

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 03 November 2015

**CASE NOS: 2015-FRS-00029
2015-FRS-00030**

In the Matter of:

LARRY LINCOLN and
BRAD MOSBRUCKER,
Complainants,

v.

BNSF RAILWAY COMPANY,
Respondent.

ORDER DISMISSING COMPLAINTS

This consolidated proceeding arises under the employee protection provisions of the Federal Rail Safety Act, 49 U.S.C. § 20109 (“FRSA”), as amended. By letter dated October 14, 2015, counsel for Complainants forwarded (1) a Notice of Intent to File in U.S. District Court dated August 31, 2015, and (2) a copy of a Complaint filed in the U.S. District Court for the District of Kansas on September 21, 2015. Counsel avers that the undersigned was inadvertently left off the service sheet for those documents. A review of the documents shows that they were served on the days they are dated, on all parties, the Solicitor, the OSHA Regional Administrator, and the Director of the DOL Whistleblower Protection Programs. I accept counsel’s representation that the failure to serve this tribunal was inadvertent, and, as it has been clearly stated throughout the course of these proceedings that Complainants intended to file in federal court, there can be no prejudice to anyone by failure to serve the undersigned. Accordingly, as I now lack jurisdiction over this matter, **IT IS ORDERED** that the complaints of Complainants Larry Lincoln (Case No. 2015-FRS-00029) and Brad Mosbrucker (Case No. 2015-FRS-00030) are **DISMISSED**.

SO ORDERED.

PAUL C. JOHNSON, JR.
District Chief Administrative Law Judge