



Issue Date: 02 January 2018

Case No.: 2014-FRS-00149

In the Matter of:

MARK STALLARD,

Complainant,

v.

NORFOLK SOUTHERN RAILWAY COMPANY,

Respondent.

DECISION AND ORDER APPROVING SETTLEMENT

ORDER DISMISSING COMPLAINT WITH PREJUDICE

**ORDER THAT THE TERMS OF SETTLEMENT ARE CONFIDENTIAL
COMMERCIAL AND FINANCIAL INFORMATION**

This case arises under the employee protection provisions of the Federal Railroad Safety Act, U.S. Code, Title 49, §20109, as amended (“FRSA”), and its implementing regulations at 29 CFR, Part 1982. Per 29 CFR §1982.107, the proceeding will be held in a manner consistent with the procedural rules and evidentiary rules set forth in federal regulations at 29 CFR Part 18.

The Complainant filed a complaint with the Occupational Safety & Health Administration (“OSHA”) in October 2013 alleging that Respondent Norfolk Southern Railway Company retaliated against him for engaging in protected activity. The Regional Administrator for OSHA issued a determination on June 2, 2014 and dismissed the claim. The Complainant filed a timely request for a hearing before the Office Of Administrative Law Judges challenging the OSHA determination.

On December 19, 2017, the Parties filed a joint motion for approval of Settlement Agreement And Final Release with the court, signed by all Parties and dated December 6, 2017 pursuant to 29 CFR section 1982.111 (d) (2).

In the Settlement Agreement and Final Release signed by all Parties, the Parties agreed on page 1 and page 11 that “Confidential And Privileged Commercial And Financial Information Subject To Exemption 4 Of The Freedom Of Information Act, 5 U.S.C. section 522 (b) (4). The court

shall place the Parties' Settlement Agreement in a sealed envelope in a separate file and mark it as containing confidential information to avoid improper disclosure pursuant to 29 CFR §§ 18.85 and 70.26.

After reviewing the settlement agreement, the court finds it to be fair, reasonable, and adequate and has determined that it constitutes a fair, adequate and reasonable settlement of the complaint and is in the public interest. After review of the Settlement Agreement and the administrative record, this Administrative Law Judge finds that the Settlement Agreement complies with the standards required under the FRSA and is approved.

ORDER

Accordingly, it is hereby **ORDERED** that –

1. The Settlement Agreement and Final Release is **APPROVED**;
2. The Complaint is **DISMISSED WITH PREJUDICE**;
3. Pursuant to 29 CFR section 1978.111 (e), the court's approval of the Settlement Agreement and Final Release of complaint becomes the final order in this case;
4. The Parties' request for confidential treatment of the Settlement Agreement is **APPROVED**;
5. The Settlement Agreement is **CONFIDENTIAL**, and per the request of the Parties in the Settlement Agreement and Final Release, it is to be handled in a manner consistent with the restricted access provisions of 29 CFR §18.85 (b), Privileged, Sensitive, or Classified Material pre-disclosure notice requirements of 29 CFR §70.26, and paragraph 25 of the Mutual Settlement Agreement and Release of Claims. It is designated "Personal Private Information" and "Confidential Commercial and Financial Information."

SO ORDERED.

DANA ROSEN
Administrative Law Judge

DR/mjw
Newport News, VA