



Issue Date: 10 December 2019

*In the Matter of:*

**REBECCA STAHNKE,**  
*Complainant,*

v.

**AVERA MCKENNAN HOSPITAL,**  
*Respondent.*

**OALJ 2019-ERA-00012**

OSHA 8-0400-18-034

**ORDER APPROVING CONFIDENTIAL SETTLEMENT AGREEMENT  
AND DISMISSING COMPLAINT WITH PREJUDICE**

This matter arises under the employee protection provisions of the Energy Reorganization Act of 1974, 42 U.S.C. § 5851 (“ERA”), and its implementing regulations at 29 C.F.R. Part 24.

On December 6, 2019, the parties filed a *Joint Motion for Order Approving Confidential Settlement* (“Settlement Motion”) and a *Joint Motion for Judgment of Dismissal* (“Dismissal Motion”). The Settlement Motion requests an order approving the parties’ settlement agreement and contains a copy of the *Settlement Agreement and Release* (“Settlement Agreement”), which was signed by the Complainant, Complainant’s attorney, Respondent, and Respondent’s attorney. The Dismissal Motion requests an order dismissing this matter with prejudice with each party bearing their own attorneys’ fees, costs, and expenses.

The ERA and implementing regulations provide that proceedings may be terminated on the basis of a settlement if either the Secretary of Labor or the Administrative Law Judge approves the settlement.<sup>1</sup> Under the ERA, 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.<sup>2</sup> Consistent with this

<sup>1</sup> 42 U.S.C. § 5851(b)(2); 29 C.F.R. § 24.111(d)(2).

<sup>2</sup> *Edmisten v. Ray Thomas Petroleum*, ARB No. 10-020, ALJ No. 2009-STA-00036 (ARB Dec. 16, 2009).

required review, the regulations direct the parties to file a copy of the settlement agreement with the Administrative Law Judge.<sup>3</sup> Any settlement approved by the Administrative Law Judge constitutes the final order of the Secretary of Labor and may be enforced pursuant to 29 C.F.R. § 24.113.<sup>4</sup>

Having reviewed the Settlement Agreement, which includes provisions for confidentiality and dismissal with prejudice, I find the terms, obligations, and conditions fair, adequate and reasonable, and in the public interest. I also find that the Settlement Agreement was not procured through duress. Accordingly, it is hereby **ORDERED** that:

1. The Settlement Motion is **GRANTED**, the Settlement Agreement is **APPROVED**, and the parties shall implement the terms of the approved settlement as specifically stated in their agreement.

2. The Settlement Agreement is **CONFIDENTIAL**, is subject to the pre-disclosure notice requirements under 29 C.F.R. § 70.26, and shall be maintained in a separate sealed envelope marked "CONFIDENTIAL - Predisclosure Notification Materials".

3. The Dismissal Motion is **GRANTED** and this matter is hereby **DISMISSED WITH PREJUDICE**, with each party bearing their own attorneys' fees, costs, and expenses.

**SO ORDERED.**

**THEODORE W. ANNOS**  
Administrative Law Judge

Washington, DC

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<sup>3</sup> 29 C.F.R. § 24.111(d)(2).

<sup>4</sup> 29 C.F.R. § 24.111(e).