

U.S. Department of Labor

Office of Administrative Law Judges
William S. Moorhead Federal Office Building
1000 Liberty Avenue, Suite 1800
Pittsburgh, PA 15222

(412) 644-5754
(412) 644-5005 (FAX)



Issue Date: 17 April 2023

CASE NO.: 2022-STA-00055

OSHA CASE NO.: 5-2700-22-077

In the Matter of:

BRANDON ANTER,
Complainant

v.

MARTIN TRANSPORTATION and JOLENE KERLIN,
Respondents

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

This matter involves a complaint filed under the employee protection provisions of the Surface Transportation Assistance Act (STA), 49 U.S.C. § 31105, and its implementing regulations at 29 C.F.R. Part 1978. On March 28, 2023, I received the “Complainant’s Unopposed Motion to Approve Settlement and Dismiss Proceeding with Prejudice,” (“Motion”) and the parties’ “Confidential Settlement Agreement and General Release,” (“Agreement” or “Settlement”),” respectively. The parties successfully mediated the matter and submitted the Agreement for my approval, which I reviewed on April 7, 2023.

Pursuant to 29 C.F.R. § 1978.111(d)(2) and 29 C.F.R. § 18.71, I must approve the Settlement Agreement. In reviewing the Settlement Agreement, the Administrative Law Judge (ALJ) must determine whether the terms of the Agreement fairly, adequately and reasonably settle the Complainant’s allegations that Respondent violated the STAA and are not against public policy. *See, Edmisten v. Ray Thomas Petroleum*, No. 10-020, 2009 WL 5178504 (ARB Dec. 16, 2009). Once the settlement agreement is approved, it becomes the final action of the Secretary and may be enforced pursuant to 29 C.F.R. § 1978.111(e).

I reviewed the administrative record and the Confidential Settlement Agreement and General Release executed by the parties¹. Based on my review, I find the Agreement to be fair,

¹ Although the Agreement indicates the settlement is confidential, the records in this proceeding are subject to disclosure under the Freedom of Information Act (“FOIA”). See 5 U.S.C. § 552; *Johnson v. U.S. Bancorp*, ARB No.

reasonable and adequate, determine that it constitutes a fair, adequate and reasonable settlement of the Complaint and is in the public interest. The parties also knowingly and voluntarily entered into the Agreement. Thus, the Agreement, complies with the standards required under the STAA and is **APPROVED**. As I approved the Settlement Agreement, this Order shall have the same force and effect as one made after a full hearing on the merits. I note that my authority over, and approval of, this Settlement Agreement is limited to the statutes and terms that are within my jurisdiction and authority as defined by the applicable statute.

ORDER

Accordingly, for the reasons stated above, it is **ORDERED** that:

1. The parties Confidential Settlement Agreement and General Release is **APPROVED**, and thereby becomes the final order of the Secretary and may be enforced pursuant to 29 C.F.R. § 1978.111(e);
2. Any pending motions and all hearing deadlines are **moot**;
3. Any scheduled hearing date is **cancelled**; and
2. The complaint filed by Brandon Anter, in this matter, is hereby **DISMISSED WITH PREJUDICE**.

NATALIE A. APPETTA
Administrative Law Judge

13-014, 13-046, ALJ No. 2010-SOX-00037, slip op. at 2 (ARB July 22, 2013). The Department of Labor will follow appropriate pre-disclosure notification procedures to address any assertion that an exemption to FOIA applies. *See Seater v. Southern California Edison Co.*, 1995-ERA-13 (ARB March 27, 1997) (“If an exemption is applicable to the record in this case or any specific document in it, the Department of Labor would determine at the time a request is made whether to exercise its discretion to claim the exemption and withhold the document. If no exemption is applicable, the document would have to be disclosed.”). Beyond that however, nothing about the parties’ characterization of the Agreement changes the public nature of the records which OALJ maintains in this case.

