



Issue Date: 03 March 2022

OALJ Case No.: 2021-STA-00030  
OSHA Case No.: 4-1760-20-025

*In the Matter of:*

**ELIJAH CLAYTON,**  
*Complainant*

v.

**BUTTS FOODS INC.,**  
*Respondent.*

**DECISION AND ORDER GRANTING COMPLAINANT'S UNOPPOSED MOTION  
FOR APPROVAL OF SETTLEMENT AGREEMENT AND DISMISSING THE  
COMPLAINT**

**1. Nature of Motion.** This case arises pursuant to a complaint alleging violations under the employee protective provisions of the Surface Transportation Assistance Act (STAA), 49 U.S.C. § 31105 and the implementing regulations at 29 C.F.R. Part 1978. The Act includes a whistleblower protection provision with a Department of Labor complaint procedure. Pursuant to 29 C.F.R. § 18.71(a), the complainant submitted a motion requesting the undersigned approve a proposed settlement agreement in this matter.

**2. Procedural History and Findings of Fact.**

a. On October 8, 2019, pursuant to the STAA, Complainant filed a retaliation complaint with the Occupational Safety and Health Administration (OSHA) against Respondent for terminating his employment.

b. On October 5, 2020, the Secretary, acting through the Regional Administrator and Regional Supervisory Investigator, issued findings and an order, and concluded that there was no evidence to establish Respondent retaliated against Complainant. OSHA dismissed the complaint.

c. Complainant objected to the Secretary's findings and requested a hearing before the Office of Administrative Law Judges (OALJ).

d. On April 2, 2021, the matter was reassigned to the undersigned.

e. On April 5, 2021, the undersigned issued a Notice of Case Assignment and Prehearing Order.

f. On May 14, 2021, a Notice of Hearing was issued scheduling the matter for formal hearing on November 9, 2021, in Birmingham, AL.

g. On September 15, 2021, an Amended Notice of Hearing was issued rescheduling the hearing for January 19, 2022.

h. On December 14, 2021, Complainant filed a Motion to Stay Deadlines to allow the parties to pursue mediation.

i. On December 20, 2021, an Amended Notice of Hearing was issued rescheduling the hearing for February 23, 2022.

j. On December 23, 2021, the matter was scheduled for mediation with OALJ mediator Beth Slavet.

k. On December 27, 2021, an Amended Notice of Hearing was issued rescheduling the hearing for April 6, 2022.

l. On February 3, 2022, the parties participated in a successful mediation with Mrs. Slavet.

m. On February 28, 2022, Complainant filed *Complainant's Unopposed Motion to Approve Settlement and Dismiss Proceeding with Prejudice*. The executed settlement agreement was attached with the motion.

n. The complainant's unopposed motion requested approval of a settlement agreement. The executed agreement contains the terms of the agreement and a release of claims.

### **3. Applicable Law and Analysis.**

At any time after the filing of objections to the Assistant Secretary's findings and preliminary order, the case may be settled. If the case is before an administrative law judge, the settlement is contingent upon the approval of the administrative law judge. 29 C.F.R. § 1978.111(d)(2).

Any settlement approved by the administrative law judge becomes the final order of the Secretary. 29 C.F.R. § 1978.111(e).

The undersigned reviewed and fully considered the parties' settlement agreement and all the terms contained therein. The undersigned concludes all the terms in the settlement agreement are fair, adequate, reasonable, and not contrary to public policy.

**4. Ruling and Terms of Order.** The Complainant's unopposed motion is granted, and the settlement agreement is **APPROVED**.

a. The settlement agreement shall be enforced pursuant to 29 C.F.R. § 1978.113. The parties shall implement the terms as stated in the settlement agreement, to the extent not otherwise accomplished.

b. This Order shall have the same force and effect as one made after a full hearing on the merits.

c. The complaint is **DISMISSED** with prejudice.

**SO ORDERED** this day at Covington, Louisiana.

**DAN C. PANAGIOTIS**  
**ADMINISTRATIVE LAW JUDGE**