



Issue Date: 18 February 2016

In the Matter of:
JEFF WITTIG AND MARTIN C HESTER
Claimants,

v.
CSX TRANSPORTATION INC
Employer,

CASE NOS. **2015 FRS 00047**
 2015 FRS 00072

Jefferson Callier, Esquire
For Complainants
Joseph Devine, Esquire
For Respondent

ORDER OF DISMISSAL
UPON PROOF OF FILING IN UNITED STATES DISTRICT COURT

These cases were scheduled for hearing February 23, 2016 in Jacksonville, Florida under the Federal Rail Safety Act, 49 U.S.C. § 20109, as amended by Section 1521 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (“9/11 Act”), Pub. L. No. 110-53. (Aug. 3, 2007). On December 9, 2015, I was advised by the attorney for the complainants that they intended to “opt out” to a United States district court and I entered an Order cancelling the hearing.

Under 49 USC 20109(d)(3) (1), if the Secretary of Labor has not issued a final decision within 210 days after the filing of the complaint and if the delay is not due to the bad faith of the complainant, the complainants may bring an original action at law or equity for de novo review in the appropriate district court, “which shall have jurisdiction over such an action without regard to the amount in controversy, and which action shall, at the request of either party to such action, be tried by the court with a jury.”

I directed the complainants to provide proof of filing in the United States District Court.

On February 17, 2016, proof was filed. Witting is CV 416-050, filed February 10, 2016, United States District Court, Southern District of Georgia. Hester is CV 415-053, filed in the same court on February 12, 2016.

Based on the foregoing, because I no longer have jurisdiction, it is hereby **ORDERED** that Complainant's complaint is **DISMISSED**.

SO ORDERED

DANIEL F. SOLOMON
ADMINISTRATIVE LAW JUDGE