



In the Matter of:

JOHN R. SKIPPER,

ARB CASE NO. 06-108

COMPLAINANT,

ALJ CASE NO. 2005-STA-00053

v.

DATE: February 27, 2007

SAIA MOTOR FREIGHT,

RESPONDENT.

Appearances:

For the Complainant:

M. Robert Garcia, Esq., Houston, Texas

For the Respondent:

Mark J. Oberti, Esq., *Seyfarth Shaw LLP*, Houston, Texas

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

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

This case arises under Section 405, the employee protection provision, of the Surface Transportation Assistance Act (STAA) of 1982.¹ On April 28, 2006, the parties submitted a Settlement Agreement and Full and Final Release signed by the Complainant, John R. Skipper, and the Respondent, SAIA Motor Freight, 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."² The regulations direct the parties to file a copy of the settlement

¹ 49 U.S.C.A. § 31105 (West 2007).

“with the ALJ or the Administrative Review Board, United States Department of Labor, as the case may be.”³

When the parties reached a settlement the case was pending before the ALJ. Therefore, the ALJ appropriately reviewed the settlement agreement. On June 14, 2006, the ALJ issued a Recommended Order Approving Settlement. According to the STAA’s implementing regulations, the Administrative Review Board (ARB or Board) issues the final decision and order in this case.⁴

The Board issued a Notice of Review and Briefing Schedule apprising the parties of their right to submit briefs supporting or opposing the ALJ’s recommended decision on June 30, 2006.⁵ Neither party responded to the Board’s notice. We therefore deem settlement unopposed under the terms of the Recommended Order Approving Settlement.

Review of the agreement reveals that it may encompass the settlement of matters under laws other than the STAA.⁶ The Board’s authority over settlement agreements is limited to the statutes that are within the Board’s jurisdiction as defined by the applicable statute. Therefore, we approve only the terms of the agreement pertaining to the Complainant’s STAA claim ARB No. 06-103, 2005-STA-0028.⁷

Additionally, we construe paragraph 6, the governing law provision, as not limiting the authority of the Secretary of Labor and any Federal court, which shall be governed in all respects by the laws and regulations of the United States.⁸

The Board notes that the settlement includes a confidentiality agreement. The parties are on notice that the agreement becomes part of the record of the case and is subject to the Freedom of Information Act (FOIA).⁹ Department of Labor regulations

² 29 C.F.R. § 1978.111(d)(2) (2006).

³ *Id.*

⁴ 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).

⁵ 29 C.F.R. § 1978.109(c)(2).

⁶ Settlement Agreement and Full and Final Release para. 3, 6, 7.

⁷ *Fish v. H & R Transfer*, ARB No. 01-071, ALJ No. 00-STA-56, slip op. at 2 (ARB Apr. 30, 2003).

⁸ *Phillips v. Citizens’ Ass’n for Sound Energy*, 1991-ERA-25, slip op. at 2 (Sec’y Nov. 4, 1991).

⁹ 5 U.S.C.A. § 552 (West 2006).

provide specific procedures for responding to FOIA requests, for appeals by requestors from denials of such requests, and for protecting the interests of submitters of confidential commercial information.¹⁰

The Board finds that the settlement is fair, adequate and reasonable and in the public interest. Accordingly, with the reservations noted above limiting our approval to the settlement of Skipper's STAA claim, we **APPROVE** the agreement and **DISMISS** the complaint.

SO ORDERED.

M. CYNTHIA DOUGLASS
Chief Administrative Appeals Judge

DAVID G. DYE
Administrative Appeals Judge

¹⁰ 29 C.F.R. § 70 *et seq.* (2006).