



**Issue Date: 31 July 2013**

**CASE NO: 2012-FRS-00048**

*In the Matter of:*

**CHRISTIAN M. PISUT,**  
*Complainant,*

v.

**ILLINOIS CENTRAL RAILROAD,**  
*Respondent.*

**ORDER APPROVING SETTLEMENT AGREEMENT**

This matter arises under the employee protection provisions of the Federal Rail Safety Act, 49 U.S.C. § 20109 (“FRSA”), as amended by Section 1521 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (“9/11 Act”), Pub. L. No. 110-53 (Aug. 3, 2007) and Section 419 of the Rail Safety Improvement Act of 2008 (RSIA), Pub. L. No. 110-432 (Oct. 16, 2008). Complainant Christian Pisut (“Complainant”) alleged that Respondent Illinois Central Railroad (“Respondent”) discriminated against and ultimately terminated him in violation of the FRSA.

Complainant filed objections to the Occupational Health and Safety Administration’s (“OSHA”) findings on July 9, 2012. This case was duly docketed, and eventually set for a hearing to commence on May 22, 2013. Prior to the hearing, however, the parties notified this Office that they had reached a settlement agreement and would be submitting a final executed agreement shortly. In a letter dated July 18, 2013, the parties submitted a fully executed Confidential Settlement and Release Agreement and Release of All Claims for approval.

The FRSA rules of procedure for administrative proceedings are set forth in 29 C.F.R. Parts 18 and 1979. *See* 29 C.F.R. § 1979.107(a) (applying OALJ’s Rules of Practice and Procedure, 29 C.F.R. Part 18, to proceedings when not otherwise provided for in Part 1979). Section 18.9(d), 29 C.F.R., states that an administrative law judge shall accept a settlement agreement if he or she is “satisfied with its form and substance.”

Upon review of the Settlement and Release Agreement, I find that its terms are fair, adequate, and reasonable, and do not contravene the public interest. However, it appears to be a global settlement purporting to dispose of claims in addition to the claim brought under the FRSA. My authority to approve the settlement agreement is limited to matters that are before me

– that is, to approve the settlement agreement only insofar as it resolves the complaint under the FRSA. My approval should not be construed as approval of the resolution of any claims brought under any other federal statute or under state law.

In addition, I construe paragraph 10, stating that the agreement and release "shall be governed by Illinois law" as not limiting the authority of the Secretary of Labor or any Federal court, which shall be governed in all respects by the laws and regulations of the United States.<sup>1</sup>

Finally, the parties agree that the settlement agreement should be confidential, and have requested that I order it sealed and remain confidential. The Freedom of Information Act, 5 U.S.C. § 552, *et seq.* (1988) (FOIA), requires federal agencies to disclose requested documents unless they are exempt from disclosure. *Faust v. Chemical Leaman Tank Lines, Inc.*, Case Nos. 92-SWD-2 and 93-STA-15, ARB Final Order Approving Settlement and Dismissing Complaint, March 31, 1998. The records in this case are agency records which must be made available for public inspection and copying under the Freedom of Information Act. However, the employer will be provided a pre-disclosure notification giving the employer the opportunity to challenge any such potential disclosure. In the event the Agreement is disclosed, pursuant to 5 U.S.C. Section 552, *et seq.*, such disclosure is not a violation of the agreement and will not result in a violation of the agreement.

Accordingly, with the reservations noted above and limiting my approval to the claim brought under the FRSA, IT IS ORDERED:

1. The Confidential Settlement and Release Agreement and Release of All Claims is APPROVED; and
2. This matter is DISMISSED WITH PREJUDICE.

**SO ORDERED.**

**PAUL C. JOHNSON, JR.**

Associate Chief Administrative Law Judge

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<sup>1</sup> *Phillips v. Citizens' Ass'n for Sound Energy*, 1991-ERA-025, slip op. at 2 (Sec'y Nov. 4, 1991).