be converted to a dismissal with prejudice on February 12, 2018, absent prior notice from the Secretary of non-payment to the Complainant.

8. Each party agrees to bear its own fees, costs, and expenses, including attorney's fees, arising in connection with this matter.

9. Nothing in this Agreement shall be binding on any governmental agency other than the United States Department of Labor, Occupational Safety and Health Administration.

10. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same instrument.

11. Should any provision of this Agreement become legally unenforceable, no other

provision of this Agreement shall be affected, and this Agreement shall be construed as if the Agreement had never included the unenforceable provision.

12. This Agreement contains the entire agreement of the Parties with respect to the subject matter of this Agreement and supersedes all prior negotiations, agreements and understandings with respect thereto. This Agreement completely and accurately reflects the agreement of the Parties to resolve this matter and there are no other written or oral promises or statements binding upon the Parties with respect to the disposition of this matter. This Agreement may only be amended by a written document duly executed by all Parties.

IN WITNESS WHEREOF, this Agreement has been executed by the Parties, or their duly authorized representatives below.

**FOR THE SECRETARY OF LABOR**

M. PATRICIA SMITH  
Solicitor of Labor

CHRISTINE Z. HERI  
Regional Solicitor



TRAVIS W. GOSSELIN  
Office of the Solicitor  
U.S. Department of Labor  
230 S. Dearborn St. Rm. 844  
Chicago, IL 60604

Date: 12/12/16

**FOR DEFENDANT**



Jodi Fisk  
Senior Counsel, Global Law Services  
Division  
Deere & Company World Headquarters  
One John Deere Place  
Moline, Illinois 61265

Date: 12/12/16