

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
FAYETTEVILLE DIVISION

US DISTRICT COURT  
WESTERN DIST ARKANSAS  
FILED

FEB 08 2017

DOUGLAS F. YOUNG, Clerk  
By Deputy Clerk

R. ALEXANDER ACOSTA, Secretary of )  
Labor, United States Department of )  
Labor, )

Plaintiff, )

v. )

Civil Action No. 5:17-cv-5014

SOLDIERS OF THE CROSS, d/b/a )  
SHEPHERD'S CHAPEL CHURCH and )  
DENNIS MURRAY, individually, )

Defendants. )

**Consent Judgment**

The Plaintiff has filed his complaint and Defendants, without admitting they have violated any provision of the Occupational Safety and Health Act of 1970, have agreed to the entry of judgment without opposition. The Secretary of Labor brought this action to enjoin Defendants from violating Section 11(c) of the Act and for all other appropriate relief including the payment of lost wages and all other relief found due to employees of Defendants by reason of Defendants' actions in alleged violation of the Act. It is, therefore, upon motion of the Plaintiff and for cause shown,

ORDERED, ADJUDGED and DECREED that Defendant Soldiers of the Cross, d/b/a Shepherd's Chapel Church, and its directors, officers, agents, managers, supervisors, servants, employees and all persons in active concert or participation with it, be and they hereby are permanently enjoined and restrained from violating the provision of Section 11(c) of the Occupational Safety and Health Act of 1970, 29 U.S.C. § 651 *et seq.*, hereinafter referred to as

the Act.

ORDERED, ADJUDGED and DECREED that Defendant Dennis Murray and his agents and representatives and all persons in active concert or participation with him, be and they hereby are permanently enjoined and restrained from violating the provision of Section 11(c) of the Occupational Safety and Health Act of 1970, 29 U.S.C. § 651 *et seq.*, hereinafter referred to as the Act.

IT IS FURTHER ORDERED THAT:

1. Within 10 days after entry of this Consent Judgment, Defendants shall pay the complainant, <sup>Kimberly</sup> Kim Carnahan, the sum of \$62,500.00 (\$32,500.00 in back wages, subject to applicable withholdings, and \$30,000.00 in compensatory damages for emotional distress) by means of two checks made payable to <sup>Kimberly</sup> Kim Carnahan in settlement of this action. In consideration of Defendants' payment to <sup>Kimberly</sup> Kim Carnahan, the parties agree that all matters arising out of the claims in the Complaint are compromised and settled.

2. Defendants shall not provide any information to a prospective employer of <sup>Kimberly</sup> Kim Carnahan about Mrs. Carnahan other than her dates of employment, job title, and salary.

3. Defendants shall post a Notice to Employees, attached hereto as Exhibit A, at its facility for a period of sixty (60) days. The notice shall be conspicuously posted on a centrally located bulletin or memo so that all employees may read it.

4. Defendants shall comply with the provisions of the Act and they shall not, contrary to Section 11(c)(1) of the Act, "discharge or in any manner discriminate against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act or has testified or is about to testify in any such proceeding or because of the exercise by such employee on behalf of himself or others of any

right afforded by this Act.” 29 U.S.C. § 660(c)(1).

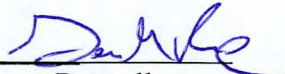
It is further ORDERED that each party bear its or his own attorneys’ fees, costs and other expenses incurred by such party in connection with any stage of this proceeding, including, but not limited to, attorneys’ fees which may be available under the Equal Access to Justice Act, as amended.

SIGNED this 7<sup>th</sup> day of February, 2018.

  
UNITED STATES MAGISTRATE JUDGE

Defendants waive their defenses to Plaintiff's Complaint and consent to the entry of this judgment:

By:

/s/   
George Rozzell

Partner

Keith, Miller, Butler, Schneider & Pawlik PLLC  
224 South 2nd St.  
Rogers, AR 72756  
479 621-0006

ATTORNEYS FOR DEFENDANTS

Plaintiff moves for entry of this judgment:

KATE S. O'SCANNLAIN  
Solicitor of Labor

JAMES E. CULP  
Regional Solicitor

CONNIE M. ACKERMANN  
Deputy Regional Solicitor

By:



BRIAN L. HURT  
Senior Trial Attorney

U. S. Department of Labor  
Office of the Solicitor  
525 Griffin Street, Suite 501  
Dallas, Texas 77202  
(972) 850-3100 (Telephone)  
(972) 850-3101 (Telecopy)

By:



/s/   
KIM CARNAHAN  
Complainant

RSOL Case No. 0610-16-00802

**EXHIBIT A**

**NOTICE TO EMPLOYEES**

1. It is unlawful for an employer to discharge or in any manner discriminate against any employee for the following reasons:
  - Because the employee has filed a complaint with OSHA.
  - Because the employee has testified or is about to testify in an OSHA proceeding.
  - Because of the employee has exercised any right afforded by the Occupational Safety and Health Act either on his own behalf or on behalf of another any person, including making complaints to an employer about potential safety and health issues.
2. It is unlawful for an employer to prohibit employees from exercising any right provided to them by the Occupational Safety and Health Act. Thus, an employer cannot prohibit an employee from:
  - Contacting, speaking with, or cooperating with OSHA officials during a safety and health inspection of the employer's facilities or work sites or in the course of any official OSHA investigation.
3. It is unlawful for an employer to intimidate employees by suggesting, implying, or threatening that if the employee contacts, talks to, or cooperates with OSHA, the employee may suffer some adverse action, such as a written reprimand, suspension, demotion, or termination.

**THIS IS AN OFFICIAL NOTICE AND MUST NOT  
BE DEFACED BY ANYONE**

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Occupational Safety and Health Administration, 10810 Executive Center Dr., Danville Bldg #2, Suite 206 Little Rock, AR 72211, (501) 224-1841.

**DATE OF POSTING:** \_\_\_\_\_