

RAILROAD COMPANIES TO PAY MORE THAN \$650,000 FOR RETALIATION



Two railroad companies have been ordered by the Department of Labor (DOL) to pay \$650,729.14 in back wages and damages to three employees. The order is the result of an investigation conducted by the Occupational Safety and Health Administration (OSHA), which found that the companies had retaliated against the workers for reporting work-related injuries and safety concerns. According to the OSHA, Illinois Central Railroad violated the Federal Railroad Safety Act (FRSA), as amended by the 9/11 Commission Act of 2007. In August 2008, a conductor was injured and rendered unconscious while switching railcars. A knuckle connecting the cars reportedly broke, resulting in a jolt that caused the worker to fall. The railroad determined that the conductor had violated safety rules and fired him, but the OSHA found that the termination was in retaliation for reporting the work-related injury. He was awarded \$269,707.27, including back wages, vacation pay, medical bills, attorney's fees and punitive and compensatory damages. Another of the company's workers, a carman, reported a February 2008 injury to his arm and shoulder. He slipped on ice and tried to stop his fall while on a platform, inspecting railcars in an allegedly poorly-lit yard. The railroad claimed that he had violated its injury-reporting procedures, but the OSHA disagreed and ordered the carman to be reinstated if a physician okayed his release. The company must also pay the carman \$154,694 in back wages and punitive and compensatory damages, as well as provide a copy of the OSHA's "Whistleblower Protection for Railroad Workers" fact sheet to all employees working at its Markham Yard. Chicago Fort Wayne & Eastern Railroad was also found in violation of the FRSA. A conductor, serving as local chairman of the union, reported that a trainmaster had instructed him in June 2009 to operate a train in violation of Federal Railroad Administration rules. He was fired for failing to pass a locomotive engineer certification test, but the OSHA believed that the termination was retaliation for raising concerns of workplace safety. The company was ordered to provide the conductor with training and another opportunity to pass the test, and to reinstate him upon his passing. He was also



awarded \$226,327.87 in back wages, attorney's fees and punitive and compensatory damages.

“It is critically important that railroad employees in the Midwest and across the nation know that OSHA intends to defend the rights of workers who report injuries and safety concerns,” Dr. David Michaels, OSHA Assistant Secretary of Labor, said in a DOL press release. “We will use the full force of the law to make sure that workers who are retaliated against for reporting health and safety concerns are made whole.” The FRSA protects employees who report violations of any federal law, rule or regulation that has to do with railroad safety or security, or any worker engaged in other protected activities. The two companies that were investigated and subsequently penalized have 30 days from receipt of the findings to file objections and to request a hearing before an administrative law judge.