

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 25 January 2016

CASE NO.: 2015-FRS-00011

In the Matter of:

ALFRED F. REYES,
Complainant,

vs.

UNION PACIFIC RAILROAD COMPANY,
Respondent.

DECISION AND ORDER APPROVING SETTLEMENT AND DISMISSING CASE

This matter arises out of the employee-protection provisions of the Federal Rail Safety Act (“FRSA”), as amended by Section 1521 of the Implementing Recommendations of the 9/11 Commission Act of 2007, Pub. L. No. 110-053, 121 Stat. 266, 444 (2007) and Section 419 of the Rail Safety Improvement Act of 2008, Pub. L. No. 110-432, 122 Stat. 4848, 4892 (2008). 49 U.S.C. § 20109 (Supp. 2011). The implementing regulations appear at Part 1982 of Title 29 of the Code of Federal Regulations.

The Complainant filed a complaint with the Occupational Safety & Health Administration (“OSHA”) on or about June 5, 2013, alleging that Respondent Union Pacific Railroad had retaliated against him for engaging in protected activity. The Regional Administrator for OSHA issued a determination on September 30, 2014, finding that he had not been retaliated against and dismissing the complaint. The Complainant filed a timely request for a hearing before the Office of Administrative Law Judges (“OALJ”) on October 28, 2014, challenging the OSHA determination. This case was set for hearing in Long Beach, California beginning February 23, 2016. I vacated the hearing after being advised by the Complainant’s counsel that the parties had reached a settlement.

On January 14, 2016, Respondent filed a Joint Motion for Approval of Settlement Agreement and Release of Claims signed by all parties as required by 29 C.F.R. § 1982.111(d)(2). I reviewed the settlement agreement and had concerns about a provision of the settlement that precluded the Complainant from being employed by the Respondent and initiated a conference call with counsel for the parties on January 25, 2016, to discuss this provision. During the conference call, the parties were able to address my concerns and clarified the basis for this provision. After reviewing the settlement agreement and considering the

parties' explanation, I find it to be fair, reasonable, and adequate and have determined that it constitutes a fair, adequate and reasonable settlement of the complaint and is in the public interest.

Accordingly, the Settlement Agreement and Release of Claims is hereby APPROVED, and the complaint is DISMISSED WITH PREJUDICE. Pursuant to 29 C.F.R. § 1978.111(e), my approval of the Settlement Agreement and Release of Claims becomes the final order in this case.

JENNIFER GEE
Administrative Law Judge