

U.S. Department of Labor

Office of Administrative Law Judges
St. Tammy Courthouse Annex
428 E. Boston Street, 1st Floor
Covington, Louisiana 70433

(985) 809-5173
(985) 893-7351 (FAX)



Issue Date: 14 June 2006

CASE NO.: 2005-STA-53

IN THE MATTER OF

JOHN R. SKIPPER,
Complainant

v.

SAIA MOTOR FREIGHT,
Respondent

RECOMMENDED ORDER APPROVING SETTLEMENT

This case arises under Section 405, the employee protection provision, of the Surface Transportation Assistance Act of 1982, 49 U.S.C.A. § 31105 (West 2003), and the implementing regulations at 29 C.F.R. Part 1978 (2004). The parties have filed a request for approval of their settlement agreement and dismissal of the complaint with prejudice.

Pursuant to Section 31105(b)(2)(C) of the STAA, “[b]efore the final order is issued, the proceeding may be ended by a settlement agreement made by the Secretary, the Complainant, and the person alleged to have committed the violation.” Under regulations implementing the STAA, the parties may settle a case at any time after the filing of objections to the Assistant Secretary’s 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). Under 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. *Tankersly v. Triple Crown Services, Inc.*, 1992-STA-8 (Sec’y Feb. 18, 1993). Consistent with that required review, the regulations direct the parties to file a copy of the settlement “with the ALJ or the Administrative Review Board as the case may be.” *Id.*

I have carefully reviewed the parties’ settlement agreement and have determined that it constitutes a fair, adequate and reasonable settlement of the complaint and is in the public interest. Pursuant to 29 C.F.R. § 1978.109 c), however, the Administrative Review Board must issue the final order of dismissal of a STAA complaint resolved by settlement. See *Howick v. Experience Hendrix, LLC*, ARB No. 02-049, ALJ NO. 2000-STA-32 (ARB Sept. 26, 2002).

Paragraphs 2(9) of the agreement provide that Complainant shall keep the terms of the settlement confidential, with certain specified exceptions. Regarding “[t]he parties’ submissions, including the agreement becomes part of the confidential record of this case and are subject to the Freedom of Information Act (FOIA), 5 U.S.C.A. § 552 (West 1996). FOIA requires Federal agencies to disclose requested records unless they are exempt from disclosure under the Act.” *Coffman v. Alyeska Pipeline Serv. Co.*, and *Arctic Slope Inspection Serv.*, ARB No. 96-141, ALJ Nos. 96-TSC-5, 6, slip op. at 2 (ARB June 24, 1996). Department of Labor regulations 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. *See* 29 C.F.R. Part 70 (2003).¹

Accordingly, **IT IS RECOMMENDED** that the Administrative Review Board **APPROVE** the Settlement Agreement and Full and Final Release of Claims.

SO ORDERED.

A

CLEMENT J. KENNINGTON
ADMINISTRATIVE LAW JUDGE

NOTICE OF REVIEW: The administrative law judge’s Recommended Order Approving Settlement, along with the Administrative File, will be automatically forwarded for review to the Administrative Review Board, U. S. Department of Labor, 200 Constitution Ave., NW, Washington, DC. 20210. *See* C.F.R. § 1978.109(a); Secretary’s Order 1-2002, ¶4.c. (35), 67 Fed. Reg. 64272 (2002).

Within thirty (30) days of the date of issuance of the administrative law judge’s Recommended Order Approving Settlement, the parties may file briefs with the Administrative Review Board (“Board”) in support of, or in opposition to, the administrative law judge’s order unless the Board, upon notice to the parties, establishes a different briefing schedule. *See* 29 C.F.R. § 1978.109©(2). All further inquires and correspondence in this matter should be directed to the Board.

¹ “Pursuant to 29 C.F.R. § 70.26(b), submitters may designate specific information as confidential commercial information to be handled as provided in the regulations. When FOIA requests are received for such information, the Department of Labor will notify the submitter promptly, 29 C.F.R. § 70.26(c); the submitter will be given a reasonable amount of time to state its objection to disclosure, 29 C.F.R. § 70.26(e); and the submitter will be notified if a decision is made to disclose the information, 29 C.F.R. § 70.26(f). If the information is withheld and a suit is filed by the requester, to compel disclosure, the submitter will be notified, 29 C.F.R. § 70.26(h).” *Coffman*, slip op. at 2, n.2.