



**Issue Date: 21 April 2016**

Case No.: 2014-FRS-28

*In the Matter of:*

GEORGE FRANK,  
Complainant,

v.

CSX TRANSPORTATION,  
Employer.

**DECISION AND ORDER APPROVING SETTLEMENT  
AND CANCELLING HEARING**

This case arises under the Federal Rail Safety Act (“FRS”), 49 U.S.C. §20109. The FRS provides protections to employees who have engaged in certain activities. Discovery in this matter was conducted, and the matter was set for a formal hearing to commence in Indianapolis, Indiana on May 3, 2016. On or about April 18, 2016, I was advised that the parties had reached a tentative settlement.

On April 21, 2016, the parties submitted for my review and approval a “Settlement and Final Release of All Claims.” This Settlement and Final Release resolves all issues raised in by Claimant in this matter, and also resolves claims brought by Claimant against Respondent in an Indiana state court proceeding. The Settlement and Final Release is incorporated herein by reference, without in any way affecting the confidential designation of the Settlement and Final Release as described below.

My review of the Settlement Agreement is limited to a determination of whether its terms are fair, adequate and reasonable under the FRS. The settlement must adequately protect the Claimant. The settlement must not be contrary to public interest.

Because the Office of Administrative Law Judges is a government agency, and this is a public proceeding, the parties’ submissions in this case, including the Settlement and Final Release, become a part of the record in this case, and are subject to the Freedom of Information Act (“FOIA”).<sup>1</sup> FOIA requires agencies to disclose requested records unless they are exempt from disclosure under FOIA. *See, e.g., Fish v. H and R Transfer*, ARB No. 01-071, ALJ Case No. 2000-STA-56, slip op. at 2 (ARB April 30, 2003). Page 3 of the Settlement and Final Release contains language requiring Claimant to keep the existence and terms of the Settlement

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<sup>1</sup> 5 U.S.C. §552 (2011).

Agreement confidential, with certain specified exceptions. The parties have stipulated to the confidential nature of the Settlement and Final Release. Accordingly, to protect the parties from improper disclosure of this confidential information, to the furthest extent permitted by law, the Settlement and Final Release will be sealed in a separate envelope and identified as being “CONFIDENTIAL COMMERCIAL INFORMATION,” pursuant to 29 C.F.R. § 70.26(b). The sealed envelope will also be identified as being “PERSONAL PRIVATE INFORMATION,” indicating that it may contain information exempt from FOIA pursuant to Exemption 6.

After careful consideration of the Settlement and Final Agreement, I find that the terms and conditions are acceptable. Moreover, I find the terms of the agreement to be fair, adequate, and reasonable under the FRS. I find that the terms of the settlement adequately protect the Claimant. I find that it is in the public interest to approve the Settlement Agreement.

Accordingly, **IT IS HEREBY ORDERED** that the Settlement Agreement is **APPROVED**, and the complaint which comprises OALJ Case No. 2014-FRS-28 is hereby **DISMISSED WITH PREJUDICE**. In accordance with the regulations, the settlement constitutes the final order of the Secretary of Labor and may be enforced under 29 C.F.R. § 1981.113 (2012). The formal hearing set for May 3, 2016, Indianapolis, Indiana, is hereby **CANCELLED**.

**IT IS FURTHER ORDERED** that the Settlement Agreement is to be kept under seal and designated as “PERSONAL PRIVATE INFORMATION,” and “CONFIDENTIAL COMMERCIAL INFORMATION” under 29 C.F.R. § 70.26, and shall be afforded the protections thereunder.

Steven D. Bell  
Administrative Law Judge