

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

**LARRY D. LINCOLN,**

**and**

**BRAD C. MOSBRUCKER,**

**Plaintiffs,**

**Case No. 15-CV-4936-DDC-KGS**

**v.**

**BNSF RAILWAY COMPANY,**

**Defendant.**

**MEMORANDUM AND ORDER**

Plaintiffs Larry D. Lincoln and Brad C. Mosbrucker bring this discrimination action asserting claims under the Federal Railroad Safety Act (“FRSA”), 49 U.S.C. § 20101, *et seq.*, and the Americans with Disabilities Act (“ADA”), 42 U.S.C. § 12101, *et seq.*, against defendant BNSF Railway Company. Doc. 1 (Complaint). This matter comes before the Court on defendant’s Motion to Dismiss (Doc. 8). Defendant’s motion asks the Court to dismiss all claims for which plaintiffs failed to exhaust their administrative remedies under either the FRSA or the ADA.

On December 2, 2015, the parties filed a Stipulation to Resolve Defendant’s Motion to Dismiss (Doc. 13). In it, the parties agree that Mr. Lincoln has exhausted his administrative remedies for (1) FRSA claims that arose between March 16, 2014 and September 12, 2014, and (2) ADA claims for employment actions that occurred on or after April 16, 2012. Doc. 13 at 2-3. Similarly, the parties agree that Mr. Mosbrucker has exhausted his administrative remedies for (1) FRSA claims that arose between May 17, 2014 and January 28, 2015, and (2) ADA claims

for employment actions that occurred on or after April 16, 2012. *Id.* The parties also agree that plaintiffs do not assert claims “for adverse employment actions occurring before or after the applicable timeframes listed above.” *Id.* at 3.

The parties’ Stipulation clarifies that plaintiffs have exhausted administrative remedies for all FRSA and ADA claims asserted in their Complaint. The Stipulation thus has mooted defendant’s Motion to Dismiss.

**IT IS THEREFORE ORDERED BY THE COURT THAT** defendant’s Motion to Dismiss (Doc. 8) is denied as moot.

**IT IS SO ORDERED.**

**Dated this 3rd day of February, 2016, at Topeka, Kansas.**

**s/ Daniel D. Crabtree**  
**Daniel D. Crabtree**  
**United States District Judge**