



Issue Date: 22 June 2016

**CASE NO: 2015-STA-00013**

*In the Matter of:*

KEITH WAKER ,  
*Complainant,*

v.

CAPACITY TRANSPORT,  
*Respondent.*

**ORDER APPROVING SETTLEMENT**

This matter was scheduled for a hearing to commence on March 23, 2016 in Saline, Michigan. Shortly before the hearing, the parties advised that they had reached a settlement. When the hearing was called, counsel for Complainant confirmed that they matter had resolved. The parties were granted time to submit their settlement agreement for approval. After they did not do so, a member of my staff contacted the parties to request that the settlement agreement be submitted for review. In response, a .pdf file of the settlement agreement, containing the signatures of Complainant and of a representative of Respondent, was forwarded by email. As the settlement agreement included a resolution of attorney's fees, I determined that the .pdf document submitted was not sufficient because it was not signed by counsel. Again, a member of my staff contacted the parties to request that the settlement agreement be submitted by mail, including the signatures of the parties and of counsel. Instead, a document indicating that counsel for Complainant agreed with the settlement agreement "in form and substance" was submitted by email. By Order dated June 8, 2016, I advised the parties that the settlement had not been approved, and directed that they submit a fully-executed settlement agreement within 10 days.

Instead of complying with the June 8, 2016 Order, the parties filed a Joint Motion to Dismiss with Prejudice or in the Alternative to Withdraw Charging Party's Objections to the Assistant Secretary's Findings and/or Preliminary Order. By Order dated June 15, 2016, I denied that motion.

On June 16, 2016, the parties filed a copy of the settlement agreement<sup>1</sup>, executed by Mr. Waker and including a statement by his counsel that he agreed with Paragraphs 8 and 9 of the

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<sup>1</sup> My Order denying the parties' motion to dismiss, or to withdraw objections to the findings of the Assistant Secretary, was signed on June 15 and faxed to counsel for both parties on the same day. The settlement agreement was filed under cover letter dated June 15, 2016, and as counsel stated that no ruling on the parties' motion to dismiss or to withdraw objections had been received, it is clear that it crossed in the "mail" with my Order of June 15.

settlement agreement. Those paragraphs refer to certain actions by counsel required under the settlement agreement, as well as the payment of attorney's fees by Respondent. This copy of the settlement agreement, however, does not include the signature of a representative of Respondent. Rather than string this matter out any further, I have printed the .pdf copy of the settlement agreement, which does include the signature of Respondent's CEO, and placed it in the file; thus, I will consider that all signatures have been obtained.

In 35 years of litigation practice, I have never encountered a situation of such recalcitrance related to such a simple matter. Counsel for both parties have, without explanation or justification, failed to comply with the explicit statutory, regulatory, and case-law requirements for settling cases under the Surface Transportation Assistance Act (STAA), and have defied my orders regarding the settlement agreement. Counsel for Respondent has refused to sign the settlement agreement, although doing so is routine in every settled case. And to what end? This reluctance to follow the law has resulted only in a delay in resolving this case; it is hard to conceive how it could have benefited any party. Counsel are admonished to comply with the law and with lawful orders in the future.

Upon review of the settlement agreement, I find that it is fair, adequate, and reasonable.

I note that the settlement agreement includes provisions that appear to constitute a global settlement purporting to dispose of claims in addition to the claim brought under the STAA. 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 STAA. My approval should not be construed as approval of the resolution of any claims brought under any other federal statute or under state law. With that understanding, I find that the settlement agreement is not contrary to law or public policy.

### **ORDER**

Based on the foregoing, IT IS ORDERED:

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

**SO ORDERED.**

PAUL C. JOHNSON, JR.  
District Chief Administrative Law Judge

PCJ/ard  
Newport News, Virginia