



**IN THE MATTER OF:**

**TOMMY LEE HARVEY,**

**ARB CASE NO. 15-036**

**COMPLAINANT,**

**ALJ CASE NO. 2011-FRS-039**

**v.**

**DATE: May 29, 2015**

**UNION PACIFIC RAILROAD COMPANY,**

**RESPONDENT.**

**BEFORE: THE ADMINISTRATIVE REVIEW BOARD**

**ORDER DISMISSING PETITION FOR REVIEW**

On February 12, 2015, a Department of Labor Administrative Law Judge issued a Decision and Order (D. & O.) in this case arising under the Federal Rail Safety Act of 1982 (FRSA).<sup>1</sup> The ALJ found in favor of Complainant Tommy Lee Harvey and ordered Respondent Union Pacific Railroad Company to pay Harvey \$25,000 in compensatory damages for emotional distress and \$100,000 in punitive damages and ordered Harvey's counsel to file a fully supported application for costs and fees.<sup>2</sup>

Union Pacific filed a timely petition for review of the ALJ's D. & O. with the Administrative Review Board.<sup>3</sup> On March 11, 2015, the ARB issued a Notice of Appeal and Order Establishing Briefing Schedule and on April 15, 2015, an Order Granting Motion for Extension of Time and Re-setting the Briefing Schedule.

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<sup>1</sup> 49 U.S.C.A. § 20109 (Thomson Reuters Supp. 2014). The FRSA's implementing regulations are found at 29 C.F.R. Part 1982 (2014).

<sup>2</sup> *Harvey v. Union Pac. R.R. Co.*, 2011-FRS-039, slip op. at 47 (Feb. 12, 2015).

<sup>3</sup> See Secretary's Order No. 2-2012 (Delegation of Authority and Assignment of Responsibility to the Administrative Review Board), 77 Fed. Reg. 69,378 (Nov. 16, 2012); 29 C.F.R. § 1982.110.

On May 26, 2015, the ARB received Respondent, Union Pacific Railroad Company's Notice of Withdrawal of Its Petition for Review, in which Respondent states its intention to withdraw its petition for review. It states that it now "asks that ALJ Gee's Decision and Order be deemed as final such that the judgment can be satisfied" and that counsel for the parties have agreed on an amount to be paid for reasonable attorney's fees and costs.

Accordingly, Respondent's petition for review is **DISMISSED**, as requested, and the ALJ's February 12, 2015 Decision and Order is the final decision of the Department of Labor in this matter.

**FOR THE ADMINISTRATIVE REVIEW BOARD:**

**Janet R. Dunlop**  
**General Counsel**