



Issue Date: 23 January 2020

CASE NO.: 2019-FRS-00093

In the Matter of:

DAVID E. LEASURE,
Complainant,

v.

UNION PACIFIC RAILROAD,
Respondent.

ORDER APPROVING REVISED SETTLEMENT AGREEMENT

The parties have settled this matter that arose under the whistleblower-protection provisions of the Federal Railroad Safety Act, 49 U.S.C. § 20109, and its implementing regulations at 29 C.F.R. Part 1982. A settlement requires the administrative law judge's approval. *See* 29 C.F.R. § 1981.111(d)(2).

On December 9, 2019, the parties submitted a proposed settlement agreement for review and approval. At a teleconference with counsel, I identified a deficiency in the proposed agreement. I allowed the parties to submit a revised settlement agreement.

On January 2, 2020, the parties filed revisions to their agreement. The revised settlement agreement addresses the deficiency in the initial submission. I will approve the revised settlement agreement with some caveats.

First, some of the provisions in the settlement agreement extend to claims beyond the scope of the Federal Railroad Safety Act. I limit my review to Federal Railroad Safety Act claim. This order does not concern the settlement or release of any claims other than those arising under the Federal Railroad Safety Act based on conduct through the date of the agreement.

Second, the parties should be aware that—whatever the parties might agree concerning confidentiality—the Freedom of Information Act (FOIA) applies to all of this Office's records and will apply to the settlement agreement. If a request is received for access to the settlement agreement under FOIA, the Department of Labor will provide the litigants with pre-disclosure notification and an opportunity to respond before any disclosure is made. *See* 29 C.F.R. § 70.26. The parties may include in their settlement agreement agreed language (consistent with legal

limits) that precludes the parties themselves from making specified disclosures. But the parties cannot limit the Department's disclosures.

That said, the proposed settlement agreement is fair and reasonable as to the claim under the Federal Railroad Safety Act. It adequately protects Complainant. None of its terms is against public policy. The proposed settlement is therefore APPROVED, and the parties are ORDERED to comply with its terms. *See* 29 C.F.R. § 1981.111(d)(2). This matter is DISMISSED.

SO ORDERED.

STEVEN B. BERLIN
Administrative Law Judge