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OSHA ORDERS NORFOLK SOUTHERN PAY \$932,000 TO WHISTLEBLOWERS IN ILLINOIS AND MICHIGAN

The Department of Labor issued a press release today citing two separate OSHA Orders where Norfolk Southern was found in violation of the whistleblower provisions of the Federal Railroad Safety Act. Both employees' claims had been pending at the OSHA investigation stage for three years.

The first Order involves a Norfolk Southern utility switchman working in Decatur, Illinois who was terminated August 28, 2009. The switchman claimed he was injured when a train he was riding derailed during a shove move. Norfolk Southern charged the employee with providing false and conflicting information regarding his injury and he was terminated. The Special Board of Adjustments reinstated the switchman with back pay. The OSHA investigator determined "the investigative hearing and exhibits failed to show any conflict with the switchman reporting the injury." The switchman was awarded \$581,438.88, including \$350,000 in compensatory damages for pain and suffering, \$150,000 in punitive damages, \$55,000 in attorney's fees and \$26,438.11 in back wages.

The second Order involves a Norfolk Southern trackman working in Melvindale, Michigan who was terminated August 12, 2009. The trackman claimed he was injured when he hit his head on the roof of a vehicle when the vehicle struck a rough patch of dirt. Norfolk Southern terminated the trackman after it discovered that he made false accusations in order to receive time off. OSHA's investigator determined that the trackman had, in fact, been injured. OSHA's Order requires the company to reinstate the trackman if he is medically released by his physician and passes a functional capacity evaluation, and to pay him a total of \$350,632.35, including compensatory damages of \$150,000, punitive damages of \$150,000, attorney's fees of \$32,813.75, and medical and dental expenses in the amount of \$17,818.60. The trackman collected sick benefits until Jan. 1, 2010, when he began collecting Railroad Disability benefits; thus, back wages have not been ordered.

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