

U.S. Department of Labor

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Issue Date: 19 December 2013

OALJ Case No.: 2013-STA-00051
OSHA Case No. 5-1470-11-018

In the Matter of:

**ASSISTANT SECRETARY OF LABOR FOR
OCCUPATIONAL SAFETY AND HEALTH,**
Prosecuting Party,

and

LARRY BRICCO,
Complainant,

v.

**ACT CARRIERS, LLC, DENNIS R. HOFFMAN,
ANDREA S. HOFFMAN, RED OVAL REPAIR, LLC,
JOHN DOE, AND MARY ROE,**
Respondents.

**DECISION AND ORDER APPROVING SETTLEMENT AND
DISMISSING PROCEEDING WITH PREJUDICE**

This is a case brought under the employee protection provisions of the Surface Transportation Assistance Act, 49 U.S.C. §31105 as amended in 2007 (“STAA”), and the applicable regulations at 29 C.F.R. Part 1978. A hearing was scheduled for October 10, 2013, in Eau Claire, Wisconsin. On September 30, 2013, I spoke to counsel for Complainant, who informed me that the parties had reached a settlement and that counsel would request that this hearing be cancelled. I then received a written notice of settlement and a motion to vacate the October 10, 2013 hearing on October 1, 2013. Chief Administrative Law Judge Purcell granted this motion on October 4, 2013 (he did so because I was then furloughed due to the government shutdown) and ordered that a settlement agreement be submitted by October 25, 2013.

On December 12, 2013, I received Complainant’s Unopposed Motion to Approve Settlement and Dismiss Proceeding with Prejudice (“Motion”), dated December 6, 2013, and the parties’ Settlement Agreement and Mutual Release of All Claims (“Settlement Agreement”). Under 29 C.F.R. § 1978.111(d)(2), if a matter is before an administrative law judge, a settlement

must be approved by that administrative law judge. I must therefore review the Settlement Agreement to determine if I should approve it.

Counsel for Complainant, an experienced STAA litigator, “represents that the settlement is fair, adequate, and reasonable” and that “Respondents do not oppose th[e] [M]otion.” (Motion, at 1.) Moreover, the parties have acknowledged and agreed that “the consideration described in ... [the Settlement Agreement] is adequate and sufficient for the release contained in this Agreement,” that they “entered into ... [the Settlement Agreement] freely and voluntarily, and with full understanding of its terms” and that they “have had the opportunity to have legal counsel review and approve” the Settlement Agreement. (Settlement Agreement, at 1-2).

I have reviewed the Settlement Agreement and find that it was entered into voluntarily and not under duress, that it constitutes a fair, adequate, and reasonable settlement of Complainant’s allegations that Respondents violated the STAA, and that it is in the public interest. Accordingly, the Settlement Agreement is APPROVED and this proceeding, OALJ Case No. 2013-STA-00051, is DISMISSED WITH PREJUDICE.

The terms and conditions of the Settlement Agreement are hereby adopted, approved, and incorporated by reference into this decision and order.

SO ORDERED.

PAUL R. ALMANZA
Administrative Law Judge

Washington, D.C.