



**Issue Date: 26 January 2022**

**OALJ Case No.: 2022-STA-00009**  
**OSHA Case No.: 6-3230-21-110**

*In the Matter of:*

**TODD HARRIS,**  
*Complainant*

v.

**CARDINAL LOGISTICS MGMT. CORP.,**  
*Respondent.*

**DECISION AND ORDER GRANTING PARTIES' JOINT MOTION FOR APPROVAL OF SETTLEMENT AGREEMENT, TO DISMISS THE COMPLAINT, AND SEAL THE PAYMENT CONDITIONS**

**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 parties submitted a motion requesting the undersigned approve a proposed settlement agreement in this matter. As part of the motion, the parties requested some terms of the settlement agreement be sealed.

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

a. On September 1, 2021, 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 November 2, 2021, the Secretary, acting through the Assistant Regional Administrator, issued findings and an order and concluded that OSHA was unable to conclude if there were reasonable cause to believe Respondent violated the statute. 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 December 14, 2021, the matter was reassigned to the undersigned.

e. On December 15, 2021, the undersigned issued a Notice of Case Assignment and Prehearing Order.

f. On January 24, 2022, the parties filed a *Joint Motion to Dismiss and Settlement and Release Agreement*.

g. The parties' motion requested approval of a settlement agreement. The executed agreement contains the settlement agreement and release of claims. The confidential financial information pertaining to the terms of payment to Complainant have been redacted. The parties have filed an un-redacted version separately and requested it not be filed in the public record.

### **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.

A request by parties to seal a portion of a settlement agreement are considered and approved by an ALJ pursuant to the requirements of 29 C.F.R. § 18.85(b)(1), which states:

On motion of any interested person or the judge's own, the judge may order any material that is in the record to be sealed from public access. The motion must propose the fewest redactions possible that will protect the interest offered as the basis for the motion. A redacted copy or summary of any material sealed must be made part of the public record unless the necessary redactions would be so extensive that the public version would be meaningless, or making even a redacted version or summary available would defeat the reason the original is sealed.

Additionally, subparagraph (b)(2) states:

An order that seals material must state findings and explain why the reasons to seal adjudicatory records outweigh the presumption of the public access. Sealed materials must be placed in a clearly marked,

separate part of the record. Notwithstanding the judge's order, all parts of the record remain subject to statutes and regulations pertaining to public access to agency records.

After considering the facts of this case and the terms of the settlement agreement the undersigned concludes good reason exists to seal the portion of the settlement agreement that addresses the specific terms of payment to Complainant. Specifically, the undersigned believes public release of this information could cause substantial harm to the competitive position of the person from whom the information was obtained.<sup>1</sup>

Notwithstanding the undersigned's above analysis and conclusions, all the parties' submissions in this matter, including the settlement agreement, become part of the record of the case. As such, they are potentially subject to the FOIA, 5 U.S.C. § 552(a). If a FOIA request is made for the settlement agreement in this matter, the U.S. Department of Labor will respond and decide whether to exercise its discretion to claim any applicable exemption. The parties are entitled to pre-disclosure notification rights under 29 C.F.R. § 70.26 if such a FOIA request and review are conducted.

**4. Ruling and Terms of Order.** The parties' joint 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 un-redacted confidential terms of payment in Agreement of the settlement agreement have been sealed and will remain confidential unless released as required by legal authority. To have the document sealed, the parties submitted an un-redacted version of Agreement separately to the undersigned via e-mail filing; it was not filed with the settlement agreement via the DOL Electronic Filing Service (EFS) or processed in the OALJ Case Tracking System (CTS).<sup>2</sup> The official electronic version of Agreement is in a private OALJ network drive folder marked "Sealed Document Cases" with a Sealed Document Notice. Authorized access to this sealed document in this matter can only be obtained by contacting the Executive Assistant of the OALJ Covington District office.

d. The unredacted version of the settlement agreement should not be unsealed except by authorized appellate authorities or pursuant to a properly processed request under the Freedom of Information Act (FOIA). If the settlement agreement document is the subject of a FOIA request, the individual processing the request and contemplating unsealing unredacted version of the

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<sup>1</sup> 29 C.F.R. § 18.85. A judge, on their own, limit the introduction of material into the record or issue orders to protect against undue disclosure of privileged communications, or sensitive or classified matters.

<sup>2</sup> EFS and CTS systems do not provide ALJs with a method for sealing a document in a case. As a result, an ALJ must use a companion private electronic network file folder to maintain sealed documents.

settlement agreement shall apply the terms of this order and ensure the parties in this matter receive written notice of the intent to unseal and release this document as required by FOIA.

e. The complaint is DISMISSED.

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

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