



In the Matter of:

BRIAN BELL,

ARB CASE NO. 2019-0002

Complainant,

ALJ CASE NO. 2016-AIR-00016

v.

DATE: December 23, 2019

BALD MOUNTAIN AIR SERVICE,

Respondent.

Before: William T. Barto, *Chief Administrative Appeals Judge*, and Heather C. Leslie, *Administrative Appeals Judge*

**FINAL DECISION AND ORDER APPROVING SETTLEMENT
AND DISMISSING COMPLAINT WITH PREJUDICE**

Brian Bell filed a complaint with the United States Department of Labor alleging that his employer, Bald Mountain Air Service, violated the employee protection provisions of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21).¹ On October 10, 2018, a Department of Labor Administrative Law Judge issued a Decision and Order concluding that Respondent had violated the employee protection provisions of AIR 21 and ordering appropriate relief. On October 24, 2018, Respondent timely filed a Petition for Review with the Administrative Review Board. The petition was granted by the Board and was pending adjudication when on December 2, 2019, the Parties filed a document styled “Joint Motion for

¹ 49 U.S.C. § 42121 (2007). Regulations implementing AIR 21 appear at 29 C.F.R. Part 1979 (2009).

Approval of Settlement Agreement” requesting that the Board approve the agreement.

AIR 21’s implementing regulations provide that the parties may settle a case at any time if they provide a copy to the Board (if the case is pending on appeal), and the Board approves the settlement.² The Board reviews a settlement under the whistleblower acts to assure that it is fair, adequate, and reasonable and is not contrary to the public interest.³

We note that while the Settlement Agreement and Release provides that the settlement terms will be confidential, the parties’ submissions, including the Agreement, become part of the record of the case and are subject to the Freedom of Information Act (FOIA).⁴ The FOIA requires Federal agencies to disclose requested records unless they are exempt from disclosure under the Act.⁵ Department of Labor regulations provide specific procedures for responding to FOIA requests and for appeals by requestors from denials of such requests.⁶

Finally, the Settlement Agreement and Release provides that it shall be construed in accordance with the laws of the State of Alaska. We construe this choice of law provision as not limiting the authority of the Secretary of Labor or any federal court, which shall be governed in all respects by the applicable laws and regulations of the United States.⁷

² 29 C.F.R. § 1979.111(d)(2).

³ *Coogler v. Schneider Nat’l Carriers, Inc.*, ARB No. 09-133, ALJ No. 2009-STA-023, slip op. at 3 (ARB July 30, 2010).

⁴ 5 U.S.C. § 552 (2010).

⁵ *Coffman v. Alyeska Pipeline Serv. Co. & Arctic Slope Inspection Serv.*, ARB No. 96-141, ALJ Nos. 1996- TSC-005, -006, slip op. at 2 (ARB June 24, 1996).

⁶ 29 C.F.R. § 70 *et seq.* (2009).

⁷ *Trucker v. St. Cloud Meat & Provisions, Inc.*, ARB No. 08-080, ALJ No. 2008-STA-023, slip op. at 3 (ARB May 30, 2008).

We have carefully reviewed the parties' Settlement Agreement and Release and find that it constitutes a fair, adequate, and reasonable settlement of Bell's AIR 21 complaint and is not contrary to the public interest.⁸ Accordingly, we **APPROVE** the agreement and **DISMISS** the complaint with prejudice.

SO ORDERED.

⁸ In so doing we assume that the amount specified by the agreement to be paid by Respondent to Complainant for alleged non-economic non-medical damages in installments two, three, and four is missing a zero in light of the aggregate amount to be disbursed in each installment. If this is not the case, one or both Parties may request reconsideration of the Board's decision within 14 days of the date of issuance of this Decision and Order.