

**U.S. Department of Labor**

Office of Administrative Law Judges  
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**Issue Date: 11 January 2013**

Case No.: 2012-FRS-56

In the Matter of:

KYLE SLAIN,

Complainant,

v.

CENTRAL RAILROAD COMPANY OF  
INDIANAPOLIS, d/b/a, CHICAGO,  
FORT WAYNE AND EASTERN RAILROAD,  
Respondents.

**ORDER DISMISSING COMPLAINT**

This matter arises out of a complaint filed by Kyle Slain (“Complainant”) against Central Railroad Company of Indianapolis (“Respondent”) under Section 419 of the Federal Rail Safety Act (“FRSA”), 49 U.S.C. § 20109. The FRSA allows the Complainant to file an action in United States District Court if the Department of Labor has not issued a final decision within 210 days of the filing of the complaint, and there is no showing that there has been delay due to the bad faith of the complainant.<sup>1</sup>

Complainant filed a complaint with the Occupational Safety and Health Administration (“OSHA”) on December 31, 2009. A final determination letter was issued by OSHA on July 18, 2012, finding against Respondent. Respondent submitted its objections to the Secretary’s Findings on July 31, 2012, and requested a hearing before an administrative law judge.

On November 27, 2012, Complainant notified all parties under 49 U.S.C. § 20109(d)(3) and 29 CFR § 1982.114(b) that he intended to file a complaint in United States District Court. On January 3, 2013, my office requested that Complainant submit a signed copy of the District Court complaint. By way of an undated but signed proof complaint received on January 7, 2013, Complainant has done so. The Department of Labor has not issued a final decision within 210 days of the filing of the complaint on December 31, 2009. There are no allegations or evidence of record which indicate to me that there has been any delay due to the bad faith of the complainant.

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<sup>1</sup> 49 U.S.C. § 20109(d)(3).

Accordingly, IT IS HEREBY ORDERED that the complaint in the above-captioned matter be, and the same hereby is, DISMISSED.

**SO ORDERED.**

PETER B. SILVAIN, JR.  
Administrative Law Judge