



**In the Matter of:**

**JAMES A. SON,**

**ARB CASE NO. 10-124**

**COMPLAINANT,**

**ALJ CASE NO. 2010-STA-038**

**v.**

**DATE: April 27, 2011**

**INTERSTATE FOUNDATION OF  
ARDMORE,**

**RESPONDENT.**

**BEFORE: THE ADMINISTRATIVE REVIEW BOARD**

**Before: E. Cooper Brown, *Deputy Chief Administrative Appeals Judge* and Joanne Royce, *Administrative Appeals Judge***

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

This case arose when the Complainant, James A. Son, filed a complaint under the whistleblower protection provisions of the Surface Transportation Assistance Act (STAA) of 1982, as amended and re-codified.<sup>1</sup> While the case was pending before a Department of Labor Administrative Law Judge, the parties filed a Joint Motion to Approve Settlement and Dismiss Complaint with Prejudice and a Settlement Agreement - Release of All Claims.

Under the regulations implementing the STAA, the parties may settle a case at any time after filing objections to OSHA's preliminary findings, and before those

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<sup>1</sup> 49 U.S.C.A. § 31105 (Thomson/West 2007).

findings become final, “if the participating parties agree to a settlement and such settlement is approved by the Administrative Review Board [ARB] . . . or the ALJ.”<sup>2</sup> When the parties reached a settlement, the case was pending before the ALJ. Therefore, the ALJ appropriately reviewed the settlement agreement. After reviewing the settlement agreement, the ALJ issued a Recommended Order Approving Settlement Agreement and Dismissing Case (R. D.) finding that the settlement agreement “constitutes a fair, adequate, reasonable settlement of the complaint and is in the public interest.”<sup>3</sup>

The case is now before the ARB pursuant to the STAA’s automatic review provisions.<sup>4</sup> The ARB “shall issue a final decision and order based on the record and the decision and order of the administrative law judge.”<sup>5</sup>

Although the ARB issued a Notice of Review and Briefing Schedule permitting each party to submit a brief in support of or in opposition to the ALJ’s order, neither of the parties submitted briefs. We therefore deem the settlement unopposed under its terms.

In reviewing the settlement agreement, initially we note that the agreement may encompass the settlement of matters under laws other than the STAA.<sup>6</sup> 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 Son’s current STAA case.<sup>7</sup>

Further, the settlement agreement provides that the laws of the state of Oklahoma shall govern the agreement.<sup>8</sup> We construe this choice of 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.<sup>9</sup>

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<sup>2</sup> 29 C.F.R. § 1978.111(d)(2).

<sup>3</sup> R. D. at 2.

<sup>4</sup> 49 U.S.C.A. § 31105(b)(2)(C); *see* 29 C.F.R. § 1978.109(c)(1).

<sup>5</sup> 29 C.F.R. § 1978.109(c); *Monroe v. Cumberland Transp. Corp.*, ARB No. 01-101, ALJ No. 2000-STA-050, slip op. at 2 (ARB Sept. 26, 2001).

<sup>6</sup> *See* Settlement Agreement – Release of All Claims, para. 3.

<sup>7</sup> *Fish v. H & R Transfer*, ARB No. 01-071, ALJ No. 2000-STA-056, slip op. at 2 (ARB Apr. 30, 2003).

<sup>8</sup> *See* Settlement Agreement – Release of All Claims, para. 3.

<sup>9</sup> *Trucker v. St. Cloud Meat & Provisions, Inc.*, ARB No. 08-080, ALJ No. 2008-STA-023, slip op. at 3 (ARB May 30, 2008).

The parties have indicated that the agreement constitutes the entire settlement with respect to Son's STAA claim. The ARB has reviewed the settlement agreement and finds it fair, adequate, and reasonable, and not contrary to the public interest. Accordingly, as construed, we **APPROVE** the ALJ's recommended order and **DISMISS** Son's complaint with prejudice.

**SO ORDERED.**

**E. COOPER BROWN**  
**Deputy Chief Administrative Appeals Judge**

**JOANNE ROYCE**  
**Administrative Appeals Judge**