

**U.S. Department of Labor**

Office of Administrative Law Judges  
Seven Parkway Center - Room 290  
Pittsburgh, PA 15220

(412) 644-5754  
(412) 644-5005 (FAX)



**Issue Date: 05 August 2008**

CASE NO.: 2008-STA-16

In the Matter of:

JOHN SIMON  
Complainant

v.

ELVA L. JESS, L.L.C.  
ELVA L. JESS, INDIVIDUALLY

Respondents

**RECOMMENDED ORDER APPROVING SETTLEMENT AND DISMISSING CASE**

This proceeding arises from a complaint filed by John Simon against Elva L. Jess, L.L.C., Elva L. Jess, Individually. This proceeding arises under Section 31105 of the Surface Transportation Assistance Act (STAA) of 1982 (49 U.S.C. § 31105) and the regulations promulgated thereunder [29 C.F.R. Part 1978 (1989)]. On August 4, 2008 the parties filed a Motion to Approve Settlement and Dismiss Proceeding with Prejudice in accordance with 29 C.F.R. § 1978.111(d)(2).

The Act and implementing regulations provide that a proceeding under the Act may be ended prior to entry of a final order by a settlement agreement between the parties. 49 U.S.C. § 31105(b)(2)(C); 29 C.F.R. § 1978.111(d)(2). The Administrative Law Judge's role in reviewing the parties' settlement agreement is limited to ascertaining whether the terms of the agreement fairly, adequately and reasonably settle the Complainant's allegations that the Respondent violated the Act. *Ass't Sec'y & Zurenda v. Corporate Express Delivery Systems, Inc.*, ARB No. 00-041, OALJ No. 1999-STA-30 (ARB March 31, 2000) (*Zurenda*); *Champlin v. Florilli Corp.*, OALJ No. 1991-STA-7 (Sec'y May 20, 1992).

Pursuant to the requirements of the Act and the implementing regulations, I have carefully reviewed the terms of the parties' Settlement Agreement, and I have determined that it constitutes a fair, adequate and reasonable settlement of the complaint.

ACCORDINGLY, it is hereby RECOMMENDED that:

1. The Settlement Agreement and General Release be APPROVED; and
2. The complaint of John Simon be DISMISSED with prejudice.

**A**

DANIEL L. LELAND  
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 Avenue, NW, Washington, DC 20210. *See* 29 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 (c)(2). All further inquiries and correspondence in this matter should be directed to the Board.