

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 26 November 2010

CASE NO.: 2010-FRS-00011

In the Matter of:

ANTHONY G. BACA,
Complainant,

vs.

BURLINGTON NORTHERN SANTA FE RAILWAY CO.,
Respondent.

ORDER OF DISMISSAL

Complainant is proceeding in *pro per* in this case, which is set for trial to begin on December 1, 2010 in Albuquerque, New Mexico. On November 9, 2010, Complainant stated in a telephone call to this Office that he no longer wishes to pursue the claim and that he had informed opposing counsel. When he did not confirm his withdrawal of the complaint in writing, I ordered that he show cause within 10 days why the matter should not be dismissed. The ten-day period has elapsed, and Complainant has failed to respond. I accept this as his confirmation that he wishes to withdraw the complaint as he stated in the telephone call on November 9, 2010.

Accordingly, Claimant's motion to withdraw the complaint is approved and GRANTED, and this matter is DISMISSED. The trial set for December 1, 2010 is VACATED. Respondent's pending motions for summary decision and to compel discovery or, in the alternative, dismiss for failure to make discovery, are each DENIED without prejudice as moot.

In view of the upcoming trial date, this Order will be served on Complainant and on defense counsel by facsimile (to the extent that facsimile numbers are available). All other service will be by mail.

SO ORDERED.

A

STEVEN B. BERLIN
Administrative Law Judge