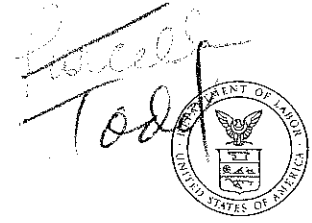


U.S. Department of Labor

Administrative Review Board  
200 Constitution Avenue, N.W.  
Washington, D.C. 20210



In the Matter of:

RAYMOND E. GRIEBEL,

ARB CASE NO. 13-038

COMPLAINANT,

ALJ CASE NO. 2011-FRS-011

v.

DATE: JUN -2 2014

UNION PACIFIC RAILROAD CO.,

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

Appearances:

*For the Complainant:*

Joseph L. Bauer, Esq., *Bauer & Baebler, P.C.*; St. Louis, Missouri

*For the Respondent:*

Fred S. Wilson, Esq.; *Union Pacific Railroad*, Houston, Texas

Before: Joanne Royce, *Administrative Appeals Judge*; Luis A. Corchado, *Administrative Appeals Judge*; and Lisa Wilson Edwards, *Administrative Appeals Judge*

**FINAL DECISION AND ORDER APPROVING SETTLEMENT  
AND DISMISSING COMPLAINT**

This case arises under the Federal Rail Safety Act of 1982 (FRSA), 49 U.S.C.A. § 20109 (Thomson Reuters Supp. 2013), as implemented by 29 C.F.R. Part 1982 (2013) and 29 C.F.R. Part 18, Subpart A (2013). The Complainant, Raymond Griebel, filed a retaliation complaint alleging that his former employer, Union Pacific Railroad Co., violated the FRSA whistleblower protection provisions when it terminated his employment because he reported a work-related injury. On May 12, 2014, the parties notified the Administrative Review Board (ARB) of a settlement, and requested approval of the settlement agreement. We grant the requests to approve the Settlement Agreement and for approval of attorney's fees, costs, and expenses agreed upon by the parties, and dismiss the complaint.

## DISCUSSION

### *A. Proceedings below*

On January 31, 2013, following a hearing, an ALJ determined that Union Pacific's actions towards Griebel violated the FRSA whistleblower provision, and granted relief. The ARB affirmed the ALJ's decision on March 18, 2014. Union Pacific petitioned the United States Court of Appeals for the Eighth Circuit for review. Pending the proceedings, the parties notified the court of appeals that they had reached a settlement in the case. On May 1, 2014, the parties moved to dismiss the petition due to the settlement. On May 2, 2014, the court of appeals entered a judgment stating:

At the parties' request, the petition for review is remanded to the United States Department of Labor's Administrative Review Board for approval of their settlement and for resolution of any outstanding issues.

Judgment (entered May 2, 2014). On May 2, 2014, the parties jointly moved the ALJ to approve attorney's fees, costs, and expenses for proceedings before the ALJ in the amount of \$177,930.25, and jointly moved the ARB to approve attorney's fees, costs and expenses for proceedings before the ARB in the amount of \$85,000.00. On May 9, 2014, the ALJ entered an Order regarding the joint request for approval of attorney's fees. The ALJ stated:

Upon consideration of the parties' request, it appears that the Eighth Circuit remanded this matter to the ARB "for approval of their settlement." Rather than a separate matter before the undersigned, the attorney's fees agreed upon by the parties appear to be part of that settlement which is before the ARB for approval. Therefore, it appears that jurisdiction to approve the attorney's fees as part of the settlement now rests with the ARB, not the undersigned.

Order Regarding Joint Request For Approval Of Attorney's Fees, Costs, and Expenses, As Agreed Upon By The Parties (ALJ May 9, 2014).

### *B. The Settlement Agreement is fair, adequate, and reasonable*

The FRSA's implementing regulations provide that at any time after a party has filed objections to the Assistant Secretary's findings or order, the case may be settled if the participating parties agree to a settlement and, if the ARB has accepted the case for review, the Board approves the settlement agreement. 29 C.F.R. § 1982.111(d) (2). We review the settlement to determine whether it is fair, adequate, and reasonable. *Carr v. BNSF Ry Co.*, ARB No. 13-052, ALJ No. 2012-FRS-014, slip op. at 3 (ARB Nov. 13, 2013).

The Settlement Agreement states that it constitutes settlement in full of any and all claims against Union Pacific arising out of Griebel's complaint filed with the Department of Labor.

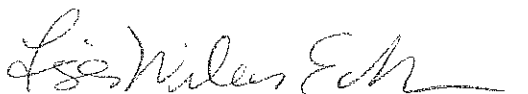
Agreement at 2 ¶ 4. The Board's authority over settlement agreements is limited to the statutes that are within the Board's jurisdiction as defined by the applicable delegation of authority. Secretary's Order No. 2-2012 (Delegation of Authority and Assignment of Responsibility to the Administrative Review Board), 77 Fed. Reg. 69,378 (Nov. 16, 2012). Therefore, we have restricted our review of the Settlement Agreement to ascertaining whether its terms fairly, adequately, and reasonably settle this FRSA case over which we have jurisdiction. *Carr*, ARB No. 13-052, slip op. at 2 & n.6.

Having reviewed the parties' Settlement Agreement, including the joint requests for attorney's fees, costs, and expenses associated with proceedings before the ALJ and ARB, we find that it constitutes a fair, adequate, and reasonable settlement of Griebel's complaint and its written terms do not contravene the public interest.

#### CONCLUSION

The Settlement Agreement and the joint requests for attorney's fees, costs, and expenses associated with proceedings before the ALJ and ARB agreed upon by the parties are **APPROVED**, and the case is **DISMISSED**.

**SO ORDERED.**



**LISA WILSON EDWARDS**  
Administrative Appeals Judge



**JOANNE ROYCE**  
Administrative Appeals Judge



**LUIS A. CORCHADO**  
Administrative Appeals Judge