

UNITED STATES DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES
BOSTON, MASSACHUSETTS

Issue Date: 18 December 2020

ALJ NO.: 2017-FRS-00071

In the Matter of:

CLOVIS COLLEY,
Complainant,

v.

UNION PACIFIC RAILROAD COMPANY,
Respondent.

**DECISION AND ORDER APPROVING SETTLEMENT
AND DISMISSING CLAIM**

This proceeding arises from a complaint of discrimination filed under the Federal Railroad Safety Act (“the FRSA”), 49 U.S.C. § 20109 (2008). On November 6, 2020, the Administrative Review Board issued an Order Reversing and Remanding, remanding the matter to the Office of Administrative Law Judges for further proceedings consistent with its opinion. The matter was assigned to me on remand.

On December 8, 2020, the parties filed a Joint Motion to Dismiss with Prejudice, stating they had reached a settlement agreement and requesting that I approve the settlement and dismiss the claim with prejudice. The parties included as Exhibit A, a copy of the Settlement Agreement (hereinafter the “Settlement”) for my review and approval pursuant to 29 C.F.R. §§ 1982.111(c) & (d)(2). The settlement resolves all issues raised in the complaint and is incorporated herein by reference.

After careful consideration of the settlement, I find the terms and conditions of the agreement to be fair, adequate, and reasonable under the FRS, and that the terms adequately protect the Complainant. Furthermore, I believe it is in the public interest to approve the settlement as a basis for administrative disposition of this case, and I therefore approve the settlement pursuant to 29 C.F.R. § 1982.111(d)(2).

With regard to confidentiality of the Settlement Agreement, the parties are advised that notwithstanding the confidential nature of the Settlement Agreement, all of their filings, including the Settlement Agreement, are part of the record in this case and may be subject to disclosure under the Freedom of Information Act (“FOIA”), 5 U.S.C.A. § 552 *et seq.* The Administrative Review Board has noted that:

If an exemption is applicable to the record in this case or any specific document in it, the Department of Labor would determine *at the time a request is made* whether to exercise its discretion to claim the exemption and withhold the document. If no exemption is applicable, the document would have to be disclosed.

Seater v. S. Cal. Edison Co., ARB No. 97-072, ALJ No. 1995-ERA-00013 at 2 (ARB March 27, 1997) (emphasis added). Should disclosure be requested, the parties are entitled to pre-disclosure notification rights under 29 C.F.R. § 70.26.

I further note that my authority over settlement agreements is limited to the statutes that are within my jurisdiction as defined by the applicable statute. Therefore, I approve only the terms of the settlement pertaining to Complainant’s FRS claim, Case No. 2017-FRS-00071. *See Anderson v. Schering Corp.*, ARB No. 10-070, ALJ No. 2010-SOX-00007 (ARB Jan. 31, 2011).

ORDER

Accordingly, it is **ORDERED** that:

- (1) The parties’ Joint Motion is **GRANTED** and the parties’ settlement agreement is **APPROVED**. The Settlement constitutes the final order¹ of the Secretary of Labor and may be enforced under 29 C.F.R. § 1982.113;
- (2) The complaint of Clovis Colley is **DISMISSED WITH PREJUDICE**.

SO ORDERED.

JONATHAN C. CALIANOS
District Chief Administrative Law Judge

Boston, Massachusetts

¹ 29 C.F.R. § 1982.111(e).