

July 26, 2021

**STATE OF VERMONT
DEPARTMENT OF LABOR**

Donald Fales

v.

State File No. HH-00493

Walker & Co. Roofing and
Construction, LLC and Daniel Systo

RULING ON CLAIMANT'S MOTION TO DISMISS

Claimant filed a workers' compensation claim for injuries arising out of and in the course of his employment with Defendant Walker & Co. Roofing and Construction, LLC. Defendant did not have a workers' compensation insurance policy in force at the time of the accident. Accordingly, Daniel Systo, the principal of Walker & Co. Roofing and Construction, LLC, is personally liable for any workers' compensation benefits due and payable to Claimant. 21 V.S.A. § 687(b).

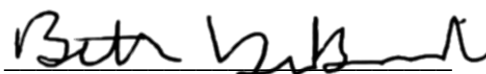
Claimant subsequently brought a related civil action in Vermont Superior Court against a different named defendant. He has now settled the Superior Court action. Claimant's attorney has informed the Department that, as part of that resolution, Claimant has released Defendants from all claims that he has against them, including the above-captioned workers' compensation claim. Claimant states that his workers' compensation claim is therefore moot, and he requests dismissal with prejudice.

Defendants have raised a concern that this claim may be finally resolved only by the parties filing a Compromise Agreement (Form 16) with the Department. Although that is the procedure for a full and final settlement of a workers' compensation claim under Workers' Compensation Rule 13, the matter here comes to the Department on a different procedural posture. Here Claimant has reached a settlement of a Superior Court action pursuant to which he has released Defendants from certain claims, including this workers' compensation claim. *See Claimant's Motion to Dismiss*. Accordingly, dismissal with prejudice is an appropriate way to finally resolve this workers' compensation claim.

ORDER

Claimant's workers' compensation claim against Defendants, state file number HH-00493, is hereby **DISMISSED WITH PREJUDICE**.

DATED at Burlington, Vermont, this 26th day of July 2021.



Beth A. DeBernardi
Administrative Law Judge