

**U.S. Department of Labor**

Office of Administrative Law Judges  
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Covington, LA 70433



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**Issue Date: 12 February 2020**

**Case No.: 2019-FRS-39**

*In the Matter of:*

**LLOYD CATER**  
**Complainant**

**v.**

**BNSF RAILWAY COMPANY**  
**Respondent**

**ORDER OF DISMISSAL**

This proceeding arises under the employee protection provisions of the Federal Railroad Safety Act of 2007 (FRSA), Title 49 United States Code Section 20109 and its implementing regulations at 29 C.F.R. § 1982. Complainant filed a complaint with the Secretary of Labor on or about July 9, 2018 alleging Respondent discharged him in retaliation for engaging in activity protected under the FRSA. On January 9, 2019, the U.S. Department of Labor, Occupational Safety and Health Administration (OSHA), issued a letter dismissing the complaint because there was no reasonable cause to believe Respondent violated the FRSA.

Under the employee protection provision of the FRSA, 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); 29 C.F.R. § 1982.114. In this matter, more than 210 days have passed since Complainant originally filed his complaint and there is no indication the delay is due to bad faith on the part of Complainant.

On February 10, 2020, Complainant filed a copy of the “Complaint” which was filed in the Southern District of Texas, U.S. District Court. Accordingly, the above-captioned complaint filed before the Office of Administrative Law Judges is DISMISSED.

Consequently, Respondent’s pending Motion to Continue, Third Motion to Compel and Motion for Partial Summary Decision are MOOT.

**SO ORDERED** this day in Covington, Louisiana.

**TRACY A. DALY**  
**ADMINISTRATIVE LAW JUDGE**