

PILOT REINSTATED, PAID BACK WAGES FOR VIOLATION OF WHISTLEBLOWER RIGHTS



An airline company has been ordered by the U.S. Department of Labor (DOL) to reinstate a former pilot and pay him an excess of one million dollars in back wages, interest and compensatory damages. The order was the result of an investigation by the DOL's Occupational Safety and Health Administration (OSHA). The pilot worked for AirTran Airways, a subsidiary of Southwest Airlines Co. based in Dallas, TX. He alleges that, in August of 2007, he was removed from flight status pending an investigative hearing relating to a reputedly abrupt increase in his reports of mechanical malfunctions – also known as PIREPs, for pilot reports. The airline's internal investigative hearing in September of that year lasted a duration of a mere 17 minutes, and the pilot's employment was terminated a week later. The reason given was that the pilot had not satisfactorily answered an inquiry concerning the increase in reports. According to the OSHA investigation, the pilot did not refuse to respond to any questions, and his answers were appropriate. The OSHA believed that the company's firing of the pilot was retaliation and would consequently violate the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (or AIR21), which offers protection for whistleblowers. "Airline workers must be free to raise safety and security concerns, and companies that diminish those rights through intimidation or retaliation must be held accountable," said OSHA Assistant Secretary Dr. David Michaels, in a DOL press release. "Airline safety is of vital importance, not only to the workers, but to the millions of Americans who use our airways." Michaels further stated that "retaliation against a pilot for reporting mechanical malfunctions is not consistent with a company that values the safety of its workers and customers. Whistleblower laws are designed to protect workers' rights to speak out when they have safety concerns, and the Labor Department will vigilantly protect and defend those fundamental



rights."

An appeal can be filed with the DOL's Office of Administrative Law Judges, but the reinstatement order will not be halted by the appeals process. AirTran Airways is a subsidiary of AirTran Holdings, Inc., which has headquarters in Orlando, FL. Southwest Airlines acquired AirTran Holdings, Inc. in May of this year and operates AirTran Airways as a wholly-owned subsidiary. The OSHA oversees whistleblower protection provisions of 21 whistleblower protection statutes, including AIR21 and Section 11(c) of the Occupational Safety and Health Act. The OSH Act prohibits retaliation against an employee for exercising such rights as participation in safety and health activities, which could entail complaining to the OSHA and seeking an inspection, participating in an inspection, participating or testifying in any proceeding related to the inspection, or reporting a work-related injury, illness or fatality. Employees protected by the OSHA include those who report violations of the following types of laws: airline, commercial motor carrier, consumer product, environmental, financial reform, food safety, health care reform nuclear, pipeline, public transportation agency, railroad, maritime and securities.