



Issue Date: 23 January 2019

Case No.: **2018FRS00035**

In the Matter of:
JESSE FRANKLIN,
Complainant,

v.

CSX TRANSPORTATION, Inc.
Respondent,

**ORDER GRANTING MOTION TO DISMISS COMPLAINT
FOR ADJUCIATORY SETTLEMENT**

This complaint arises under the Federal Rail Safety Act (the “Act” or “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. Implementing regulations are found at 29 C.F.R Part 1982. The case has been assigned to me for Hearing and Decision.

On December 10, 2018, the undersigned received a “Joint Motion to Withdraw Complaint.” This pleading states that:

Complainant, Jesse Franklin, has another case before the Office of Administrative Law Judges styled Jesse Franklin v. CSX Transportation, Inc., Case No. 2017-FRS-00110 before Judge Temin. The parties have reached a settlement agreement in that case and as part of the settlement agreement wish to withdraw this complaint.

29 C.F.R § 18.70(c) of the Office of Administrative Law Judge’s Rules of Practice and Procedure provides that “A party may move to dismiss part or all of the matter for reasons recognized under controlling law...” Further, the regulations pertaining to adjudicatory settlements in Federal Rail Safety Act claims provides in pertinent part that “[a]t any time after the filing of objections to the Assistant Secretary’s findings and/or order, the case may be settled if the participating parties agree to a settlement and the settlement is approved by the ALJ...” 29 C.F.R. §1982.111(2). In this case, the parties seek to dismiss the instant claim in conjunction with a global settlement in 2017-FRS-00110, contingent on Judge Temin’s approval of the Settlement Agreement. Judge Temin has advised me that he has approved the settlement agreement in 2017-FRS-00110, therefore I find that the parties’ joint motion to dismiss the instant claim should be granted.

IT IS THEREFORE ORDERED that the Parties Motion to Dismiss Case No. 2018-FRS-00035 is granted, and contingent on Judge Temin's approval of the Settlement Agreement in Case No. 2017-FRS-00110, the instant Complaint is hereby **DISMISSED WITH PREJUDICE**.

PETER B. SILVAIN, JR.
Administrative Law Judge