



**Issue Date: 06 October 2015**

OALJ Case No.: 2015-FRS-00031  
OSHA Case No. 7-5880-15-021

*In the Matter of:*

**MICHAEL GOAD,**  
*Complainant,*

v.

**BNSF RAILWAY COMPANY,**  
*Respondent.*

**ORDER OF DISMISSAL**  
**AND ORDER CANCELLING HEARING**

On or about November 18, 2014, Mr. Michael Goad (“Complainant”) filed a formal complaint with the U.S Department of Labor, Occupational Safety and Health Administration (“OSHA”), alleging a violation of the employee protection provisions of the Federal Railroad Safety Act, 49 U.S.C. § 20109, as amended by the Implementing Recommendations of the 9/11 Commission Act of 2007, Pub. L. No. 110-053 (collectively, the “Act”). After conducting an investigation, on February 18, 2014, the OSHA Regional Administrator issued a final determination letter containing the Secretary’s Findings and dismissing the complaint. By letter dated March 9, 2015, and received on March 17, 2015, Complainant objected to the Secretary’s Findings and requested a hearing before an Administrative Law Judge.

On April 10, 2015, I issued an order notifying the parties that the matter was docketed in the Office of Administrative Law Judges and scheduled for a hearing beginning on November 4, 2015, and continuing, if necessary, through November 5, 2015, in Kansas City, Missouri. On August 13, 2015, I issued a supplemental notice of hearing notifying the parties that the hearing would be held at the U.S. District Court for the Western District of Missouri’s Charles Evans Whittaker Courthouse.

On July 27, 2015 I received counsel for Complainant’s notice that he intended to remove this matter to U.S. District Court for the District of Minnesota. On September 21, 2015, I received a copy of Complainant’s U.S. District Court complaint in *Michael Goad v. BSNF Railway Co.*, Case No. 4:15-cv-00650-HFS (W.D. Mo., complaint filed Aug. 26, 2015).

More than 210 days have passed since Complainant originally filed his complaint with OSHA, and there is no indication of bad faith. Moreover, as outlined above Complainant has

filed a complaint in the U.S. District Court for the Western District of Missouri. Accordingly, I am dismissing Mr. Goad's complaint because this matter is no longer before the Office of Administrative Law Judges.<sup>1</sup>

**ORDER**

It is hereby ordered that the complaint filed by Mr. Michael Goad on or about November 18, 2014, under the Act and pending before the Office of Administrative Law Judges is **DISMISSED WITH PREJUDICE**.

**SO ORDERED.**

**PAUL R. ALMANZA**  
Administrative Law Judge

Washington, D.C.

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<sup>1</sup> Under the enforcement provisions of the Act, if the Secretary of Labor has not issued a final decision within 210 days after the filing of a complaint, and if the delay is not due to the bad faith of the employee, the employee may bring an original action at law or equity for de novo review in the appropriate district court of the United States. The district court shall then have jurisdiction over such an action without regard to the amount in controversy. *See* 29 C.F.R. § 1982.114.