

# OSHA Regional News Release

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**U.S. Department of Labor  
Office of Public Affairs**

**Region 5**

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## **US Labor Department orders Union Pacific Railroad Co. to reinstate employee for reporting a work-related injury; more than \$350,000 in damages owed**

**KANSAS CITY, Mo.** – The U.S. Department of Labor's Occupational Safety and Health Administration has ordered the Union Pacific Railroad Co., headquartered in Omaha, Neb., to immediately reinstate an employee who was terminated in violation of the Federal Railroad Safety Act for reporting a work-related injury. The company will pay more than \$350,000 in back wages with interest, compensatory and punitive damages.

"An employer does not have the right to retaliate against employees who report work-related injuries," said Charles E. Adkins, OSHA's regional administrator in Kansas City. "When workers can't report safety concerns on the job without fear of retaliation, worker safety and health suffer, which costs working families and businesses alike."

An OSHA investigation upheld the employee's allegation that the railroad terminated his employment in retaliation for reporting a work-related injury. The employee had more than 30 years of service when he was dismissed from the railroad and twice had received the railroad's World Class Employee Award. It was not until after the employee reported his work-related injury in December 2010 that the railroad charged him with misusing his company vehicle. OSHA's investigation found that this charge was used as a pretext to retaliate against the employee for reporting his injury, and that the employee's explanations as to his use of the company vehicle were reasonable and consistent with his job duties.

The railroad carrier was ordered to remove disciplinary information from the employee's personnel record and to provide whistle-blower rights information to its employees. Either party in the case can file an appeal with the department's Office of Administrative Law Judges.

On July 16, 2012, OSHA and the U.S. Department of Transportation's Federal Railroad Administration signed a memorandum of agreement to facilitate coordination and cooperation for enforcing the FRSA's whistle-blower provisions. Between August 2007, when OSHA was assigned responsibility for whistle-blower complaints under the FRSA, and September 2012, OSHA received more than 1,200 FRSA whistle-blower complaints. The number of whistle-blower complaints that OSHA currently receives under the FRSA surpasses the number it receives under any of the other 21 whistle-blower protection statutes it enforces, except for Section 11(c) of the Occupational Safety and Health Act of 1970. More than 60 percent of the FRSA complaints filed with OSHA involve an allegation that a railroad worker has been retaliated against for reporting an on-the-job injury.

OSHA enforces the whistle-blower provisions of the FRSA and 21 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, worker safety, public transportation agency, maritime and securities laws.

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 Whistle-blower Protection Program. Detailed information on employee whistle-blower 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>.

**Editor's note:** The U.S. Department of Labor does not release names of employees involved in whistleblower complaints.

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