



Brotherhood of Maintenance of Way Employees Division of the International Brotherhood of Teamsters

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For Immediate Release
February 27, 2013

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OSHA Finds Norfolk Southern Railway Violated Federal Railroad Safety Act *Injured Workers Unlawfully Fired*

Washington, DC: The Occupational Safety and Health Administration today issued two more significant findings against the Norfolk Southern Railway (NS) for violating the Federal Railroad Safety Act (FRSA). These cases are the latest in a series of cases in which OSHA, after a full investigation, concluded that NS fired Brotherhood of Maintenance of Way Employees Division (BMWED) members merely for seeking medical attention for on-the-job injuries. Section 20109 of the FRSA provides railroad workers with rights and remedies against unlawful railroad company retaliation for reporting injuries, seeking medical attention, and raising safety and security concerns.

In a pair of companion cases, two veteran BMWED members with exemplary work records were fired by NS for allegedly making “false and conflicting” statements in connection with medical treatment they sought after the NS vehicle they were riding in was involved in a multi-vehicle collision on May 17, 2010. Their discharges were based on misleading reports of a wholly discredited NS hired-gun “expert.” With the assistance of BMWED, the two employees filed complaints with OSHA alleging that their firing was in retaliation for having sought medical attention after the collision.

In issuing its findings, OSHA ordered the NS to pay one employee compensatory damages in the amount of \$160,523 for lost wages and benefits, \$75,000 for pain and suffering, \$150,000 in punitive damages, and all reasonable attorney fees. The second employee was awarded \$72,985 in compensatory damages for lost wages and benefits, \$75,000 for pain and suffering, \$150,000 in punitive damages, and all reasonable attorney fees.

NS was also ordered to credit the employees with all Railroad Retirement months of service they would have earned had they not been illegally dismissed by the company, to expunge the records of the employees, and to conduct training of its Pittsburgh, PA managers and employees about “employees’ rights to file injury reports without fear of retaliation.”

Since 2012, OSHA has ordered NS to pay about \$3 million in back pay, compensatory and punitive damages, and attorney fees and costs to employees for violating their rights under the FRSA.

BMWED President Freddie N. Simpson said, “OSHA is doing a great job in enforcing a law passed with strong bipartisan support and signed into law in 2008 by President George W. Bush. Enforcement of this law protects not just workers but public safety as well. These cases prove that Congress made the correct decision to entrust OSHA with enforcement of the FRSA.

“BMWED will continue to be aggressive in taking every reasonable step to protect our members from such unlawful retaliation wherever it occurs,” said Simpson. “We are encouraged by the proven commitment of Assistant Secretary of Labor Dr. David Michaels and his staff at OSHA to thoroughly investigate whistleblower complaints and deliver fact-based justice to railroad workers. The financial and emotional toll suffered by these outstanding NS employees and their families has been immeasurable. While the emotional toll can never be erased, I hope these long-suffering families can find solace in the fact that they have been vindicated and the employees’ reputation for integrity has been restored.”

“We have reason to believe that NS is beginning to understand it has a serious problem and that it is taking positive steps to change a retaliatory corporate culture that has been in place for many years,” said Simpson. “We’ve made it clear that the BMWED wants to work cooperatively with the NS to assure that the rights of BMWED members to report injuries and safety concerns free from retaliation are respected.”

The BMWED claimants were represented by BMWED-designated attorneys. Copies of the OSHA findings can be accessed on the BMWED website at www.bmwe.org.

BMWED, a division of the Rail Conference of the International Brotherhood of Teamsters, represents 35,000 members who build, inspect, construct, maintain and repair railroad tracks, bridges, and related infrastructure throughout the United States. The International Brotherhood of Teamsters represents 1.4 million hardworking men and women throughout the United States, Canada and Puerto Rico.

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