



Issue Date: 12 August 2022

OALJ Case No.: 2022-STA-00024
OSHA Case No. 8-0400-22-003

In the Matter of:

ERIC MAHNKE,
Complainant,

v.

JENSEN & SON, LLC, ET AL.
Respondents.

**ORDER APPROVING SETTLEMENT AGREEMENT
AND DISMISSING COMPLAINT**

This proceeding arises under the employee protection provisions of the Surface Transportation Assistance Act of 1982 (“STAA”), 49 U.S.C. § 31105, and the regulations promulgated at 29 C.F.R. Part 1978. A July 26, 2022 hearing was previously cancelled upon notice the parties had reached a settlement.

On August 11, 2022, Complainant filed *Complainant’s Unopposed Motion to Approve Settlement* and a fully executed settlement agreement for my approval.¹

The STAA and implementing regulations provide that proceedings may be terminated on the basis of a settlement if the Administrative Law Judge (“ALJ”) approves the settlement. 49 U.S.C. § 31105(b)(2)C); 29 C.F.R. § 1978.111(d)(2). 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

¹ 29 C.F.R. § 1978.111(d)(1) states that at any time after the filing of objections to the Assistant Secretary’s findings and preliminary order, the case may be settled, and, if the case is before an administrative law judge, the settlement is contingent upon the approval of the administrative law judge. Any settlement approved by the administrative law judge becomes the final order of the Secretary. 29 C.F.R. § 1978.111(e).

regulations direct the parties to file a copy of the settlement with the ALJ. 29 C.F.R. § 1978.111(d)(2).

Having reviewed the Settlement Agreement and General Release and its provisions, which include dismissal of the complaint, I find the terms, obligations, and conditions fair, adequate and reasonable, and in the public interest.² I also find that the settlements were not procured through duress.³ Accordingly, I approve the Settlement Agreement. To the extent not otherwise done so, the parties shall implement the terms of the approved settlement as specifically stated in the agreement. This Order shall have the same force and effect as one made after a full hearing on the merits.

ORDER

Accordingly, **IT IS HEREBY ORDERED** that the Settlement Agreement and General Release filed on August 11, 2022 is **APPROVED**, and thereby become the final order of the Secretary and may be enforced pursuant to 29 C.F.R. § 1978.113.

IT FURTHER ORDERED that, upon payment of the agreed consideration as set forth in the Settlement Agreement and General Release, the complaint filed is **DISMISSED, with prejudice**, and that counsel for the Complainant is allowed to withdraw as counsel of record in this matter following completion of his professional duties necessary to implementing the Settlement on behalf of his client.

SO ORDERED:

STEPHEN R. HENLEY
Chief Administrative Law Judge

² I note that each settlement agreement provides a specific allocation for attorney's fees. I find that the total amount of each settlement is fair, adequate, and a reasonable compensation of Complainant's claim and attorney's fees in this matter. I also note that the agreements provide that Complainant releases and forever discharges Respondents from liability from "any and all past, present or future claims" as of the date of execution of the Agreement. (Settlement page 1). However, this approval applies only to the STAA complaint over which the Office of Administrative Law Judges has jurisdiction.

³ Complainant and Respondents were represented by counsel.