

**U.S. Department of Labor**

Office of Administrative Law Judges  
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**Issue Date: 22 March 2018**

CASE NO.: 2018-FRS-00014

OWCP NO.: 2-2600-17-014

*In the Matter of:*

**JOSHUA CLEVELAND,**  
*Complainant,*

v.

**LONG ISLAND RAILROAD CO.,**  
*Respondent.*

**ORDER OF DISMISSAL**

This is a claim under the employee-protection provisions of the Federal Railroad Safety Act, 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). On March 19, 2018, Complainant notified the court of his filing of a complaint in the United States District Court for the Southern District of New York for enforcement of the claim. Complainant provided this Office with a file stamped copy of the complaint, indicating a filing date of March 7, 2018.

Complainant filed his Complaint with OSHA on December 22, 2016. No decision has been issued within 210 days of the filing of the complaint, and there has been no showing before this court that the delay was caused due to the bad faith of the Complainant. Accordingly, Complainant has a right to file a complaint in federal district court. 29 C.F.R. § 1982.114. Based on Complainant's action in federal district court, the Secretary of Labor no longer has jurisdiction over this matter. Accordingly, the case before me is dismissed.

**ORDER**

**IT IS HEREBY ORDERED** that the complaint filed by Complainant Joshua Cleveland under the Federal Railroad Safety Act is **DISMISSED WITHOUT PREJUDICE**.

**SO ORDERED.**

**CARRIE BLAND**  
Administrative Law Judge

Washington, D.C.