

**U.S. Department of Labor**

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**Issue Date: 07 December 2018**

Case No.: 2018-FRS-00093

In the Matter of

**JODI ASAY**

Complainant

v.

**NEW JERSEY TRANSIT CORPORATION**

Respondent

**ORDER DISMISSING COMPLAINT WITHOUT PREJUDICE**

This matter arises under the Federal Railroad Safety Act (“FRSA”), 49 U.S.C. § 20109, as amended by Section 1521 of the Implementing Recommendations of the 9/11 Commission Act of 2007, Pub. L. No. 110-53 (Aug. 3, 2007), as implemented by regulations at 29 C.F.R Part 1982.

On December 4, 2018, Complainant notified this Tribunal of his intention to file a complaint in the United States District Court. He stated that his FRSA complaint had been filed more than 210 days ago, and that as of this date the Secretary of Labor had not issued a final decision. Pursuant to 49 U.S.C. § 20109(d)(3) and 29 C.F.R. § 1982.114, the District Court will have jurisdiction over Complainant’s action once he files his complaint. Accordingly, this Tribunal will be divested of jurisdiction of this matter.

For this reason, the undersigned DISMISSES this matter WITHOUT PREDUDICE. The scheduled December 10, 2018 teleconference and January 7-11, 2019 hearing are hereby CANCELLED.

SO ORDERED:

**SCOTT R. MORRIS**

Administrative Law Judge

Cherry Hill, New Jersey