



**Issue Date: 23 June 2020**

CASE NO.: 2020-FRS-00024

*In the Matter of:*

NICKIE JACKSON,  
Complainant,

v.

UNION PACIFIC RAILROAD CO.,  
Respondent.

**ORDER OF DISMISSAL WITHOUT PREJUDICE**

This Federal Railroad Safety Act matter is not currently set for hearing. By order dated January 23, 2020, I dismissed a related matter, Case No. 2020-FRS-00008, without prejudice, at the Complainant's request. Subsequently, I received this case. I held a conference call on February 11, 2020, to discuss the status of Case No. 2020-FRS-00024.

I noted on the February 11 call, that Complainant had not yet met the statutory requirements to bring 2020-FRS-00024 *de novo* in the district court, as 210 days had not yet passed since the date of her second OSHA complaint, on October 9, 2019. *See* 49 U.S.C. § 20109(d)(3). On the call, the parties agreed that they did not want to duplicate efforts, and Complainant's counsel indicated that Complainant did intend to "kick out" 2020-FRS-00024 to district court also. I requested a status report or motion to dismiss on or about the passage of 210 days, in early May 2020.

On May 27, 2020, I received a Notice of Intent to File Original Action in United States District Court in this matter. As Complainant has now met the statutory and regulatory requirements to bring her action *de novo* in the district court and has stated her intent to do so, this matter is DISMISSED without prejudice to Complainant's pursuing the matter in district court. *See id.*; 29 C.F.R. § 1982.114. The Complainant shall file and serve a copy of the district court

complaint with this Office and the others required by regulation as soon as possible after she files it with the district court. *See* 29 C.F.R. § 1982.114(b).

SO ORDERED.

EVAN H. NORDBY  
Administrative Law Judge