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## **Maine stone-crushing plant to pay former miner to resolve US Labor Department retaliation charge**

### ***Suit claimed violations of Federal Mine Safety and Health Act's whistleblower provisions***

**ARLINGTON, Va.** – Ferraiolo Construction Inc. and owner-president John Ferraiolo, operators of the Portable Pioneer Plant in Thomaston, Maine, will provide compensation to a former employee and take other corrective action to resolve a lawsuit filed by the U.S. Department of Labor before the Federal Mine Safety and Health Review Commission.

The former employee, a general laborer at the stone-crushing plant, filed a complaint with the department's Mine Safety and Health Administration in November 2011 alleging that the company had terminated his employment on Sept. 30, 2011, in retaliation for his having made recurring safety complaints. MSHA's investigation found that the complainant had engaged in protected activity when he alerted the company about unresolved safety problems. Examples of this protected activity are the complainant's refusal to turn on the plant's generator until required safety guards had been installed and calling MSHA to report the company's failure to install those safety guards.

As part of the settlement reached in the case, the former employee will receive \$6,000 in back wages.

Portable Pioneer Plant is a stone crushing operation that produces gravel for use by the public and cement mills and operates under MSHA jurisdiction. Section 105(c) of the Federal Mine Safety and Health Act of 1977, states that miners, their representatives and applicants for employment are protected from retaliation for engaging in safety or health-related activities, such as: identifying hazards, asking for MSHA inspections or refusing to engage in unsafe acts.

"Every miner has the right under the Mine Act to identify hazardous conditions and refuse unsafe work without fear of discrimination or retaliation," said Joseph A. Main, assistant secretary of labor for mine safety and health. "Retaliating against employees who raise safety concerns can have serious consequences for miners' safety and health if such retaliation intimidates them into remaining silent about hazards."

The Labor Department filed a [complaint](#) with the Federal Mine Safety and Health Review Commission in May 2012, seeking back wages and other remedies on behalf of the complainant. Administrative Law Judge Priscilla M. Rae has now approved a settlement, which requires the defendants to: pay the wages lost on account of the discharge, expunge from their records any reference to the complainant's termination, provide a neutral reference in response to any third party inquiries about the complainant, post a notice at the workplace that describes employees' whistleblower rights and refrain from discriminating against employees in the future. The defendants will also pay a \$10,000 civil money penalty to MSHA.

"A Guide to Miners' Rights and Responsibilities Under the Federal Mine Safety and Health Act of 1977" is available on MSHA's website at [www.msha.gov/S&HINFO/minersrights/minersrights.asp](http://www.msha.gov/S&HINFO/minersrights/minersrights.asp).

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