

**U.S. Department of Labor**

Administrative Review Board  
200 Constitution Ave. NW  
Washington, DC 20210-0001



**IN THE MATTER OF:**

**RANDALL NIX,**

**ARB CASE NO. 2025-0013**

**COMPLAINANT,**

**ALJ CASE NO. 2024-AIR-00008**

**ALJ MONICA MARKLEY**

**v.**

**DATE: January 8, 2025**

**SYMPHONY TECHNOLOGY  
SOLUTIONS, INC.,**

**and**

**HOLDER CONSTRUCTION  
GROUP, LLC,**

**RESPONDENTS.**

**Appearances:**

***For the Complainant:***

**Eric Bachman, Esq.; *Bachman Law*; Bethesda, Maryland**

***For the Respondent Symphony Technology Solutions, Inc.:***

**Eric Wilborn, Esq.; *Stewart, Melvin & Frost, LLP*; Gainesville, Georgia**

***For the Respondent Holder Construction Group, LLC:***

**Alex W. West, Esq.; *Fisher Phillips*; Charlotte, North Carolina**

**Before WARREN, Acting Chief Administrative Appeals Judge, and Angela  
W. Thompson, Administrative Appeals Judge**

**DECISION AND ORDER APPROVING SETTLEMENT AND DISMISSING  
CASE WITH PREJUDICE**

**PER CURIAM:**

**This case arises under the Wendell H. Ford Aviation Investment and Reform**

Act for the 21st Century (AIR21) and its implementing regulations.<sup>1</sup> Randall Nix (Complainant) filed a complaint with the United States Department of Labor's Occupational Safety and Health Administration (OSHA) alleging that Symphony Technology Solutions, Inc. and Holder Construction Group, LLC (collectively, Respondents) retaliated against him in violation of AIR21.<sup>2</sup> A United States Department of Labor Administrative Law Judge (ALJ) issued an Order Granting Respondents' Joint Motion for Summary Decision and Order Dismissing Complaint and Order Cancelling Hearing on November 13, 2024.<sup>3</sup> Complainant appealed to the Administrative Review Board (the Board) on November 26, 2024.

On December 23, 2024, the parties filed a Joint Motion to Dismiss Appeal (Joint Motion) together with an executed Settlement Agreement and Release of Claims (Settlement Agreement) with the Board in which they agreed to dismiss the matter with prejudice.<sup>4</sup> The parties indicated they requested the Board's approval of the Settlement Agreement.<sup>5</sup>

Pursuant to AIR21's implementing regulations, the Board may approve a settlement agreement at any time after a timely petition for review has been filed if the participating parties agree to a settlement.<sup>6</sup>

In addition to settling Complainant's AIR 21 claim, the Settlement Agreement releases Respondents from claims beyond the scope of the AIR21 claim and outside the Board's jurisdiction.<sup>7</sup> The Board's authority to review settlement matters is limited to final decisions under specific statutes by order of the Secretary of Labor.<sup>8</sup> In accordance with Board precedent, the Board reviews the Settlement Agreement to determine whether its terms fairly, adequately, and reasonably settle

---

<sup>1</sup> 49 U.S.C. § 42121; 29 C.F.R. Part 1979 (2024).

<sup>2</sup> Order Granting Respondents' Joint Motion for Summary Decision and Order Dismissing Complaint and Order Cancelling Hearing at 1.

<sup>3</sup> *Id.* at 8.

<sup>4</sup> Joint Motion at 1; Settlement Agreement at 4.

<sup>5</sup> Settlement Agreement at 2.

<sup>6</sup> 29 C.F.R. § 1979.111(d)(2).

<sup>7</sup> Settlement Agreement at 4-5.

<sup>8</sup> Secretary's Order No. 01-2020 (Delegation of Authority and Assignment of Responsibility to the Administrative Review Board (Secretary's discretionary review of ARB decisions)), 85 Fed. Reg. 13,186 (Mar. 6, 2020); *see Gray v. DAL Global*, ARB No. 2010-0112, ALJ No. 2009-AIR-00028, slip op. at 2 (ARB Aug. 31, 2010) (citing *Fish v. H & R Transfer*, ARB No. 2001-0071, ALJ No. 2000-STA-00056, slip op. at 2 (ARB Apr. 30, 2003)).

the instant AIR21 case under our jurisdiction and are not contrary to the public interest.<sup>9</sup>

The settlement agreement contains a confidentiality clause in which the parties agree to not disclose information relating to the agreement's terms to anyone other than their counsel, the Court for enforcement purposes, for Respondents "on a need-to-know basis, and for Mr. Nix, his tax advisor."<sup>10</sup> Additionally, the agreement states none of its terms "purport[] to affect how the U.S. Department of Labor handles any public record requests."<sup>11</sup>

If the confidentiality clause was interpreted to preclude Complainant from communicating with federal or state enforcement agencies concerning alleged violations of law, it would violate public policy, as it would contain an unacceptable "gag provision."<sup>12</sup> We construe the language contained in the confidentiality clause as allowing Complainant, either voluntarily or pursuant to an order or subpoena, to communicate with, or provide information to, state and federal authorities concerning any suspected violations of law involving Respondent.

The Settlement Agreement provides it shall be governed by the laws of the state of Tennessee.<sup>13</sup> This "Governing Law" provision does not limit the authority of the Secretary of Labor, the Board, or any federal court as to any issue arising under AIR 21, and whose authority shall be governed in all respects by the laws and regulations of the United States.<sup>14</sup>

---

<sup>9</sup> *Bell v. Bald Mountain Air Serv.*, ARB No. 2019-0002, ALJ No. 2016-AIR-00016, slip op. at 2 (ARB Dec. 23, 2019) (citing *Coogler v. Schneider Nat'l Carriers, Inc.*, ARB No. 2009-0133, ALJ No. 2019-STA-00023, slip op at 3 (ARB July 20, 2010)).

<sup>10</sup> Settlement Agreement at 5.

<sup>11</sup> Settlement Agreement at 5.

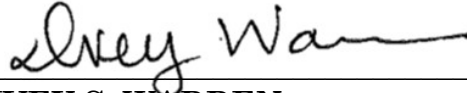
<sup>12</sup> *Clem v. Comput. Scis. Corp.*, ARB No. 2020-0025, ALJ Nos. 2015-ERA-00003, -00004, slip op. at 3 n.4 (ARB May 16, 2022) (citing *Helgeson v. Soo Line R.R. Co.*, ARB No. 2019-0054, ALJ No. 2016-FRS-00084, slip op. at 3 (ARB Jan. 13, 2021)).

<sup>13</sup> Settlement Agreement at 6.

<sup>14</sup> *Bell*, ARB No. 2019-0002, slip op. at 2 (citing *Trucker v. St. Cloud Meat & Provisions, Inc.*, ARB No. 2008-0080, ALJ No. 2008-STA-00023, slip op. at 3 (ARB May 30, 2008)).

Upon careful review of the parties' Settlement Agreement, the Board concludes it is fair, adequate, and reasonable and is not contrary to the public interest. Accordingly, we **APPROVE** the Settlement Agreement and **DISMISS** the complaint with prejudice.

**SO ORDERED.**



---

**IVEY S. WARREN**

**Acting Chief Administrative Appeals Judge**



---

**ANGELA W. THOMPSON**

**Administrative Appeals Judge**