



**Issue Date: 09 August 2017**

CASE NO.: 2017-FRS-00054

*In the Matter of:*

MICHAEL PARKER,  
Complainant,

vs.

DENVER TRANSIT OPERATORS, LLC,  
ANNE HERZENBERG,  
Respondents,

**DECISION AND ORDER APPROVING SETTLEMENT AGREEMENT, DISMISSING COMPLAINT, AND VACATING HEARING DATES**

This is a complaint by Michael Parker (“Complainant”) against Denver Transit Operators, LLC and its General Manager, Anne Herzenberg, (collectively “Respondents”) alleging violations of the whistleblower protection provisions of the Federal Rail Safety Act (“FRSA”), 49 U.S.C. § 20109. On March 27, 2017, the Regional Administrator of the Occupational Safety and Health Administration issued a determination letter finding that there was reasonable cause to believe that Respondents violated the FRSA. Respondents filed objections and requested a hearing with the Office of Administrative Law Judges. On May 25, 2017, I conducted a conference call with the parties to set hearing dates. At that time, the parties indicated they were interested in pursuing settlement; the hearing was tentatively set for December 4 through 6, 2017, but no pre-hearing schedule was established. During an August 1, 2017, status conference, the parties reported that they were proceeding to mediation on August 3, 2017.

On August 7, 2017, Respondents filed a “Settlement Agreement, Release and Waiver” signed by Claimant and Ms. Herzenberg. Per 29 C.F.R. § 1982.111(d)(2), an FRSA complaint may be settled by the parties after objections have been filed to OSHA’s findings, provided that the settlement is reviewed and accepted by the adjudicatory body having jurisdiction over the case. If approved, the settlement constitutes the final order of the Secretary. 29 C.F.R. § 1982.111(e).

After reviewing the settlement agreement, I find that it appears to be reasonable, adequate and not the result of duress. Accordingly, the settlement agreement is hereby APPROVED. The parties are ORDERED to implement the terms of the approved settlement agreement which are incorporated by reference into this Decision and Order.

It is specifically ORDERED that:

1. The hearing scheduled for December 4 through 6, 2017, in Denver, Colorado is VACATED.
2. Denver Transit Operators, LLC and Anne Herzenberg shall pay to Complainant, Michael Parker, a gross amount of \$29,000.00, minus all applicable state and federal tax withholdings, representing consideration for settlement of any and all claims, asserted and unasserted, by Complainant for lost wages
3. Denver Transit Operators, LLC and Anne Herzenberg shall pay to Complainant's attorneys in this complaint, Chod Law, LLC, a sum of \$14,500.00 as payment for attorney's fees.
4. This case is DISMISSED with prejudice.

JENNIFER GEE  
Administrative Law Judge