



Issue Date: 26 August 2019

Case No.: 2019-AIR-00012

In the Matter of:

ANTHONY LETH,
Complainant

v.

MN AIRLINES, LLC. d/b/a
SUN COUNTRY AIRLINES,
Respondent

ORDER APPROVING SETTLEMENT AND DISMISSING CLAIM

This matter arises under the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21), which was signed into law on April 5, 2000. AIR 21 includes a whistleblower protection provision, with a Department of Labor complaint procedure. *See* 49 U.S.C. § 42121. Implementing regulations are at 29 C.F.R. Part 1979.

On August 5, 2019, the parties provided the Tribunal with a copy of the fully executed Settlement Agreement for approval. On August 22, 2019, Respondent MN Airlines submitted a Motion to File Confidential Settlement Agreement and Release under Seal. Specifically, Respondent requests that the Tribunal seal paragraphs 3, 4, 9, 10, 13, 19, and 21 due to the alleged presence of confidential commercial information.

This Tribunal finds that the proposed settlement agreement is proper, and approves it with several caveats. First, the language in this agreement purports to settle, release, or otherwise address claims or potential claims that far exceed the statute involved in this action. *See* para. 1, 3. The Tribunal limits its review to the asserted AIR 21 whistleblower claim only, as anything beyond that limitation exceeds this Tribunal's jurisdiction.

Second, language in the settlement agreement provides that it shall be governed by the laws of the State of Minnesota. *See* para. 17. Per 49 U.S.C. § 42121(b)(6), the appropriate United States District Court shall have jurisdiction, without regard to the citizenship of the parties, to enforce final orders issued under the Department of Labor's complaint procedure. To the extent paragraph 17 is inconsistent with this statute, that paragraph is void and unenforceable.

Third, this Tribunal ORDERS paragraph 4 of the Settlement Agreement to be sealed. Per 29 C.F.R. § 18.85(b)(2), this Tribunal finds that the parties' privacy interest in the settlement amount outweighs the presumption of public access to this information. The parties have not established good cause to redact paragraphs 3, 9, 10, 13, 19, and 21.

The Tribunal has previously informed the parties and now restates that the records of this Tribunal are subject to the Freedom of Information Act ("FOIA") and are generally available to the public. This Office will place the Settlement Agreement in a sealed envelope within the public file. A copy of this Order will be affixed to this envelope. A redacted copy of the Settlement Agreement will be placed in the public file.

In the event that a FOIA request is made for access to the unredacted copy of the Settlement Agreement, the Department of Labor will provide the parties with pre-disclosure notification and an opportunity to respond before any disclosure is made. *See* 29 C.F.R. § 70.26. However, the parties are reminded that the pre-disclosure notice procedure does not, in any way, constitute a finding that the Settlement Agreement, or any portion thereof, will be exempt from disclosure under FOIA. Similarly, this procedure does not suggest that the appropriate disclosure officer would ultimately decline disclosure of the Settlement Agreement to the FOIA requester, if such a FOIA request were received. *See* 29 C.F.R. § 70.26(f).

Order

1. The parties' requests to approve their Settlement Agreement and dismiss the AIR 21 complaint are GRANTED. **However, the parties are advised that this Tribunal does not bind the parties to the provisions in the Settlement Agreement (para. 1, 3) that are beyond its jurisdiction.**
2. The proposed Settlement Agreement is fair and reasonable as to the claims under the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century. None of the terms are against the public interest. The proposed Settlement Agreement is APPROVED, and the parties are ORDERED to comply with its terms.

This matter is DISMISSED with prejudice. The hearing in this matter is hereby CANCELLED.

SO ORDERED

SCOTT R. MORRIS
Administrative Law Judge

Cherry Hill, New Jersey