



Issue Date: 13 September 2019

Case Number: 2019-FRS-00051
OSHA No.: 5-1260-17-096

In the Matter of:

MATTHEW GERLOFF,
Complainant,

v.

THE BELT RAILWAY COMPANY
OF CHICAGO,
Respondent.

**ORDER APPROVING SETTLEMENT AGREEMENT
AND DISMISSING COMPLAINT**

This proceeding arises under the employee protection provisions of the Federal Railroad Safety Act of 2007 (“FRSA”), 49 U.S.C. § 20109. By Order issued September 4, 2019, I cancelled a September 11, 2019 hearing in Chicago, Illinois upon notice from the parties that they had settled the case. On September 12, 2019, Complainant’s counsel submitted a *Settlement Agreement and Release of Claims* (“Release”) for my approval.¹

Having been advised of the settlement terms and having reviewed the Release, noting that the parties are represented by counsel, I find the terms to be fair, adequate, reasonable, and not contrary to public policy, and are therefore approved.² Upon my approval, the parties shall implement the terms as stated in the Release, to the extent not otherwise already accomplished. This Order shall have the same force and effect as one made after a full hearing on the merits.

¹ 29 C.F.R. § 1982.111(d)(1) states that 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. Any settlement approved by the administrative law judge becomes the final order of the Secretary. 29 C.F.R. § 1982.111(e).

² I note that the Settlement Agreement does not allocate a specific portion of the settlement for attorney’s fees but instead provides that “any costs or attorney’s fees incurred by Gerloff arising out of or relating to or in connection with the claims which have been made, are his sole and separate responsibility and not that of BRC.” (Settlement Agreement pg. 4). Although settlement agreements commonly provide a specific allocation for attorney’s fees, I find that the total amount of the settlement is fair, adequate, and reasonable compensation of Complainant’s claim and attorney’s fees in this matter. I also note that the agreement provides for “settlement of all claims, demands, actions, injuries, damages, costs and compensation of any kind arising out of the subject matter of this Release.” However, this approval applies only to the FRSA complaint over which the Office of Administrative Law Judges has jurisdiction.

Accordingly, **IT IS HEREBY ORDERED** that the Settlement Agreement and Release of Claims filed on September 12, 2019 is **APPROVED**, and thereby becomes the final order of the Secretary and may be enforced pursuant to 29 C.F.R. §1982.113.

IT FURTHER ORDERED that, upon payment of the agreed consideration as set forth in the Release, the complaint filed in this matter is **DISMISSED WITH PREJUDICE**, and that counsel for Complainant is allowed to withdraw as counsel of record in this matter following completion of his professional duties necessary to implementing the Settlement on behalf of his client.

SO ORDERED:

STEPHEN R. HENLEY
Chief Administrative Law Judge