

UNITED STATES DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES
BOSTON, MASSACHUSETTS

Issue Date: 11 October 2012

ALJ NO.: 2012-STA-00038

In the Matter of:

PAUL WALTERS,
Complainant

v.

TOYOTA TSUSHO AMERICA, INC.,¹
Respondent

ORDER APPROVING SETTLEMENT AND DISMISSING COMPLAINT

This proceeding arises from a complaint filed by Paul Walters (“Complainant”) against Toyota Tsusho America, Inc. (“Respondent”) under the Surface Transportation Assistance Act (“STAA”), 49 U.S.C. § 31105 (2007) and the regulations promulgated thereunder . 29 C.F.R. § 1978. On October 9, 2012, the parties filed a Joint Motion for Approval of Parties’ Confidential Settlement Agreement and Release in accordance with 29 C.F.R. §§ 18.9 and 1978.111(d)(2).

The STAA and its implementing regulations provide that a proceeding under the STAA may be ended prior to entry of a final order by a settlement agreement between the parties. 49 U.S.C. § 31105(b)(2)(C); 29 C.F.R. § 1978.111(d)(2) (2010). The Administrative Law Judge’s role in reviewing the parties’ settlement agreement is limited to ascertaining whether the terms of the agreement fairly, adequately, and reasonably settle the Complainant’s allegations that the Respondent violated the STAA. *Ass’t Sec’y & Zurenda v. Corporate Express Delivery Sys., Inc.*, ARB No. 00-041, ALJ No. 1999-STA-00030 (ARB March 31, 2000).

Paragraph 14 of the Settlement Agreement provides that the terms of the Agreement shall be governed and construed under the laws of the State of Michigan. This choice of law provision is construed as not limiting the authority of the Secretary of Labor and any Federal court. *See Phillips v. Citizens. Assoc. for Sound Energy*, No. 91-ERA-25, slip op. at 2 (Sec’y Nov. 4, 1991).

Paragraph 9 of the Settlement Agreement titled “Request For Confidentiality” restricts disclosure of information relating to this case, and this settlement. However, the parties are advised that their submissions, including the Agreement, become part of the record of the case, and are subject to the Freedom of Information Act (FOIA), 5 U.S.C. § 552. The FOIA requires

¹ The parties represent that Respondent was mistakenly identified in the case caption as Toyota Tsusho Corp. The correct name of the Respondent in this complaint is Toyota Tsusho America Inc.

Federal agencies, including the Department of Labor, to disclose requested records unless they are exempt from disclosure under the Act. Therefore, the Department of Labor must respond to any request to inspect and copy the record of this case as provided in the FOIA. The Administrative Review Board has noted that:

If an exemption is applicable to the record in this case or any specific document in it, the Department of Labor would determine at the time a request is made whether to exercise its discretion to claim the exemption and withhold the document. If no exemption is applicable, the document would have to be disclosed.

Seater v. S. Cal. Edison Co., 1995-ERA-13 (ARB March 27, 1997). The parties are entitled to pre-disclosure notification rights under 29 C.F.R. § 70.26.

Pursuant to the requirements of the Act and the implementing regulations, I have carefully reviewed the terms of the parties' Settlement Agreement, and I have determined that it constitutes a fair, adequate and reasonable settlement of the complaint.

ACCORDINGLY, it is hereby ORDERED that:

1. The parties' Settlement Agreement is APPROVED and
2. The complaint is dismissed with prejudice.

SO ORDERED.

COLLEEN A. GERAGHTY
Administrative Law Judge

Boston, Massachusetts