



Issue Date: 12 December 2014

Case No.: **2014-FRS-141**

In the Matter of:

JEREMIAH PROFFER,
Complainant,

v.

TERMINAL RAILROAD ASSN. OF ST. LOUIS,
Respondent.

ORDER GRANTING COMPLAINANT'S MOTION TO WITHDRAW CLAIM

This proceeding arises from a claim of whistleblower-protection under the Federal Rail Safety Act (FRSA), as amended.¹ This case involves Complainant's challenge to the Occupational Safety and Health Administration's finding that there was no reasonable cause to believe that Respondent had violated the provisions of the FRSA.

By letter dated December 10, 2014, counsel for the Complainant, Jeremiah Proffer, has advised that the Complainant was "hereby dismissing his claim pursuant to the FRSA, 49 U.S.C. § 20109 with prejudice." Counsel for the Complainant advised that the Complainant's decision was not pursuant to any settlement of his claim.

29 C.F.R. §1982.111(c) controls the voluntary withdrawal of an FRSA claim. It provides in pertinent part:

At any time before the Assistant Secretary's findings ... become final, a party may withdraw its objections to the Assistant Secretary's findings ... by filing a written withdrawal with the ALJ...The ALJ...will determine whether to approve the withdrawal of the objections or the petition for review. If the ALJ approves a request to withdraw objections to the Assistant Secretary's findings... and there are no other pending objections, the Assistant Secretary's findings...will become the final order of the Secretary.

¹ 49 U.S.C. § 20109 (2011).

As the Complainant has indicated his intent to withdraw his objections to the Occupational Safety and Health Administration's findings and is represented by counsel, with whom he has presumably fully discussed the matter and weighed the consequences, pursuant to 29 C.F.R. 1982.111(c):

IT IS ORDERED that the Complainant's objections to the findings of the Occupational Safety and Health Administration are withdrawn and this matter is **DISMISSED** with prejudice.

JOHN P. SELLERS, III
Administrative Law Judge