



**Issue Date: 03 March 2011**

**CASE NO.: 2009-STA-00033**

**In the Matter of:**

**RANDY PULLEY,  
Complainant,**

**v.**

**FEDERAL EXPRESS NATIONAL LTL,  
Respondent.**

**DECISION AND ORDER APPROVING SETTLEMENT**

This case arises under the employee protection provisions of the Surface Transportation Assistance Act of 1982, as amended (“STAA”), 49 U.S.C. §31101 *et seq.*, with implementing regulations appearing at 29 C.F.R. Part 1978. No hearing has been held, however, as the parties have reached a settlement. For the reasons set forth below, I have approved the settlement and this matter is dismissed.

Upon advice from the parties indicating that they had settled this matter, I issued an Order Canceling Hearing Due to Settlement on May 12, 2010, which canceled the hearing scheduled to be held in Wichita, Kansas from May 24 to 26, 2010 and directed the parties to submit an executed settlement agreement for approval as soon as practicable. In that regard, the regulations relating to STAA whistleblower cases require that an administrative law judge review the settlement prior to dismissing a case. 29 C.F.R. § 1978.111(d)(2). Compare *Hoffman v. Fuel Economy Contracting*, 1987-ERA-33 (Sec’y Aug. 4, 1989) (Order) (requiring that settlements in whistleblower cases brought under the Energy Reorganization Act be reviewed to determine whether they are fair, adequate and reasonable) with *Indiana Dept. of Workforce Development v. U.S. Dept. of Labor*, 1997-JTP-15 (Admin. Review Bd. Dec. 8, 1998) (holding ALJ has no authority to require submission of settlement agreement in Job Training Partnership case when parties have stipulated to dismissal under Rule 41(a)(1)(ii), FRCP, and contrasting ERA cases.) However, as no settlement agreement was submitted, I had my law clerk contact the parties, who verified that a settlement agreement had been sent but that another copy would be transmitted.

By facsimile of March 1, 2011, counsel for Complainant submitted for my review and approval a Settlement Agreement and General Release (hereafter “Settlement Agreement”) signed by Complainant and by Respondent.

The regulations relating to settlements of STAA cases, as amended in August 2010, provide, in pertinent part:

(2) Adjudicatory settlements. At any time after the filing of objections to the Assistant Secretary's findings and/or order, the case may be settled if the participating parties agree to a settlement and the settlement is approved by the ALJ if the case is before the ALJ or by the ARB, if the ARB has accepted the case for review. A copy of the settlement will be filed with the ALJ or the ARB as the case may be.

29 C.F.R. § 1978.111(d)(2) (2010).

The Settlement Agreement references laws in addition to the STAA. To the extent that the Settlement Agreement may be deemed to relate to matters under laws other than the STAA, I have limited my review to determining whether the terms thereof are a fair, adequate and reasonable settlement of Complainant's allegations that the Respondent violated the STAA. *See Fish v. H and R Transfer*, ARB No. 01-071, ALJ No. 2000-STA-56 (ARB Apr. 30, 2003). *See also Poulos v. Ambassador Fuel Oil Co., Inc.*, 1986-CAA-1 (Sec'y Nov. 2, 1987).

The Settlement Agreement also contains a confidentiality provision. However, the parties are advised that records in whistleblower cases are agency records which the agency must make available for public inspection and copying under the Freedom of Information Act (FOIA), 5 U.S.C. §552, and the Department of Labor must respond to any request to inspect and copy the record of this case as provided in the FOIA.

Having reviewed the terms of the proposed settlement, I find that the settlement is fair, reasonable, and adequate, and that it should be approved. This Decision and Order Approving Settlement constitutes the final order of the Secretary of Labor. 29 C.F.R. § 1978.111(e) (2010). Accordingly,

## ORDER

**IT IS HEREBY ORDERED**, that the Settlement Agreement be, and hereby is **APPROVED**, and that this case be, and hereby is **DISMISSED WITH PREJUDICE**.

**A**

PAMELA J. LAKES  
Administrative Law Judge

Washington, D.C.