



Issue Date: 14 June 2020

OALJ Case No.: 2020-STA-00009
OSHA Case No.: 6-0030-19-044

In the Matter of:

AVERY WILSON,
Complainant,

v.

XCALIBUR LOGISTICS, LLC, ET. AL,
Respondent(s).

**DECISION AND ORDER APPROVING SETTLEMENT AGREEMENT,
AND DISMISSING CLAIM**

1. Nature of Motion. This proceeding arises under the employee protection provisions of the Surface Transportation Assistance Act of 1982, as amended and recodified, 49 U.S.C. § 31105 (hereinafter the “STAA” or “Act”) and the regulations promulgated thereunder at 29 C.F.R. Part 1978. Section 405 of the STAA protects employees from discharge, discipline and other forms of retaliation for engaging in protected activity. Pursuant to 29 C.F.R. § 1978.111, the parties submitted a joint motion requesting the undersigned approve a proposed settlement agreement.

2. Case Procedural History and Settlement Agreement Review.

a. Complainant filed a complaint with the Occupational Safety and Health Administration (OSHA) alleging Respondent committed prohibited retaliation under the STAA. Respondents filed an answer to the complaint in which they denied liability committed discrimination prohibited by the STAA. The undersigned issued a Notice of Case Assignment and Prehearing Order on December 5, 2019.

b. On June 1, 2020, the parties filed a motion requesting the undersigned approve a Confidential Settlement and Release Agreement (Settlement Agreement) prepared by counsel for the parties. The settlement agreement resolves this matter without the need for a formal hearing, and it was signed by each of the parties.

c. In particular, 29 C.F.R. § 1978.111(d)(1) states that at any time after the filing of a STAA complaint and before the findings and/or order are objected to or become a final order by operation of law, the case may be settled if the Assistant Secretary, the complainant, and the respondent agree to a settlement. 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. *Edmisten v. Ray Thomas Petroleum*, ARB No. 10-020, ALJ No. 2009-STA-00036 (ARB Dec. 16, 2009). Consistent with this required review, the regulations direct the parties to file a copy of the settlement “with the ALJ or the Administrative Review Board, United States Department of Labor, as the case may be.” 29 C.F.R. 1978.111(d)(2).

d. The undersigned reviewed the factual stipulations, legal issues and obligations imposed upon each party as specifically addressed in the settlement agreement. The undersigned concludes the terms and requirements of the settlement agreement are fair, adequate, reasonable, and not contrary to public policy.

3. Ruling and Order.

a. The Settlement Agreement is APPROVED and may be enforced pursuant to 29 C.F.R. § 1978.111(e). The parties shall implement the terms as stated in the Settlement Agreement to the extent not otherwise already accomplished. This Order has the same force and effect as one made after a full hearing on the merits.

b. This case is DISMISSED with prejudice.

SO ORDERED this day at Covington, Louisiana.

TRACY A. DALY
ADMINISTRATIVE LAW JUDGE