

**U.S. Department of Labor**

Office of Administrative Law Judges  
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**Issue Date: 18 July 2018**

Case No.: 2018-FRS-00071  
OSHA No.: 4-1760-18-017

*In the Matter of:*

**WILLIAM CRAIG MCDANIEL,**  
*Complainant,*

v.

**PATRIOT RAIL COMPANY, LLC;  
STEELRIVER INFRASTRUCTURE PARTNERS;  
TENNESSEE SOUTHERN RAILROAD;  
GOLDEN TRIANGLE RAILROAD;  
BLUE RIDGE SCENIC RAILWAY;  
GEORGIA NORTHEASTERN RAILROAD,**  
*Respondents.*

**ORDER OF DISMISSAL**

Complainant filed a complaint with the Department of Labor on or about November 13, 2017 alleging, in part, that he was terminated by Respondent as retaliation for activity protected under the Federal Railroad Safety Act (“FRSA”), 49 U.S.C. § 20109, as amended, and implementing regulations found at 29 C.F.R. Part 1982. On April 19, 2018, the Secretary of Labor, acting through his agent, the Regional Administrator of the Occupational Safety and Health Administration, found no reasonable cause to believe Respondent violated the FRSA and dismissed the complaint. On May 10, 2018, Complainant filed objections to the Secretary’s Findings and requested a hearing before an administrative law judge, which was scheduled for September 12, 2018 in Nashville, Tennessee.

As Complainant thereafter notified the Court of his intent to file an original action at law in United States district court, in accordance with 29 C.F.R. § 1982.114.<sup>1</sup> I issued an order on June 29, 2018 cancelling the hearing, but required Complainant to notify the court once an action

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<sup>1</sup> Under the enforcement provisions of the Act, 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 employee, the employee may bring an original action at law or equity for de novo review in the appropriate district court of the United States, 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. 49 U.S.C. 20109(d)(3). In this matter, more than 210 days have passed since Complainant originally filed his complaint and there is no indication of bad faith on the part of Complainant.

had been filed. By notice dated July 11, 2018, Complainant confirmed he exercised his right to pursue his claim in federal district court and attached a copy of the complaint filed in the United States District Court for the Northern District of Georgia, with confirmation of service on the Respondent. Under 49 U.S.C. § 20109, the United States District Court has assumed jurisdiction of this matter.<sup>2</sup>

Accordingly, it is hereby ORDERED that the complaint before the Office of Administrative Law Judges filed by William Craig McDaniel on November 13, 2017 under the Federal Railroad Safety Act is DISMISSED.

**SO ORDERED:**

STEPHEN R. HENLEY  
Administrative Law Judge

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<sup>2</sup> See *Stone v. Duke Energy Corp.*, 432 F.3d 320 (4<sup>th</sup> Cir. 2005)(Sarbanes-Oxley case)