

# FLETCHER & SIPPEL ALERT

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## DEPARTMENT OF LABOR FINDS UNION PACIFIC VIOLATED 49 U.S.C. 20109

The Department of Labor issued a press release stating that Union Pacific has been found in violation of 49 U.S.C. § 20109 for retaliating against an employee for reporting a work-related injury. The employee was working as a switchman in a Topeka, Kansas rail yard when coupled cars came apart and struck him. He suffered the loss of two teeth and several facial lacerations. After completion of the formal discipline process, Union Pacific issued a 10-day suspension to the employee. The Department of Labor Regional Investigator found that the employee "was not at fault, and that employees involved in similar incidents - but who had not been injured - received lesser forms of discipline or were allowed to bypass the formal discipline process entirely." Union Pacific was ordered to pay \$38,561.92 in damages, which includes \$25,000 in punitive damages. The railroad has 30 days to appeal the findings.

In its press release the Department of Labor cites to the recent July 16 memorandum of agreement reached by OSHA and the FRA to facilitate coordination and cooperation with regard to whistleblower and FRA reporting laws. According to the memorandum more than 900 whistleblower complaints have been filed by railroad employees since 2007. Almost 63% involved an allegation that a worker was retaliated against for reporting an on-the-job injury.

Today's press release is the latest in what has been a busy summer for the Department of Labor with three violations issued against railroads in June and four this month.

Please contact [Kristin L. Bevil](mailto:Kristin.L.Bevil@fletcher-sippel.com) at (312) 252-1504 if you have any questions.