

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 05 August 2013

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CASE NO.: 2012 FRS 00034
OSHA CASE NO.: 4-1510-11-010

In the Matter of:

JIMMY WISE,
Complainant,

v.

FLORIDA EAST COAST RAILWAY, LLC.,
Respondent.

.....

**Order Approving Settlement
and Dismissing**

This matter arises under the employee protection provisions of the Federal Rail Safety Act of 2007, Title 49 United States Code Section 20109. On October 26, 2012, the parties in the above-captioned matter advised that they had settled their dispute, requested that the hearing scheduled to convene on November 1, 2012, be canceled. On July 10, 2013, the parties submitted a Release and Settlement resolving their dispute. Both parties were represented by counsel in this proceeding, and Complainant confirmed that he understands the terms of the agreement and accepts its terms.

Having reviewed the Release and Settlement agreement, I find that the provisions are fair, adequate, and not contrary to the public interest.¹ Accordingly, the agreement will be approved pursuant to Section 29 C.F.R. 1982.111 (d)(2). Therefore;

¹ See, Macktal v. Secretary of Labor, 923 F.2d 1150, 1153-54 (5th Cir. 1991); Thompson v. U.S. Dep't of Labor, 885 F.2d 551, 556 (9th Cir. 1989); Fuchko and Yunker v. Georgia Power Co., 89-ERA-9, 89-ERA-10 Secy, Mar. 23, 1989) and Heffley v. NGK Metals Inc., 89-SDW-2 (Secy, Mar. 6, 1990).

ORDER

IT IS ORDERED that the Release and Settlement Agreement be, and it hereby is, approved, and;

IT IS FURTHER ORDERED that the complaint filed by Jimmy C. Wise be, and it hereby is, dismissed with prejudice.

STUART A. LEVIN
ADMINISTRATIVE LAW JUDGE