



Issue Date: 27 July 2017

CASE NO.: 2017-STA-00035

In the Matter of:

RUDY FRAUSTO,
Claimant,

v.

COAST TO COAST LOGISTICS, LLC and
ANDY MICHLER,
Respondents.

ORDER APPROVING SETTLEMENT

A hearing in the above-captioned matter is scheduled to begin on October 11, 2017 in Grand Rapids, Michigan. On July 25, 2017, the parties submitted an executed Settlement Agreement and General Release. My review is limited to whether the terms of the settlement are a fair, adequate and reasonable settlement of Complainant's allegations that Respondent violated the Surface Transportation Assistance Act. *Kidd v. Sharron Motor Lines, Inc.*, 87-STA-2 (Sec'y July 30, 1987); *Poulos v. Ambassador Fuel Oil Co.*, Case No. 86-CAA-1, Sec. Ord., Nov. 2, 1987, slip op. at 2.

The Settlement Agreement provides that Complainant agrees to release Respondent from "known and unknown" claims arising under not only the Surface Transportation Act, but numerous other employee-protection and civil rights statutes, as well as general tort law, common law, and constitutional claims, and releases Respondent from claims for attorney's fees. *See* Settlement Agreement, Paragraph 4. That section might be construed as a waiver by Complainant of a cause of action arising in the future, unless it is construed as being modified by further language which limits the waiver to causes "as of the date [of] this Agreement and General Release...." The provision must be interpreted as being limited to the right to sue in the future on claims or causes of action arising out of facts or any set of facts occurring before the date of the agreement. *Bittner v. Fuel Economy Contracting Co.*, Case No. 88-ERA-22, Sec. Ord. Approving Settlement Agreement and Dismissing Complaint (June 28, 1990), Slip op. at 2.

In addition, Paragraph 13 requires the existence and terms of the Settlement Agreement to be kept confidential. The Freedom of Information Act, 5 U.S.C. Section 552, *et seq.* (1988) (FOIA), requires federal agencies to disclose requested documents unless they are exempt from disclosure. *Faust v. Chemical Leaman Tank Lines, Inc.*, Case Nos. 92-SWD-2 and 93-STA-15, ARB Final Order Approving Settlement and Dismissing Complaint, March 31, 1998. The records in this case are agency records which must be made available for public inspection and

copying under the Freedom of Information Act. However, the employer will be provided a pre-disclosure notification giving the employer the opportunity to challenge any such potential disclosure. In the event the Agreement is disclosed, pursuant to 5 U.S.C. Section 552, *et seq.*, such disclosure is not a violation of the agreement and will not result in a violation of the agreement. The Agreement itself is not appended to this Order and will be separately maintained and marked "PREDISCLOSURE NOTIFICATION MATERIALS."

Finally, the Agreement provides that it be governed and conformed in accordance with the laws of Michigan. That provision is construed as not limiting the authority of the Secretary of Labor or any Federal court, which shall be governed in all respects by the laws and regulations of the United States. *Phillips v. Citizens' Ass'n for Sound Energy*, 1991-ERA-025, slip op. at 2 (Sec'y Nov. 4, 1991).

As so construed, noting that the parties are represented by counsel, I find the terms of the Settlement Agreement to be fair, adequate and reasonable. Accordingly, IT IS ORDERED:

1. The Settlement Agreement, as construed above, is APPROVED; and
2. The complaint filed by John J. McLean III is hereby DISMISSED.

SO ORDERED.

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

PCJ, Jr./ksw
Newport News, Virginia