

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
AUG 16 1998

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
WILLIE E. TUCKER, JR.,

mem

Plaintiff,

- against -

**STIPULATION AND
ORDER OF
SETTLEMENT AND
DISCONTINUANCE**

NEW YORK CITY DEPT. OF TRANSPORTATION,

95 Civ. 2487 (ERK) (CLP)

Defendant.
-----X

WHEREAS, plaintiff Willie E. Tucker, Jr. commenced this action by filing a complaint on or about July 7, 1995, alleging that defendant the New York City Department of Transportation ("defendant") violated his civil rights; and

WHEREAS, has denied any and all liability arising out of plaintiff's allegations; and

WHEREAS, the parties now desire to resolve the issues raised in this litigation, without further proceedings and without admitting any fault or liability;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, as follows:

1. The above-referenced action is hereby dismissed, with prejudice, and without costs, expenses, or fees in excess of the amount specified in paragraph "2" below.
2. Defendant hereby agrees to restore plaintiff to the position of probationary Supervisor Highway Repairer in the Department of Transportation. Plaintiff agrees that upon restoration as a probationary Supervisor Highway Repairer (Department of Transportation), he will serve the remaining period of his probation plus, on a day-for-day basis, as provided for

c/m

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in City Personnel Director Rule 5.2.8. (b), any time during which plaintiff “does not perform the duties of the position”. Prior to plaintiff’s restoration, the New York City Department of Personnel shall create a special eligible list for the position of Supervisor Highway Repairer in the Department of Transportation, place plaintiff’s name on it and certify that special eligible list to the Department of Transportation to effect the terms of this Stipulation and Order of Settlement and Discontinuance. If feasible, plaintiff will be assigned to the Flatbush Yard in Brooklyn. In consideration for this, plaintiff agrees to dismissal of all the claims against the defendant and to release all defendants, any present or former employees or agents of the New York City Department of Transportation, and the City of New York from any and all liability, claims, or rights of action arising from and contained in the complaint in this action, including claims for costs, expenses and attorney fees.

3. Plaintiff shall execute and deliver to defendant’s attorney all documents necessary to effect this settlement, including, without limitation, a release based on the terms of paragraph 2 above and an Affidavit of No Liens.

4. Nothing contained herein shall be deemed to be an admission by the defendant that it has in any manner or way violated plaintiff’s rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the United States, the State of New York, the City of New York, or the New York City Department of Transportation, or any other rules, regulations or bylaws of any department or subdivision of the City of New York. This stipulation shall not be admissible in, nor is it related to, any other litigation or settlement negotiations.

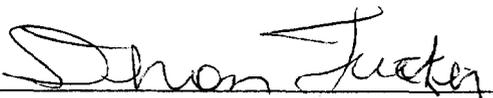
5. Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York or the New York City Department of Transportation.

6. This Stipulation and Order contains all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation and Order regarding the subject matter of the instant proceeding shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

Dated: New York, New York
June 23, 1998

DERON TUCKER, ESQ.
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By: 

By: 
ANNA H. ZETLIN
Assistant Corporation Counsel
AZ3778

SO ORDERED:


U.S.M.J.
8/14/98