



Issue Date: 06 October 2017

Case No.: 2017-FRS-00083

In the Matter of:

ANTOINE BELL,
Complainant,

v.

KOPPERS RAILROAD STRUCTURES,
Respondent.

**ORDER APPROVING WITHDRAWAL OF COMPLAINT
AND DISMISSAL OF CASE**

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.

The Complainant submitted a letter on October 2, 2017. That document states:

This is a letter from Antoine Bell asking you to dismiss the case against Koppers because I didn't get a sufficient chance to get a[] lawyer and it will be to[o] costly for me to travel to handle taking on this case to do a deposition with their lawyer.

The letter is signed, "Antoine Bell."

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.

I held a telephone conference with the Complainant and counsel for Employer to determine what Complainant's intentions are with respect to pursuing his case (whether he intends to withdraw his complaint), obtaining counsel, and whether allowing his deposition to be taken at a location convenient to him (near his home) would remedy his stated problem with the cost of travel.

Complainant stated that he was with a trucking company and was frequently on the road at different locations around the country. He stated that his current employment and schedule presented logistical difficulties and expenses he could not handle in arranging for his deposition in some location other than his home and in arranging to meet with an attorney. He mentioned the financial disparity between the parties' abilities to pursue this case. I stated that attorneys who represent clients in these cases take them on a contingency basis and the client does not typically have to pay attorney fees or many other fees up front. I offered to give him more time to consult with an attorney and suggested that his deposition could be postponed until he was in his hometown (Detroit). He also mentioned a witness he intended to call, whose full name he did not know, that he did not have the funds to advance to her for travel to a deposition or to the hearing. He concluded that he really wanted to dismiss the case. Although Complainant is not represented by counsel, I believe that he has moved on, no longer wants to pursue this matter and wishes to withdraw his complaint.

As the Complainant has stated his intent to withdraw his objections to the Occupational Safety and Health Administration's findings, pursuant to 29 C.F.R. 1982.111(c), Complainant's request to withdraw his complaint, currently pending before the Office of Administrative Law Judges, is hereby **GRANTED**. Accordingly,

IT IS HEREBY ORDERED that this matter is **DISMISSED WITH PREJUDICE**, without costs awarded to either party.

JOSEPH E. KANE
Administrative Law Judge