

UNITED STATES DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES
Newport News, VA

Issue Date: 30 August 2023

Case No.: 2023-STA-00009

In the Matter of:

BRIAN WILLESS,
Complainant,

v.

S E INDEPENDENT DELIVERY SERVICES, INC., ET AL.,
Respondents.

ORDER APPROVING SETTLEMENT AGREEMENT
AND
ORDER OF DISMISSAL

This matter arises from a complaint filed under the provisions of the Surface Transportation Assistance Act of 1982, U.S. Code Title 49, Section 31105, as amended by the Implementing Recommendations of the 9/11 Commission Act of 2007, Pub. L. No. 110-53 ("STAA"). It is governed by the implementing regulations found in 29 CFR Part 1978.

On August 25, 2023, the parties submitted a *Confidential Settlement Agreement and General Release* for review, together with *Complainant's Unopposed Motion to Approve Settlement and Dismiss Proceeding With Prejudice*.

Upon review of the settlement agreement, I find that its terms are fair, adequate, and reasonable, and do not contravene the public interest.

The settlement includes a General Release (paragraph 4) and a waiver (paragraph 17) releasing claims in addition to the claim brought under the STAA. My authority to approve the settlement agreement is limited to matters that are before me – that is, to approve the settlement agreement only insofar as it resolves Mr. Willess' complaints under the STAA. My approval should not be construed as approving the resolution of any claims brought under any other federal statute or under state law. This reservation is not intended to address the effectiveness of the settlement or release with respect to other claims, and the parties are not precluded from raising the settlement agreement in the course of other proceedings, if any arise.

The parties agree that the terms of the settlement agreement shall be kept confidential (paragraph 11). The parties state their understanding that this binds only the parties, and does not bind the U.S. Department of Labor (DOL) or prohibit disclosures made by DOL pursuant to the Freedom of Information Act (FOIA). FOIA requires federal agencies to disclose requested documents unless they are exempt from disclosure. *Faust v. Chemical Leaman Tank Lines, Inc.*, Case Nos. 92-SWD-2 and 93-STA-15, ARB Final Order Approving Settlement and Dismissing Complaint, March 31, 1998. In the event the Agreement is disclosed pursuant to FOIA, such disclosure is not a violation of the agreement.

I construe paragraph 22, stating that the agreement and general release “shall be interpreted and enforced in accordance with the laws of the State of Tennessee, without regard to the choice-of law rules of Tennessee or any other jurisdiction,” as not limiting the authority of the Secretary of Labor or any Federal court, which shall be governed in all respects by the laws and regulations of the United States.

Accordingly, with the reservations noted above and limiting my approval to the complaints brought under the STAA, **IT IS ORDERED:**

1. The settlement agreement between the parties submitted on August 25, 2023, is **APPROVED**; and
2. This matter is **DISMISSED** with prejudice.

SO ORDERED.

MONICA MARKLEY
Administrative Law Judge