In the Matter of:

DARWIN OAKES, 

COMPLAINANT, 

v.

CENTRAL RAILROAD CO. OF INDIANAPOLIS d/b/a/ CHICAGO, FORT WAYNE AND EASTERN RAILROAD, 

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

Appearances:

For the Complainant:
Louis E. Jungbauer, Esq., and Justin N. Brunner, Esq.; Yaeger, Jungbauer & Barczak PLC; St. Paul, Minnesota

For the Respondent:
Ronald A. Lane, Esq., and Kristin L. Bevil, Esq.; Fletcher & Sippel, LLC; Chicago Illinois

Before: Paul M. Igasaki, Chief Administrative Appeals Judge; and Lisa Wilson Edwards, Administrative Appeals Judge

FINAL DECISION AND ORDER APPROVING SETTLEMENT

This case arises under the employee protection provisions of the Federal Railroad Safety Act of 1982 (FRSA).


The Railroad timely petitioned the Administrative Review Board (Board) for review of both decisions.2 Prior to decision, the parties petitioned for approval of a settlement agreement and dismissal of the case. The FRSA’s implementing regulations provide that at any time after a party has filed objections to the Assistant Secretary’s findings or order, the case may be settled if the participating parties agree to a settlement and, if the Board has accepted the case for review, the Board approves the settlement agreement.3 We have received a signed copy of the Settlement Agreement and General Release and have reviewed its terms.

Review of the Agreement reveals that it may encompass the settlement of matters under laws other than the FRSA.4 The Board’s authority over settlement agreements is limited to the statutes that are within the Board’s jurisdiction as defined by the applicable delegation of authority. Therefore, we have restricted our review of the Settlement Agreement to ascertaining whether its terms fairly, adequately, and reasonably settle this FRSA case over which we have jurisdiction.5

Paragraph 15 of the Settlement Agreement provides that the Agreement shall in all aspects be interpreted, enforced, and governed by the laws of the State of Indiana. We construe this “choice of law” provision as not limiting the authority of the Secretary of Labor and any Federal courts, which shall be governed in all respects by the laws and regulations of the United States.6

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2 See Secretary’s Order No. 2-2012 (Delegation of Authority and Assignment of Responsibility to the Administrative Review Board), 77 Fed. Reg. 69378 (Nov. 16, 2012); 29 C.F.R. § 1982.110(a).


4 See, e.g., Settlement Agreement at para. 1.


The parties have certified that the Settlement Agreement constitutes the entire settlement with respect to Oakes’s FRSA claim. Accordingly, finding that the settlement is fair, adequate, and reasonable, we APPROVE the agreement and DISMISS Oakes’s complaint.

SO ORDERED.

PAUL M. IGASAKI
Chief Administrative Appeals Judge

LISA WILSON EDWARDS
Administrative Appeals Judge

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7 See Settlement Agreement at para 10.