**U.S. Department of Labor**

Office of Administrative Law Judges
90 Seventh Street, Suite 4-800
San Francisco, CA 94103-1516

(415) 625-2200
(415) 625-2201 (FAX)

**Issue Date: 08 October 2015**

CASE NO.: 2014-STA-00019

*In the Matter of:*

BURTON BLAIR,
Complainant,

vs.

WESTERN STATES INTERMODAL, INC.,
INTERMODAL TRANSPORTATION SERVICES, INC.,
AND RANDY BELLFLOWER,
Respondents.

## DECISION AND ORDER APPROVING SETTLEMENT

This matter is before me on a request by Burton Blair, the Complainant, for a hearing before the Office of Administrative Law Judges ("OALJ") under the employee protection provision of the Surface Transportation Assistance Act of 1982 ("STAA"), 49 U.S.C. § 31105, as amended by the Implementing Recommendations of the 9/11 Commission Act of 2007, Pub. L. No. 110-53, and the regulations promulgated at 29 C.F.R. Part 1978. The STAA prohibits covered employers from discharging or otherwise discriminating against employees who have engaged in certain protected activities with regard to their terms and conditions of employment.

The Complainant filed a complaint with the Secretary of Labor on February 1, 2011, alleging that he had been terminated by the Respondent, Western States Intermodal, Inc., after engaging in protected activity. The Regional Administrator for OSHA issued a determination on December 5, 2013, finding that the Complainant failed to cooperate with the investigation and dismissed his complaint. The Complainant filed a timely request for a hearing on December 12, 2013.

I scheduled this case for a hearing on July 8, 2014, to take place in San Francisco, CA. I vacated the hearing on July 21, 2014, after being advised that the parties had reached a settlement. On October 5, 2015, I received a settlement agreement signed by both parties which memorializes the terms of their agreement.

Pursuant to § 31105(b)(2)(C) of the STAA, "[b]efore the final order is issued, the proceeding may be ended by a settlement agreement made by the Secretary, the complainant, and

the person alleged to have committed the violation." Under regulations implementing the STAA, the parties may settle a case at any time after the filing of objections to the Assistant Secretary's findings "if the participating parties agree to a settlement and the settlement is approved by the ALJ… ." 29 C.F.R. § 1978.111(d)(2). Under the STAA a settlement agreement cannot become effective until its terms have been reviewed and determined to be fair, adequate, and reasonable, and in the public interest. *Tankersly v. Triple Crown Services, Inc.*, 1992-STA-8 (Sec'y Feb. 18, 1993).

I have reviewed the Settlement Agreement and Release of Claims filed by the parties on October 5, 2015, and find it to be fair, reasonable, and adequate and have determined that it constitutes a fair, adequate and reasonable settlement of the complaint and is in the public interest.

Accordingly, the Settlement Agreement is hereby APPROVED and the complaint is DISMISSED WITH PREJUDICE. Pursuant to 29 C.F.R. § 1978.111(e), my approval of the Release and Settlement Agreement becomes the final order in this case.

Digitally signed by William Dorsey
DN: CN=William Dorsey,
OU=Administrative Law Judge, O=US
DOL Office of Administrative Law
Judges, L=San Francisco, S=CA, C=US
Location: San Francisco CA

WILLIAM DORSEY
Administrative Law Judge