



Issue Date: 12 August 2014

CASE NO: 2014-FRS-00006

In the Matter of:

DUSTIN D. HESS,
Complainant,

v.

UNION PACIFIC RAILROAD COMPANY,
Respondent.

**ORDER DISMISSING COMPLAINT AND
CANCELLING HEARING**

This matter is presently scheduled for a formal hearing on October 21, 2014. On July 8, 2014, I received from Complainant's counsel a notice stating that, pursuant to 49 U.S.C. 20109(d)(3) of the Federal Railroad Safety Act (FRSA), his client intended to file an original action in United States District Court regarding the issues which are presently pending before the Office of Administrative Law Judges.

On July 9, 2014, I ordered Complainant to show cause why his complaint should not be dismissed in the event he filed his FRSA claims in United States District Court. When no timely response to the July 9th order was filed, I asked a member of my staff to contact Complainant's counsel to determine whether his client had filed an original action in United States District Court.

On August 12, 2014, I received from Complainant's counsel a copy of a civil complaint filed on August 8, 2014 on behalf of Dustin D. Hess against Respondent Union Pacific Railroad Company in the United States District Court for the Southern District of Iowa, Case No. 4:14-cv-311 to recover damages for retaliation and for other relief under the employee-protection provision of the Federal Rail Safety Act, 49 U.S.C. § 20109 ("FRSA").

Based on the foregoing, IT IS HEREBY ORDERED that the FRSA Complaint of Dustin D. Hess is DISMISSED.

IT IS FURTHER ORDERED that the formal hearing scheduled for October 21, 2014 is CANCELLED.

SO ORDERED.

STEPHEN L. PURCELL
Chief Administrative Law Judge