

News Release

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US Labor Department finds Union Pacific Railroad in violation of FRSA for retaliating against Kansas City, Mo., and Tucson, Ariz., employees

Omaha, Neb.-based company ordered to pay more than \$615,000 to 3 employees terminated, suspended for reporting safety issues and injuries

OMAHA, Neb. — The U.S. Department of Labor has ordered Union Pacific Railroad Co., headquartered in Omaha, to pay a total of \$400,000 in punitive damages, \$90,315 in compensatory damages, \$34,900 in attorney fees and more than \$90,000 in back wages to three employees. Separate investigations by the Kansas City, Mo., and San Francisco, Calif., offices of the department's Occupational Safety and Health Administration determined that the company violated the whistleblower protection provisions of the Federal Railroad Safety Act by terminating two employees and suspending one in retaliation for reporting workplace safety concerns and a work-related injury.

"Workers have the right to report work-related injuries and safety concerns without fear of retaliation," said Assistant Secretary for OSHA Dr. David Michaels. "Union Pacific Railroad has created a climate of fear instead of a climate of safety. The company must take immediate steps to change this unacceptable pattern of retaliation."

A Kansas City, Mo.-based Union Pacific Railroad conductor was terminated from employment in September 2010 after making repeated complaints to the company's hotline about safety concerns, such as fall and trip hazards, missing and obstructed roadway signs, and various right-of-way issues, and for noting that a supervisor violated safety procedures during a field test. The railroad also cited the conductor for having a tattoo that it deemed as creating a hostile work environment. The conductor received the tattoo, which commemorates his military service, prior to beginning his employment with the company in 2004.

OSHA ordered that the conductor be reinstated to his position and receive punitive damages of \$150,000, attorney fees of \$11,925, compensatory damages of \$10,258.51 and biweekly back wages in the amount of \$3,437.10 covering Sept. 15, 2010, through Jan. 1, 2011, as well as biweekly payments of \$3,527.02 retroactive to Jan. 1, 2011, and continuing until a bona fide order of reinstatement is made by Union Pacific Railroad.

A second Kansas City, Mo.-based conductor was suspended without pay from his job for five days in November 2010 after making several complaints to the company's hotline regarding rough spots on the track. OSHA has ordered that the conductor receive punitive damages of \$100,000, attorney fees of \$10,725, compensatory damages of \$5,056.50 and back wages in the

amount of \$2,170.79, representing loss of pay from a one-day investigative hearing and the five-day suspension.

The third Union Pacific Railroad employee, a locomotive engineer based in Tucson, Ariz., was terminated after reporting a workplace injury in August 2009. OSHA has ordered that the 32-year company employee receive \$150,000 in punitive damages, \$75,000 in compensatory damages and \$12,250 in attorney fees.

This action follows two other orders issued by OSHA to Union Pacific Railroad in 2010 and 2011, which found that the company had similarly retaliated against other workers for reporting work-related injuries. The railroad operates in 23 states and employs more than 40,000 workers.

OSHA conducted the latest investigations under the whistleblower provisions of the FRSA, as amended by the 9/11 Commission Act of 2007. Railroad carriers are subject to the provisions of the FRSA, which protects employees who report violations of any federal law, rule or regulation relating to railroad safety or security, or who engage in other protected activities.

OSHA enforces the whistleblower provisions of the FRSA and 20 other statutes protecting employees who report violations of various airline, commercial motor carrier, consumer product, environmental, financial reform, food safety, health care reform, nuclear, pipeline, public transportation agency, railroad, maritime and securities laws. Under these laws enacted by Congress, employers are prohibited from retaliating against employees who raise various protected concerns or provide protected information to the employer or to the government. Employees who believe that they have been retaliated against for engaging in protected conduct may file a complaint with the secretary of labor to request an investigation by OSHA's Whistleblower Protection Program. Detailed information on employee whistleblower rights, including fact sheets, is available at <http://www.whistleblowers.gov>.

Under the Occupational Safety and Health Act of 1970, employers are responsible for providing safe and healthful workplaces for their employees. OSHA's role is to ensure these conditions for America's working men and women by setting and enforcing standards, and providing training, education and assistance. For more information, visit <http://www.osha.gov>.