



Issue Date: 15 October 2014

CASE NO: 2013-AIR-00006

In the Matter of:

KENNETH DALTON,
Complainant,

v.

NORTHERN ILLINOIS FLIGHT CENTER and
CANCER TREATMENT CENTERS OF AMERICA,
Respondents.

ORDER APPROVING SETTLEMENT

This case arises under the employee protection provisions of the Wendell H. Ford Aviation and Investment Reform Act for the 21st Century (“AIR21”), 49 U.S.C. § 42121 et seq. and its implementing regulations found at 29 C.F.R. § 1979. After several continuances, a hearing is scheduled to commence on October 20, 2014. On October 14, 2014, counsel advised during a telephonic pre-hearing conference that they had reached a settlement, and on October 15, 2014 the settlement agreement (mailed on October 14) was received at this Office for review. Upon review of the settlement agreement, I find that its terms are fair, adequate, and reasonable, and do not contravene the public interest.

However, it appears to be a global settlement purporting to dispose of claims in addition to the claim brought under AIR21. My authority to approve the settlement agreement is limited to matters that are before me – that is, to approve the settlement agreement only insofar as it resolves the complaint under AIR21. My approval should not be construed as approving the resolution of any claims brought under any other federal statute or under state law. This reservation is not intended to address the effectiveness of the settlement with respect to other claims, and the parties are not precluded from raising the settlement agreement in the course of other proceedings, if any arise.

In addition, I construe paragraph 11, stating that the agreement and release “shall be construed and enforced in accordance with the laws of the State of Illinois” as not limiting the authority of the Secretary of Labor or any Federal court, which shall be governed in all respects by the laws and regulations of the United States.¹

¹ *Phillips v. Citizens' Ass'n for Sound Energy*, 1991-ERA-025, slip op. at 2 (Sec'y Nov. 4, 1991).

Finally, the parties agree that the settlement agreement should be confidential, and have requested that I order it sealed and remain confidential. The Freedom of Information Act, 5 U.S.C. § 552, *et seq.* (1988) (FOIA), requires federal agencies to disclose requested documents unless they are exempt from disclosure. *Faust v. Chemical Leaman Tank Lines, Inc.*, Case Nos. 92-SWD-2 and 93-STA-15, ARB Final Order Approving Settlement and Dismissing Complaint, March 31, 1998. The records in this case are agency records which must be made available for public inspection and copying under the Freedom of Information Act. However, the parties will be provided a pre-disclosure notification giving them the opportunity to challenge any such potential disclosure. In the event the Agreement is disclosed, pursuant to 5 U.S.C. Section 552, *et seq.*, such disclosure is not a violation of the agreement and will not result in a violation of the agreement.

Accordingly, with the reservations noted above and limiting my approval to the claim brought under AIR21, IT IS ORDERED:

1. The settlement agreement between the parties submitted on October 14, 2014 is APPROVED;
2. The hearing scheduled to commence on October 20, 2014 is CANCELED; and
3. This matter is DISMISSED WITH PREJUDICE.²

SO ORDERED.

PAUL C. JOHNSON, JR.
District Chief Administrative Law Judge

² Should the agreement not be effected as contemplated by the parties, a motion to vacate this Order and set aside the dismissal will be entertained.