



Issue Date: 10 July 2018

**Case No.: 2017-FRS-00027
2017-FRS-00028**

In the Matter of

**ANTONIO FERNANDEZ
Complainant**

v.

**SOUTHWESTERN RAILROAD
Respondent**

**DECISION AND ORDER INCLUDING SECOND CASE NUMBER APPROVING
SETTLEMENT AGREEMENT
AND DISMISSING CLAIM**

1. Nature of Request. This proceeding arises under the employee protection provisions of the Federal Railroad Safety Act of 2007 (“FRSA”), 49 U.S.C. § 20109. The Act includes a whistleblower protection provision with a Department of Labor complaint procedure. The parties submitted a proposed settlement agreement for the undersigned’s approval.

2. Procedural History, Findings of Fact, and Legal Conclusions.

a. Complainant filed a complaint on September 8, 2016 with the Occupational Safety and Health Administration (OSHA) alleging Respondent committed discrimination prohibited by the FRSA. Respondent filed a response to the complaint in which it denied liability.

b. On June 11, 2018, Complainant filed a document styled “Universal Full Release of All Claims and Rights” for the undersigned’s approval.¹

c. Having been advised of the settlement terms and having reviewed the Settlement Agreement, noting that the parties are represented by counsel, the undersigned finds the terms to be fair, adequate, reasonable, and not contrary to public policy.

¹ At any time after the filing of objections to the Assistant Secretary’s findings and preliminary order, the case may be settled, and, if the case is before an administrative law judge, the settlement is contingent upon the approval of the administrative law judge. 29 C.F.R. § 1982.111(d)(1). Any settlement approved by the administrative law judge becomes the final order of the Secretary. 29 C.F.R. § 1982.111(e).

3. Ruling and Order.

a. The Settlement Agreement is APPROVED and may be enforced pursuant to 20 C.F.R. § 1982.113. The parties shall implement the terms as stated in the Settlement Agreement, to the extent not otherwise accomplished. This Order shall have the same force and effect as one made after a full hearing on the merits.

b. This case is DISMISSED with prejudice.

SO ORDERED this 10th day of July, 2018, in Covington, Louisiana.

**TRACY A. DALY
ADMINISTRATIVE LAW JUDGE**