

**U.S. Department of Labor**

Office of Administrative Law Judges  
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**ISSUE DATE: 29 DECEMBER 2014**

CASE No: 2014-FRS-00011

*In the Matter of:*

**MARCO A. QUEZADA,**  
Complainant,

v.

**BNSF RAILWAY COMPANY**  
Respondent.

**Dismissal Order**

The Respondent filed a Motion to Dismiss for the Complainant's failure to comply with discovery and a Motion for Summary Decision on October 17, 2014. The Claimant was required to file responses within ten (10) days of receipt of the Motions. Since the Claimant is pro se and might not be familiar with this rule, his time to respond was extended to December 1, 2014. As of December 29, 2014 the Complainant has not complied with discovery nor has he filed any response to the Motions or requested an extension of time to respond to the motions.

The Claimant was warned in my both of my orders dated August 28, 2014 and October 30, 2014[i]f the Claimant does not take these steps to oppose the motion, an order granting a Motion for Summary may be granted and his case will be dismissed.

It is contradicted that the Complainant executed a Release and Settlement Agreement while he was represented by counsel releasing all claims against the Respondent and that he accepted the settlement amount tendered by the Respondent.

Accordingly, the Motions to Dismiss and the Motions for Summary Decision are granted and this matter is hereby dismissed with prejudice. The Respondent's request for attorney's fees and costs are denied.

**SO ORDERED.**

William Dorsey  
Administrative Law Judge

San Francisco

**NOTICE:** To appeal, you must file a written petition for review with the Administrative Review Board ("ARB") within 40 days after the date of this Decision and Order (or such additional time that the ARB may grant). *See* 29 C.F.R. § 6.20. The Board's address is:

Administrative Review Board  
United States Department of Labor  
Suite S-5220  
200 Constitution Avenue, NW  
Washington, DC 20210

A copy of any such petition must also be provided to the Chief Administrative Law Judge, Office of Administrative Law Judges, 800 K Street, NW, Washington, DC 20001-8002. Your petition must refer to the specific findings of fact, conclusions of law, or order at issue. A petition concerning the decision on the ineligibility list shall also state the unusual circumstances or lack thereof under the Service Contract Act, and/or the aggravated or willful violations of the Contract Work Hours and Safety Standards Act or lack thereof, as appropriate.

The ARB's Rules of Practice further require that the petitioner provide to the ARB an original and four copies of the petition and any other papers submitted to the ARB. 29 C.F.R. § 8.10(b). Service is to be in person or by mail. 29 C.F.R. § 8.10(c). Service by mail is complete on mailing, and the petition is considered filed upon the day of service by mail. 29 C.F.R. § 8.10(c). The petition must contain an acknowledgement of service by the person served or proof of service in the form of a statement of the date and the manner of service and the names of the person or persons served, certified by the person who made service. 29 C.F.R. § 8.10(d).

A copy of the petition is also required to be served upon the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor, Washington, DC 20210; the Administrator, Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210; the Federal contracting agency involved; and all other interested parties. 29 C.F.R. § 8.10(e).