



**Issue Date: 22 September 2015**

Case No.: 2015-FRS-00015

In the Matter of

**MICHAEL NESTER**  
Complainant

v.

**NEW JERSEY TRANSIT CORPORATION**  
Respondent

**FINAL ORDER APPROVING SETTLEMENT**

The above-captioned matter arises under the Federal Rail Safety Act (“FRSA”), 49 U.S.C. § 20109, as amended by Section 1521 of the Implementing Recommendations of the 9/11 Commission Act of 2007, Pub. L. No. 110-53. (Aug. 3, 2007), and the regulations found at 29 C.F.R. Part 1982. Michael Nester (“Complainant”) filed a complaint against the New Jersey Transit Corporation (“Respondent”) with the Department of Labor (“DOL”) Occupational Safety and Health Administration (“OSHA”), alleging that Respondent suspended him for 15 days in retaliation for his reporting safety complaints.

Finding no reasonable cause to believe a FRSA violation occurred after its investigation, OSHA dismissed the complaint. *See* OSHA determination letter dated November 5, 2014. Complainant filed his objections to the OSHA determination and requested a hearing before the DOL Office of Administrative Law Judges (“OALJ”). The case was then referred to this office in December 2014 and scheduled for hearing on May 7, 2015.

The hearing date was postponed when Complainant and Respondent voluntarily agreed to the appointment of a mediator assigned to the OALJ. On May 13, 2015, an Order Appointing Mediator was issued.

On September 21, 2015, the parties’ original Settlement Agreement and Release was submitted and is incorporated into this Order by reference. *See* copy of Settlement Agreement and Release, attached. Upon review, the provisions of the parties’ Settlement Agreement and Release appear fair and adequate. In addition, those provisions are not contrary to the public interest. Therefore, the Settlement Agreement and Release is **APPROVED** and Complainant’s complaint is **DISMISSED with prejudice**.

SO ORDERED.

**LYSTRA A. HARRIS**  
Administrative Law Judge

Cherry Hill, New Jersey