



Issue Date: 14 May 2020

Case No.: 2019FRS00107

In the Matter of:

KELLY KEIR,
Claimant,

v.

NORFOLK SOUTHERN CORPORATION,
Employer,

**ORDER APPROVING SETTLEMENT AGREEMENT, DISMISSING
CLAIMS AND CANCELLING HEARING**

This case arises under the Federal Rail Safety Act (FRSA), as amended. The hearing was set for August 11, 2020 in Cleveland, Ohio. On May 14, 2020, the parties submitted a “Settlement and Final Release” for my review and approval. The Settlement and Final Release has been signed by the Complainant, and it resolves all issues presented in the matter before me.

My review of the Settlement Agreement is limited to a determination of whether its terms are fair, adequate and reasonable under the FRSA. The settlement must adequately protect the whistleblower. The settlement must not be contrary to public interest.

The Office of Administrative Law Judges is a government agency. This is a public proceeding. The submissions of the parties in this case, including the Settlement Agreement and General Release, become a part of the record in this case, and are subject to the Freedom of Information Act (“FOIA”).¹ FOIA requires agencies to disclose requested records unless they are exempt from disclosure under FOIA. The Settlement Agreement provides that both parties will keep the existence and terms of the Settlement Agreement confidential, with certain specified exceptions. The parties have stipulated to the confidential nature of the Settlement Agreement. Accordingly, to protect the parties from improper disclosure of this confidential information, to the furthest extent permitted by law, the Settlement Agreement will be sealed in a separate envelope and identified as being “CONFIDENTIAL COMMERCIAL AND PERSONAL PRIVATE INFORMATION” pursuant to 29 C.F.R. § 70.26(b).

After careful consideration of the Settlement and Final Release, I find that the terms and conditions are acceptable. Moreover, I find the terms of the agreement to be fair, adequate, and reasonable under the FRSA, and that the terms adequately protect the Complainant. Furthermore,

¹ 5 U.S.C. § 552 (2011).

I believe it is in the public interest to approve the Settlement Agreement as a basis for administrative disposition of this case, and I therefore approve the Settlement and Final Release.

IT IS THEREFORE ORDERED that the Settlement and Final Release submitted by the parties is **APPROVED**. The parties are directed to take all necessary action to implement the terms of the settlement. The complaint is **DISMISSED WITH PREJUDICE**. In accordance with the regulations, the settlement constitutes the final order of the Secretary of Labor and may be enforced under 29 C.F.R. § 1982.113 (2012).

IT IS FURTHER ORDERED that the Settlement Agreement is to be kept under seal and designated as “PERSONAL PRIVATE INFORMATION,” and “CONFIDENTIAL COMMERCIAL INFORMATION” under 29 C.F.R. § 70.26, and shall be afforded the protections thereunder.

The hearing set for August 11, 2020, in Cleveland, Ohio, is **CANCELLED**.

Steven D. Bell
Administrative Law Judge