



Issue Date: 08 March 2016

CASE NOS: 2012-FRS-00060
2015-FRS-00080

In the Matter of:

STEVE BUTLER,
Complainant,

v.

NORFOLK SOUTHERN RAILWAY COMPANY,
Respondent.

ORDER APPROVING SETTLEMENT AGREEMENT; DISMISSAL

These cases arise under the employee protection provisions of the Federal Railroad Safety Act, U.S. Code, Title 49, Section 20109, as amended ("FRSA"), and its implementing regulations found at 29 C.F.R., Part 1982. On January 22, 2016, the parties submitted a settlement agreement for review. The settlement agreement resolves Mr. Butler's complaints against Norfolk Southern in both case number 2012-FRS-00060 and case number 2015-FRS-00080. 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 FRSA. 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 Mr. Butler's complaints under FRSA. 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.

Finally, the parties agree that the settlement agreement should be confidential, and have requested that it be treated in this agency in accordance with the Freedom of Information Act, 5 U.S.C. § 552 *et seq.* (1988) (FOIA). 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. Consistent with their request, 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 FOIA, 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 complaints brought under FRSA, **IT IS ORDERED:**

1. The settlement agreement between the parties submitted on January 22, 2016, is **APPROVED**; and
2. These matters are **DISMISSED** with prejudice.

SO ORDERED.

MONICA MARKLEY
Administrative Law Judge

MM/mrc
Newport News, Virginia