



**Issue Date: 24 April 2017**

Case Nos.: 2016-STA-00030  
2016-STA-00033  
OSHA Case No: 4-1221-14-009

*In the Matter of:*

PHILLIP D. SMITH, HOWARD L. DURHAM,  
BILLY K. CAVE, JASON M. CARL, AUNDRAY K. STEWART,  
MARK A. BOWERSOCK, JESSIE R. MINOR, and  
DENNIS R. JORDAN,  
*Complainants,*

v.

JACK COOPER TRANSPORT CO., INC, BRUCE WELTCH,  
LASHAY COOPER, TONYA BROWN, MILTON RITCHIE,  
CURTIS GOODWIN, DENNIS GUILLIAM, STEVE DIGGS,  
JOHN DOE and MARY ROE,  
*Respondents.*

**DECISION AND ORDER APPROVING SETTLEMENT AGREEMENT  
AND DISMISSING COMPLAINT**

This proceeding arises from a claim of whistleblower protection under the Surface Transportation Assistance Act (“the STAA”), as amended.<sup>1</sup> The Complainants herein filed a complaint alleging that Respondents violated the STAA. On April 21, 2017, the parties filed a “Settlement Agreement and Release of all Claims” (hereafter “the Agreement”), which resolves all issues raised in the Complaint, for review and approval by the undersigned administrative law judge. The Agreement is attached hereto and is incorporated herein by reference. The Agreement has been signed by the parties. I have the authority to approve the Agreement pursuant to 29 C.F.R. § 1978.111(d)(2).

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<sup>1</sup> 49 U.S.C. § 31105 (2013).

My review of the Agreement is limited to a determination of whether its terms are fair, adequate and reasonable. The settlement must adequately protect the whistleblower. Furthermore, the settlement must not be contrary to public interest. The Agreement may encompass settlement of matters under laws other than the STAA; however, I approve only those terms of the Agreement pertaining to the Complainants' claim under the STAA.

The Agreement includes a provision regarding confidentiality of its terms (paragraph 10). Because the Office of Administrative Law Judges is a government agency, and this is a public proceeding, the parties' submissions in this case, including the Agreement, become a part of the record in this case, and are subject to the Freedom of Information Act ("FOIA").<sup>2</sup> FOIA requires agencies to disclose requested records unless they are exempt from disclosure under FOIA. *See, e.g., Fish v. H and R Transfer*, ARB No. 01-071, ALJ Case No. 2000-STA-56, slip op. at 2 (ARB April 30, 2003).

After consideration of the Agreement, I find that the terms and conditions are fair, adequate and reasonable under the Act, and that the terms adequately protect the Complainants. Furthermore, I believe it is in the public interest to approve the Agreement as a basis for administrative disposition of this case, and I therefore approve the Agreement.

**IT IS THEREFORE ORDERED** that the Agreement is **APPROVED**. In accordance with the terms of the Agreement, the complaint is hereby **DISMISSED WITH PREJUDICE**. In accordance with the regulations, the settlement constitutes the final order of the Secretary of Labor and may be enforced pursuant to 49 U.S.C. § 31105(e).

LARRY A. TEMIN  
ADMINISTRATIVE LAW JUDGE

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<sup>2</sup> 5 U.S.C. § 552..