



**In the Matter of:**

**ASSISTANT SECRETARY OF LABOR  
FOR OCCUPATIONAL SAFETY  
AND HEALTH,**

**ARB CASE NO. 06-027**

**ALJ CASE NO. 2003-STA-36**

**PROSECUTING PARTY,**

**DATE: November 30, 2006**

**and**

**DOMICO ROMERIO BRYANT,**

**COMPLAINANT,**

**v.**

**MENDENHALL ACQUISITION CORP.  
d/b/a BEARDEN TRUCKING,**

**RESPONDENT.**

**BEFORE: THE ADMINISTRATIVE REVIEW BOARD**

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

This case arises under the employee protection provisions of the Surface Transportation Assistance Act (STAA) of 1982, as amended. 49 U.S.C.A. § 31105 (West 1997). On December 2, 2005, an attorney for the Assistant Secretary of Labor for Occupational Safety and Health, United States Department of Labor submitted a Joint Motion and Stipulation and Settlement Agreement executed by that attorney, the complainant, and counsel for Mendenhall Acquisition Corp., d/b/a Bearden Trucking to a Department of Labor Administrative Law Judge (ALJ). Under the regulations implementing the STAA, the parties may settle a case at any time after the filing of objections to the Assistant Secretary's preliminary findings "if the participating parties agree to a settlement and such settlement is approved by the Administrative Review Board . . . or the ALJ." 29 C.F.R. § 1978.111(d)(2) (2006). The regulations direct the

parties to file a copy of the settlement “with the ALJ or the Administrative Review Board, United States Department of Labor, as the case may be.” *Id.*

When the parties reached a settlement, the case was pending before the ALJ. Therefore, the ALJ appropriately reviewed the settlement agreement. On December 13, 2005, the ALJ issued a Recommended Decision and Order (R. D. & O.) – Approval of Settlement Stipulation & Dismissal of Complaint with Prejudice. According to the STAA’s implementing regulations, the Administrative Review Board issues the final decision and order in this case. 29 C.F.R. § 1978.109(c)(2); *Monroe v. Cumberland Transp. Corp.*, ARB No. 01-101, ALJ No. 00-STA-50 (ARB Sept. 26, 2001); *Cook v. Shaffer Trucking Inc.*, ARB No. 01-051, ALJ No. 00-STA-17 (ARB May 30, 2001).

The Board issued a Notice of Review and Briefing Schedule on December 16, 2005, apprising the parties of their right to submit briefs supporting or opposing the ALJ’s recommended decision. 29 C.F.R. § 1978.109(c)(2). The parties did not file briefs. We therefore deem the settlement unopposed under the terms of the R. D. & O.

We note that paragraph 3 of the Stipulation and Settlement Agreement purports to confer on the Office of Administrative Law Judges (“this Court”) “jurisdiction to enforce this agreement.” The authority and jurisdiction of the ALJs and this Board are governed by statute and regulation, and can not be modified by the parties. Noting this, we **APPROVE** the terms of the agreement pertaining to Bryant’s STAA claim, and **DISMISS** the complaint with prejudice.

**SO ORDERED.**

**WAYNE C. BEYER**  
**Administrative Appeals Judge**

**M. CYNTHIA DOUGLASS**  
**Chief Administrative Appeals Judge**