



**Issue Date: 30 December 2019**

CASE NO.: 2019-MAP-00001  
OALJ NO.: 5-2700-16-053

*In the Matter of:*

KEN CORREIA,  
*Complainant,*

v.

FCA US, LLC,  
*Respondent.*

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

This case arises under the Motor Vehicle and Highway Safety Improvement Act of 2012, Section 31307 of the Moving Ahead for Progress in the 21<sup>st</sup> Century Act, 49 U.S.C. § 30171 (“MAP-21” or “the Act”), and the implementing regulations at 29 C.F.R. Part 1988. By Notice of Hearing issued June 3, 2019, this matter was scheduled for hearing beginning on December 9, 2019 in Detroit, Michigan. On November 19, 2019, based on a communication from the parties that they had reached a settlement of this matter, I issued an Order Cancelling Hearing and Setting Date for Submission of Settlement Agreement. On December 23, 2019 the parties filed a “Confidential Settlement Agreement and Release” (hereinafter the “Agreement”). The Agreement is incorporated herein by reference without affecting the confidential designation of the Agreement as described below. The Agreement has been signed by the parties.

My review of the Settlement Agreement is limited to a determination of whether its terms are fair, adequate and reasonable under MAP-21, 49 U.S.C. § 30171. The settlement must adequately protect the whistleblower. Furthermore, the settlement must not be contrary to the public interest. The Agreement may encompass settlement of matters under laws other than under the MAP-21. However, I approve only those terms of the Agreement pertaining to the Complainant’s claim under the MAP-21.

Paragraph 14 of the Agreement regarding governing law states that the Agreement will be governed by the laws of the State of Michigan. I interpret this provision as not limiting the authority of the Secretary of Labor or any federal court, which shall be governed in all respects

by the laws and regulations of the United States. *See Seater v. Southern California Edison Co.*, ARB No. 97-072, ALJ No. 1995-ERA-13 (ARB Mar. 27, 1997).

Paragraph 3 of the Agreement addresses “Release of Claims,” and purports to release claims under statutes in addition to MAP-21. My authority over the settlement agreement is limited to statutes within the Secretary’s jurisdiction and is defined by the applicable statute. I therefore approve only the terms of the Agreement pertaining to Complainant’s MAP-21 claim, Case No. 2019-MAP-00001. I note that Paragraph 3 includes language that could be construed as prohibiting the Complainant from engaging in protected activity, including filing a complaint with a government agency, participating in an investigation, testifying in proceedings, or otherwise providing information to the government. To the extent Paragraph 3 is intended to restrict such activity, it is not approved. Paragraph 3 is also not approved to the extent it is interpreted as requiring the Complainant to waive his right to receive a monetary award from a government-administered whistleblower award program for providing information to a government agency.

Paragraph 6 of the Agreement provides that the Complainant agrees not to disclose the terms of the Agreement. The parties are advised that this Decision and Order will be available for public viewing at the website of the Office of Administrative Law Judges. Further, because the Office of Administrative Law Judges is a government agency, and this is a public proceeding, the parties’ submissions in this matter, including the Agreement, become a part of the record in this case, and are subject to the Freedom of Information Act (“FOIA”).<sup>1</sup> FOIA requires agencies to disclose requested records unless they are exempt from disclosure under FOIA. *See, e.g., Fish v. H and R Transfer*, ARB No. 01-071, ALJ Case No. 2000-STA-56, slip op. at 2 (ARB April 30, 2003). Accordingly, to protect the parties from improper disclosure of confidential information to the extent permitted by law, the Agreement will be sealed in a separate envelope and identified as being “CONFIDENTIAL COMMERCIAL INFORMATION,” pursuant to 29 C.F.R. § 70.26(b). The sealed envelope will also be identified as being “PERSONAL PRIVATE INFORMATION,” indicating that it may contain information exempt from FOIA pursuant to Exemptions 4 and/or 6.<sup>2</sup>

After consideration of the Agreement, I find that the terms and conditions of the Agreement that are within the scope of my authority and are consistent with my comments above concerning Paragraph 3 of the Agreement are acceptable under the Act, and that the terms adequately protect the Complainant. Furthermore, I believe it is in the public interest to approve the Agreement as a basis for administrative disposition of this case, and I therefore approve the Agreement.

**IT IS THEREFORE ORDERED** that the settlement agreement submitted by the parties is **APPROVED**. In accordance with the terms of the settlement, the Complaint herein is hereby **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. § 1988.111(e).

---

<sup>1</sup> 5 U.S.C. § 552.

<sup>2</sup> 5 U.S.C. § 552(b)(4) and (6).

**IT IS FURTHER ORDERED** that the 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.

LARRY A. TEMIN  
ADMINISTRATIVE LAW JUDGE