

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 04 April 2012

Case No.: **2010-STA-00060**

In the matter of

STEVEN BEVERLY,
Complainant

v.

DAVIS TRANSFER COMPANY and
TRANSPORT LABOR CONTRACT / LEASING, INC.,
Respondents

DECISION AND ORDER APPROVING SETTLEMENT AND DISMISSING CASE

This proceeding involves a complaint under the “whistleblower” employee protection provisions of Section 405 of the Surface Transportation Assistance Act of 1982 (the Act), as amended, 49 U. S. C. Section 31105 (formerly 49 U. S. C. § 2305), and its implementing regulations found at 29 C. F. R. Part 1978. Section 405 of the Act provides protection from discrimination to employees who report violations of commercial motor vehicle safety rules or who refuse to operate a vehicle when the operation would be a violation of these rules.

The Act and implementing regulations provide that a proceeding under the Act may be ended prior to entry of a final order by a settlement agreement between the parties. 49 U.S.C. §311105(b)(2)(C); 29 C.F.R. § 1978.111(d)(2). The Administrative Law Judge’s role in reviewing the parties’ settlement agreement is limited to ascertaining whether the terms of the agreement fairly, adequately and reasonably settle the Complainant’s allegations that the Respondent violated the Act. Ass’t Sec’y & Zurenda v. Corporate Express Delivery Systems, Inc., ARB No. 00-04 1, OALJ No. 1999-STA-30 (ARB March 31, 2000) (Zurenda); Champlin v. Florilli Corp., OALJ No. 199 1-STA-7 (Sec’y May 20, 1992).

Pursuant to the requirements of the Act and the implementing regulations, I have carefully reviewed the terms of the parties’ Settlement Agreement, and I have determined that it constitutes a fair, adequate and reasonable settlement of the complaint. The signed agreement is made a part of the formal file.

ACCORDINGLY, it is hereby **ORDERED** that:

1. The "Settlement Agreement and Release of All Claims" is **APPROVED** and
2. The appeal of Steven Beverly is **DISMISSED** with prejudice.

A

RICHARD K. MALAMPHY
Administrative Law Judge

RKM/CCB/ccb
Newport News, Virginia