

**UNITED STATES DEPARTMENT OF LABOR  
OFFICE OF ADMINISTRATIVE LAW JUDGES  
COVINGTON DISTRICT OFFICE**

**Issue Date: 07 December 2023**

*In the Matter of:*

**AUTAVEA BASEY,**  
*Complainant,*

v.

**DAIRY FARMERS OF AMERICA, INC.,**  
*Respondent.*

**CASE NO.: 2022-CAR-00002**

**OSHA NO.: 6-1730-21-243**

**CHRISTINE HILLEREN-WILKINS**  
Administrative Law Judge

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**DECISION AND ORDER APPROVING SETTLEMENT AGREEMENT,  
DISMISSING COMPLAINT WITH PREJUDICE,  
AND GRANTING JOINT MOTION FOR LEAVE TO FILE SETTLEMENT  
DOCUMENTATION UNDER SEAL**

This matter arises from a Complaint filed under the employee-protection provisions of the Criminal Antitrust Anti-Retaliation Act (“CAARA”).<sup>1</sup> The Parties filed a *Notice of Settlement, Stipulation of Dismissal, and Withdrawal of Claims* on November 3, 2023, subsequently filing their redacted Settlement Agreement on November 8, 2023 and their *Joint Motion for Leave to File Settlement Documentation Under Seal* on November 20, 2023. In the foregoing filings, the Parties present their Settlement Agreement for approval, request dismissal of this matter with prejudice, and request that the portion(s) of the Settlement Agreement related to specific settlement terms remain confidential and sealed from public view. The Parties argue that sealing is necessary given the Settlement Agreement’s significant consideration of confidentiality, and that maintaining confidentiality of specific settlement terms serves the privacy interests of all involved parties and promotes the amicable resolution of claims.<sup>2</sup>

The proposed Settlement Agreement is subject to court approval under 29 C.F.R. § 1991.111<sup>3</sup> and 29 C.F.R. § 18.71(a).<sup>4</sup> After reviewing the Parties’ Settlement Agreement, the undersigned

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<sup>1</sup> 15 U.S.C. § 7a-3.

<sup>2</sup> *Joint Motion for Leave to File Settlement Documentation Under Seal* (November 20, 2023), pp. 1-2. The Parties submitted an unredacted version of their Settlement Agreement to the undersigned via confidential e-mail filing, also filing a redacted copy thereof via the Electronic Filing Service (“EFS”) for public view within the Office of Administrative Law Judges (“OALJ”) Case Tracking System (“CTS”).

<sup>3</sup> At any time after the filing of objections to the Assistant Secretary’s findings and/or order, the case may be settled if the participating parties agree to a settlement and the settlement is approved by the ALJ if the case is before the ALJ. 29 C.F.R. § 1991.111(d)(2).

finds that the terms appear to be fair, adequate, reasonable, and not contrary to the public interest. Accordingly, the Parties' request for approval of their Settlement Agreement and dismissal of the Complaint with prejudice are granted.

To the extent that the Settlement Agreement contains provisions that may relate to actions by Complainant or Respondent under any other statutes except CAARA, this Order makes no determination regarding the propriety of such provisions. The undersigned's authority over settlement agreements is limited to the statutes that are within the jurisdiction of the Office of Administrative Law Judges as set forth in the applicable statute. Accordingly, the undersigned's approval of the settlement extends only to the terms of the Settlement Agreement pertaining to Complainant's CAARA case.

The Parties have further requested to seal portions of their Settlement Agreement.<sup>5</sup> 29 C.F.R. § 18.85 sets forth a presumption of public access to materials filed with the Court and allows the judge to seal records in derogation of that presumption only after meeting certain conditions.<sup>6</sup> In order to keep an agreement confidential, the judge must state the findings explaining why the reasons to seal the agreement outweigh the presumption of public access.<sup>7</sup> Moreover, even should the judge issue an order sealing a portion of the records, the sealed records "remain subject to statutes and regulations pertaining to public access to agency records."<sup>8</sup>

After considering the facts of the case, the terms of the proposed Settlement Agreement, and the Parties' arguments in support thereof, the undersigned concludes that good reason exists to seal the proposed portion(s) of the Settlement Agreement related to specific terms<sup>9</sup> as confidential commercial information, given the Agreement's key component of confidentiality for purposes of privacy interests and the amicable resolution of claims. This notwithstanding, however, all of the Parties' submissions in this matter, including the Settlement Agreement, become part of the record of the case and thus are potentially subject to disclosure under the Freedom of Information Act ("FOIA").<sup>10</sup> If a FOIA request is made for the Settlement Agreement in this matter, the U.S. Department of Labor will determine whether to exercise its discretion to claim any applicable exemption. The Parties are entitled to pre-disclosure notification rights under 29 C.F.R. § 70.26 in the event of a FOIA request and review.

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<sup>4</sup> 29 C.F.R. § 18.71(a) provides that "[w]hen the applicable statute or regulation requires it, the parties must submit a settlement agreement for the judge's review and approval."

<sup>5</sup> The Parties' request to this effect is construed as an assertion of their pre-disclosure notification rights pursuant to 29 C.F.R. § 70.26.

<sup>6</sup> 29 C.F.R. § 18.85(b). On motion of any interested person or the judge's own, the judge may order any material that is in the record to be sealed from public access. The motion must propose the fewest redactions possible that will protect the interest offered as the basis for the motion. A redacted copy or summary of any material sealed must be made part of the public record unless the necessary redactions would be so extensive that the public version would be meaningless, or making even a redacted version or summary available would defeat the reason the original is sealed. *Id.*

<sup>7</sup> See 29 C.F.R. § 18.85(b)(2); *see also Furlong-Newberry v. Exotic Metals Forming Co.*, ARB No. 22-0017, ALJ No. 2019-TSC-00001, slip op at \* 26-27 (ARB Nov. 9, 2022).

<sup>8</sup> 29 C.F.R. § 18.85(b)(2).

<sup>9</sup> Designated by redaction within the Settlement Agreement copy entered into the CTS record on November 8, 2023.

<sup>10</sup> 5 U.S.C. § 552(a).

**ORDER**

The Parties' *Joint Motion for Leave to File Settlement Documentation Under Seal* is **GRANTED**, and the Parties' corresponding executed Settlement Agreement is **APPROVED**. The Complaint is **DISMISSED WITH PREJUDICE**.

Pursuant to 29 C.F.R. § 18.85(b), a redacted copy of the sealed Settlement Agreement has been made part of the public record within the OALJ Case Tracking System. The unredacted Settlement Agreement containing the confidential terms has been sealed and marked with a Sealing Notice, and will remain confidential in a private OALJ electronic network file folder unless released as required by law. The unredacted Settlement Agreement should not be unsealed except by authorized appellate authorities or pursuant to a properly processed request under FOIA. If the Settlement Agreement document is the subject of a FOIA request, the individual processing the request and contemplating unsealing the Settlement Agreement shall apply the terms of this Order and ensure the Parties in this matter receive written notice of the intent to unseal and release this document as required by FOIA and 29 C.F.R. § 70.26.

**So ORDERED in Covington, Louisiana, on December 7, 2023.**

**CHRISTINE HILLEREN-WILKINS**  
Administrative Law Judge