

UNITED STATES DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES
Washington, DC

Issue Date: 16 April 2024

OALJ Case Nos: 2023-STA-00008
2023-STA-00018

OSHA Case Nos.: 301004314
301004315

In the Matter of:

JARED ASECIO and JACOB RASSO,
Complainants,

v.

UNITED NATURAL FOODS WEST, INC.,
Respondent.

**DECISION AND ORDER APPROVING SETTLEMENT AGREEMENT
AND DISMISSING COMPLAINTS**

Complainants Jared Asencio and Jacob Rasso are separately appealing determinations issued by the Department of Labor’s Occupational Safety and Health Administration on December 15, 2022, dismissing September 6, 2022 complaints alleging Respondent violated the employee protection provisions of the Surface Transportation Assistance Act of 1982 (“STAA”), 49 U.S.C. § 31105, and the implementing regulations promulgated at 29 C.F.R. Part 1978. A scheduled hearing was cancelled by separate order on January 5, 2024 upon notice that the parties were engaged in mediation.

On April 12, 2024, Complainants’ counsel filed *Unopposed Motion To Approve Settlement Agreement and Dismiss Proceeding With Prejudice* (“Motion”) and a separate *Confidential Settlement and Release Agreement* (“Settlement Agreement”) for my approval.¹

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).

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 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 its provisions, which include dismissal of the complaints, I find the terms, obligations, and conditions fair, adequate and reasonable, and in the public interest.² I also find that the settlement was not procured through duress.³ Accordingly, the Motion is GRANTED and I approve the parties’ 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.⁴

ORDER

Accordingly, **IT IS HEREBY ORDERED** that the *Confidential Settlement Agreement and General Release* filed on April 12, 2024 is **APPROVED** and thereby become the final order of the Secretary and may be enforced pursuant to 29 C.F.R. § 1978.113.

IT IS FURTHER ORDERED that, upon payment of the agreed consideration as set forth in the Settlement Agreement, the complaints are

² I note that the settlement agreement provides a specific allocation for attorney’s fees. I find that the total amount of the settlement is fair, adequate, and a reasonable compensation of Complainant’s claim and attorney’s fees in this matter. I also note that the agreement involves a waiver of “any and all manner of actions and claims and actions whatsoever, known or unknown, which he ever had or now has, or hereafter may have, based on acts or omissions occurring prior to the effective date of this Agreement.” (Settlement Agreement p. 2). However, this approval applies only to the STAA complaints over which the Office of Administrative Law Judges has jurisdiction.

³ Complainants and Respondent were represented by counsel.

⁴ The parties have agreed to keep the specific terms of the agreement confidential, subject to applicable laws. To effectuate such confidentiality, I will have the settlement agreement sealed. However, notwithstanding the parties’ agreement, the parties’ submissions, including the settlement agreement, become part of the record of the case and are subject to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552(a). If a FOIA request is made for the settlement agreement, the U.S. Department of Labor will have to respond and decide whether to exercise its discretion to claim any applicable exemption.

DISMISSED with prejudice, and that counsel for the Complainants 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 Complainants.

SO ORDERED:

STEPHEN R. HENLEY
Chief Administrative Law Judge