

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

Issue Date: 29 March 2024

OALJ Case No: 2024-STA-00033
OSHA Case No.: 301024452

In the Matter of:

OSCAR MURPHY,
Complainant,

v.

MOUNT OLIVE PICKLE COMPANY, INC., ET AL.,
Respondents.

DECISION AND ORDER APPROVING SETTLEMENT AGREEMENT
AND DISMISSING COMPLAINT

Complainant is appealing a final determination letter issued by the Occupational Safety and Health Administration on December 4, 2023, dismissing an October 3, 2023 complaint alleging Respondents issued him a counseling after he raised concerns about operating his vehicle in hazardous weather conditions, a violation of 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. The Office of Administrative Law Judges docketed the above referenced case on January 2, 2024. It is not yet scheduled for hearing.

On March 27, 2024, Complainant’s 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 either the Secretary or 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 or the ARB, as the case may be.” 29 C.F.R. § 1978.111(d)(2).

Having reviewed the Settlement Agreement 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 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 and Release Agreement* filed on March 27, 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 complaint is **DISMISSED with prejudice**, and that counsel for the Complainant is allowed to

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 agreement includes a waiver of “any and all other claims, known and unknown” Complainant may have against Respondent as of the date of this Agreement.” (Settlement Agreement p. 3). However, this approval applies only to the STAA complaint over which the Office of Administrative Law Judges has jurisdiction.

³ Complainant 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.

withdraw as counsel of record in this matter following completion of his professional duties necessary to implementing the Settlement on behalf of Complainant.

SO ORDERED.

STEPHEN R. HENLEY
Chief Administrative Law Judge