



Issue Date: 12 November 2019

CASE NO.: 2019-FRS-00004

IN THE MATTER OF

ANSON BLACKBURN

Complainant

v.

NORFOLK SOUTHERN RAILWAY CO.

Respondent

**DECISION AND ORDER**  
**APPROVING SETTLEMENT AND FINAL RELEASE**

This proceeding arises pursuant to a complaint alleging violations under the employee protective provisions of the Federal Rail Safety Act (FRSA), 49 U.S.C. § 20109. The Complainant Anson Blackburn and Respondent Norfolk Southern Railway Company have entered into a settlement agreement, and their attorneys have submitted to the undersigned a Settlement and Final Release for review and approval. *See* 29 C.F.R. § 1982.111(d)(2). To the extent that the Settlement and Final Release references causes of action other than the instant case, I limited my review and approval solely to the settlement of Complainant's allegation that Respondent violated the FRSA. I have reviewed the terms of the settlement and release, and I find that the terms are fair, adequate, and reasonable. Therefore, the Settlement and Final Release is **APPROVED**.

Given the parties' wish to invoke Exemption 4 in the event the office receives a Freedom of Information Act (FOIA) request for the settlement agreement, the request is **GRANTED**. Accordingly, the Settlement and Final Release shall be marked with a notice that the parties object to disclosure in the event the office receives a FOIA request for the settlement agreement, and that the parties have asked for pre-disclosure notification under 29 C.F.R. § 70.26 prior to any release of information. This procedure is in accordance with the precedent of the Administrative Review Board. *See Bettner v. Crete Carrier Corp.*, ARB No. 07-093, ALJ No. 2007-STA-033, slip op. at 3, n.11 (ARB Sept. 27, 2007); *Davis v. Ecoscape Solutions Group*, ARB No. 08-098, ALJ NO. 2008-STA-048, slip op. at 2-3 (ARB Jul. 31, 2008). *See also Food Mktg. Inst. v. Argus Leader Media*, 139 S. Ct. 2356 (2019).

**ORDER**

The Settlement and Final Release is **APPROVED**. *See* 29 C.F.R. § 1982.111(d)(2).

The Complaint is **DISMISSED** with prejudice, and each party bears its own costs in this matter.

The Settlement and Final Release filed with this office shall be maintained in a clearly marked envelope with the following notice:

In the event that this settlement agreement and attachments are the subject of a FOIA request, the parties assert that the records are exempt from production under FOIA Exemption 4. The parties request notice and an opportunity to object to any FOIA production of the settlement agreement and attachments. *See* 29 C.F.R. § 70.26.

**ORDERED** this 12<sup>th</sup> day of November, 2019, at Covington, Louisiana.

**ANGELA F. DONALDSON**  
**Administrative Law Judge**