

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

**PERRY DEWAYNE WEAVER, as)
Administrator of the Estates of June)
Alene Weaver and Jennifer Donnell)
Weaver,)**

Plaintiff,)

v.)

CIVIL ACTION NO 10-549-KD-N

**NORFOLK SOUTHERN RAILWAY)
COMPANY,)**

Defendant.)

ORDER

After due and proper consideration of all pleadings in this file, and there having been no objections filed, the Report and Recommendation of the Magistrate Judge made under 28 U.S.C. § 636 and dated January 18, 2011, is **ADOPTED** as the opinion of this Court.

It is **ORDERED** that the Petitioner’s Motion to Dismiss is **GRANTED** and this action **DISMISSED** without prejudice.

DONE and ORDERED this the 3rd day of **February 2011**.

/s/ Kristi K. DuBose
KRISTI K. DuBOSE
UNITED STATES DISTRICT JUDGE