



Issue Date: 25 February 2019

CASE NO.: 2018-FRS-00031

In the Matter of:

TRAVIS AIKEN,
Complainant,

v.

CSX TRANSPORTATION, INC.,
Respondent.

ORDER APPROVING SETTLEMENT and DISMISSING COMPLAINT

A hearing in this matter was scheduled to begin on January 22, 2019 in Greenville, South Carolina. Shortly before the hearing, I was advised that the parties had reached a settlement and, when the matter was called for hearing, the parties confirmed they had done so. On February 22, 2019, the parties submitted their settlement agreement for review as required by 29 C.F.R. §§ 1982.111(d)(2).

Upon review of the settlement agreement, I find that its terms are fair, adequate, and reasonable, and do not contravene the public interest. However, it appears to be a global settlement purporting to dispose of claims in addition to the claim brought under the Federal Rail Safety Act (FRSA). My authority to approve the settlement agreement is limited to matters that are before me – that is, to approve the settlement agreement only insofar as it resolves the complaint under FRSA. My approval should not be construed as approval of the resolution of any claims brought under any other federal statute or under state law.

In paragraph 12 of the settlement agreement, the parties agree that the settlement agreement should be confidential as between them. The parties additionally move that the settlement agreement be kept under seal at this Office. Because the Office of Administrative Law Judges is a government agency, and this is a public proceeding, the parties' submissions in this matter, including the settlement agreement, become a part of the record in this case. The record is subject to the Freedom of Information Act ("FOIA").¹ FOIA requires agencies to disclose requested records unless they are exempt from disclosure under FOIA. *See, e.g., Fish v. H and R Transfer*, ARB No. 01-071, ALJ Case No. 2000-STA-56, slip op. at 2 (ARB April 30, 2003). Accordingly, to protect the parties from improper disclosure of confidential information to the extent permitted by law, the Agreement will be sealed in a separate envelope and identified as being "CONFIDENTIAL COMMERCIAL INFORMATION," pursuant to 29 C.F.R. § 70.26(b).

¹ 5 U.S.C. § 552.

The sealed envelope will also be identified as being “PERSONAL PRIVATE INFORMATION,” indicating that it may contain information exempt from FOIA pursuant to Exemptions 4 and/or 6.² Whether the settlement agreement is disclosed under FOIA will be determined by the OALJ FOIA officer after any request for disclosure is filed. If the agreement is disclosed pursuant to FOIA, such disclosure is not a violation of the agreement and will not result in a violation of the settlement agreement.

Finally, paragraph 14 of the settlement agreement provides that it “shall be governed by the laws of the State of Florida, without regard to conflict of laws principles, except to the extent preempted by federal law.” This provision is interpreted not to limit the authority of the Secretary of Labor or of any federal court, which shall be governed in all respects by the laws of the United States.³

ORDER

Based on the foregoing, IT IS ORDERED:

1. The settlement between Complainant Troy Aiken and Respondent CSX Transportation, Inc. is APPROVED; and
2. The complaint in this matter is DISMISSED.

SO ORDERED.

PAUL C. JOHNSON, JR.
District Chief Administrative Law Judge

PCJ, Jr./ksw
Newport News, Virginia

² 5 U.S.C. § 552(b)(4) and (6).

³ *Phillips v. Citizens' Ass'n for Sound Energy*, 1991-ERA-025, slip op. at 2 (Sec'y Nov. 4, 1991).