



**Issue Date: 07 July 2010**

**CASE NO.: 2010-FRS-00004**

**IN THE MATTER OF**

**GUILLERMO CLAVERAN,  
Complainant,**

**v.**

**BNSF RAILWAY COMPANY,  
Respondent**

**DECISION AND ORDER OF DISMISSAL**

This matter arises out of a claim filed by Complainant under the employee protection provisions of the Federal Rail Safety Act (FRSA), 49 U.S.C. § 20109, as amended by Section 1521 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (9/11 Act), Pub. L. No. 110-53. Complainant filed his complaint with the Secretary of Labor on October 19, 2009. Following an investigation, the Secretary of Labor, acting through her agent, the Regional Administrator for the Occupational Safety and Health Administration (OSHA), found there was no reasonable cause to believe Respondent violated FRSA. Complainant timely appealed this finding and the case was assigned to the undersigned. A hearing was scheduled for July 7, 2010, in Dallas, Texas.

Pursuant to the Notice of Trial and Pre-Trial Schedule no later than 14 days before the scheduled trial date, the Parties must file a Pre-Trial Statement of Position. The Statement was received from Respondent on June 24, 2010. No Statement of Position has been received from Complainant.

On June 25, 2010, Complainant telephonically advised the Court's staff and Respondent's Counsel that he wanted to withdraw his Objections to the Secretary's Findings and Request for a Hearing. Complainant indicated he would be sending or faxing his request to the Court.

On June 28, 2010, Complainant again telephonically advised the Court's staff that he wanted to withdraw his Objections to the Secretary's Findings and Request for a Hearing. He was again advised to fax or mail the written request to the Court.

On the morning of June 30, 2010, the Court spoke telephonically with Complainant. Complainant advised the Court that he wanted to withdraw his Objections to the Secretary's

Findings and Request for a Hearing. The Court told Complainant to send and fax the written request to the Court. On July 2, 2010, the Court received a fax signed by Complainant requesting withdrawal of his Objections to the Secretary's Findings and Request for a Hearing. Good cause having been shown, the request for withdrawal will be granted and the case will be dismissed.

**ORDER**

**IT IS HEREBY ORDERED**, that Complainant's request to withdraw his Objections to the Secretary's Findings and Request for a Hearing is **GRANTED**, and the case be and hereby is **DISMISSED WITH PREJUDICE**, each party to bear their own costs.

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**LARRY W. PRICE**  
**ADMINISTRATIVE LAW JUDGE**

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**NOTICE OF REVIEW:** Review of this Decision and Order is by the Administrative Review Board pursuant to ¶ 5.c.15. of Secretary's Order, 75 Fed. Reg. 3924 (Jan. 25, 2010) (effective Jan. 15, 2010). Regulations, however, have not yet been promulgated by the Department of Labor detailing the process for review by the Administrative Review Board of decisions by Administrative Law Judges under the employee protection provision of the Federal Railroad Safety Act. Accordingly, this Decision and Order and the administrative file in this matter will be forwarded for review by the Administrative Review Board, U.S. Department of Labor, Suite S-5220, 200 Constitution Ave, NW, Washington DC 20210. *See generally* 5 U.S.C. § 557(b). However, since procedural regulations have not yet been promulgated, it is suggested that any party wishing to appeal this Decision and Order should also formally submit a Petition for Review with the Administrative Review Board.