



**Issue Date: 15 August 2019**

OALJ Case No.: 2019-FRS-00022  
OSHA Case No.: 5-3100-18-012

*In the Matter of:*

**JOHN BOROWSKI,**  
*Complainant,*

v.

**UNION PACIFIC RAILROAD,**  
*Respondent.*

**DECISION AND ORDER APPROVING SETTLEMENT AGREEMENT  
AND DISMISSING COMPLAINT**

This complaint arises under the Federal Rail Safety Act (“FRSA”).<sup>1</sup> On July 23, 2019, John Borowski (“Complainant”) and Union Pacific Railroad (“Respondent”) filed a Joint Motion for Approval of Release and Settlement Agreement. According to the joint motion, the parties have mutually resolved Complainant’s FRSA claims and have submitted the executed “Settlement Agreement and Release of Claims” for the undersigned’s review. The Settlement is signed by Complainant and the attorney for Respondent. The parties state that they have agreed to keep the specific terms of the settlement confidential and request that the agreement be kept under seal.<sup>2</sup>

This Order is limited to whether the terms of the Settlement are a fair, adequate and reasonable settlement of the Complainant’s allegations that the Respondent

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<sup>1</sup> 49 U.S.C. § 20109, as amended by Section 1521 of the Implementing Recommendations of the 9/11 Commission Act of 2007, Pub. L. No. 110-53 (Aug. 3, 2007).

<sup>2</sup> The parties are afforded the right to request that information be treated as confidential commercial information where, as here, they are required to submit information involuntarily. 20 C.F.R. § 70.26(b) (2001). The Department of Labor (“DOL”) is then required to take steps to preserve the confidentiality of that information, and must provide the parties with predisclosure notification if a Freedom of Information Act (“FOIA”) request is received seeking release of that information. Accordingly, the Settlement in this matter will be placed in an envelope marked “PREDISCLOSURE NOTIFICATION MATERIALS.” Consequently, before any information in this file is disclosed pursuant to a FOIA request, the DOL is required to notify the parties to permit them to file any objections to disclosure. 29 C.F.R. § 70.26 (2001). Furthermore, the undersigned will refrain from discussing specific terms or dollar amounts contained in the Settlement.

violated the FRSA.<sup>3</sup> The Settlement provides that Respondent shall make a payment to Complainant of an agreed upon amount and that Complainant will release any and all claims arising out of his employment with Respondent. In addition, the Settlement provides that the present action will be dismissed with prejudice.

Having been advised of the settlement terms and having reviewed the Settlement, the undersigned finds the terms of the Settlement to be fair, adequate, reasonable, and not contrary to public policy and is therefore approved. Upon my approval, the parties shall implement the terms of the Settlement as stated in the Settlement.

Accordingly, it is hereby ORDERED that the Settlement filed on August 8, 2019 is APPROVED and may be enforced pursuant to 20 C.F.R. § 1982.113. It is furthered ORDERED that the above-referenced matter be DISMISSED WITH PREJUDICE and that each party bear its own fees and costs in this matter.

**SO ORDERED.**

**JENNIFER WHANG**  
Administrative Law Judge

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<sup>3</sup> *Poulos v. Ambassador Fuel Oil Co. Inc.*, Case No. 86-CAA-1, Sec. Order (Nov. 2 1987). 1987 WL 383064.