



**Issue Date: 01 February 2017**

OALJ Case No.: 2016-STA-00003  
OSHA Case No.: 7-5880-15-102

*In the Matter of:*

**AVERY WILSON,**  
*Complainant,*

v.

**KIEM TS,**  
*Respondent.*

**ORDER APPROVING SETTLEMENT AGREEMENT  
AND DISMISSING THE COMPLAINT WITH PREJUDICE**

This proceeding arises under the Surface Transportation Assistance Act, 49 U.S.C. § 31105 (“STAA”), as amended by the Implementing Recommendations of the 9/11 Commission Act of 2007, Pub. L. No. 110-53, and the regulations promulgated thereunder at 29 C.F.R. Part 1978. The STAA prohibits covered employers from discharging or otherwise discriminating against covered employees who have engaged in certain protected activities with regard to their terms and conditions of employment.

On February 1, 2017, the parties filed a Settlement Agreement and Release of Claims that is signed by all parties. The Settlement Agreement is hereby incorporated by reference and made a part of the Order approving the Settlement Agreement.

Because the Office of Administrative Law Judges is a federal government agency and this is a public proceeding, the parties’ submissions in this case, including the Settlement and Mutual General Release, become a part of the record in this case and are subject to the Freedom of Information Act (“FOIA”). FOIA requires agencies to disclose requested records unless they are exempt from disclosure under FOIA. The Settlement Agreement provides that both parties will keep the existence and terms of the Settlement Agreement confidential, with certain specified exceptions. The parties have stipulated to the confidential nature of the Settlement Agreement. Accordingly, to protect the parties from improper disclosure of this confidential information, to the furthest extent permitted by law, the Settlement Agreement will be sealed in a separate envelope and identified as being “CONFIDENTIAL COMMERCIAL AND PERSONAL PRIVATE INFORMATION” pursuant to 29 C.F.R. § 70.26(b).

After careful consideration of the Settlement Agreement and Release of Claims, I find that the terms and conditions set forth therein are fair, adequate, and reasonable under the STAA.

Furthermore, I believe it is in the public interest to approve the Settlement Agreement as a basis for the administrative disposition of this case, and I therefore approve the Settlement Agreement and Release of Claims. The parties are directed to carry out the terms of the Settlement Agreement to the extent they have not already done so.

**ORDER**

**IT IS ORDERED** that the Settlement Agreement and Release of Claims submitted by the parties is **APPROVED**. The complaint is **DISMISSED WITH PREJUDICE**. In accordance with the regulations, the approved settlement constitutes the final order of the Secretary of Labor and may be enforced under 29 C.F.R. § 1982.113.

**IT IS FURTHER ORDERED** that the Settlement Agreement is to be kept under seal and designated as “PERSONAL PRIVATE INFORMATION” and “CONFIDENTIAL COMMERCIAL INFORMATION” under 29 C.F.R. § 70.26, and shall be afforded the protections thereunder.

**MORRIS D. DAVIS**  
Administrative Law Judge