

An Injury To One Is An Injury To All

AN APPEAL TO REASON



Newsletter of the Pennsylvania Federation

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Norfolk Southern Accused of Safety Racketeering and Fraud

Norfolk Southern and Engineering Management Said to Falsify Injury Reports

Engineering Managers Accused of Witness Intimidation and Interfering with Adequate Medical Care

Norfolk Southern Accused of Discharging Workers for Reporting Injuries

Complaints Request System Wide Investigation of Abuses

Norfolk Southern is proud of their safety record, but is their railroad really safe, or do they simply falsify the data regarding injuries? Complaints in behalf of individual injured members of the BMWED, represented by Union lawyers, have been filed under the Whistleblower laws with the Occupational Safety and Health Administration. These complaints allege that Norfolk Southern, and its managers, have engaged in a pattern of systematically intimidating witnesses, denying proper medical attention to injured workers and discharging employees who report injuries. This unlawful activity is designed to ensure false safety numbers, to make it seem like NS has a good safety record. The complaints allege that individual engineering managers, whose jobs and income depend upon lower accident statistics, are willfully engaged in this unlawful behavior to promote Norfolk Southern's bottom line and their own careers. As a result of these complaints, we hope to put an end to these brutal practices and to hold the company and the individual managers responsible for their outrageous actions.

Division Engineer Webb Allegedly Intimidates Injured Worker, and Witnesses, and Interfered with Medical Care to Falsify Injury Report

On November 4, 2009, a track worker was injured on the job in Conway Yard, Pittsburgh, PA, while guiding a retarder assembly being hoisted into place by a crane. The crew went about following their well established customs and practices and observed all of the rules. The retarders were a new variety and NS had not warned that extra precautions needed to be taken to ensure a safe installation. The track worker followed the standard procedures, but the retarder shifted and two fingers were crushed.

The complaint alleges that Division Engineer Webb drove the injured track worker to the hospital and began to intensely "grill" him demanding that he admit there was no tag line on the retarder even though there was a tag line on the retarder. After receiving some emergency care, the injured worker's bandaging was left loose so his wounds could drain. He was then instructed to report to Division Engineer Webb. While in extreme pain and under the influence of pain medication, Division Engineer Webb did not take the trackman to the pharmacy to fill his prescriptions, or to his home so he could get some needed rest, but rather to the yard office for more questioning. Webb demanded that the trackman make a false statement and admit that there was no tag line on the load.

Division Engineer Webb began to take the witnesses into his office one at a time and force them to admit there was no tag line on the load. Webb called one of the witnesses a liar and shoved the statement paper off the table when the witness insisted that a tag line was on the load. Division Engineer Webb tried to intimidate this witness by asking him over and over again the same questions at different meetings.

Another witness, from the trainmen's union, went through this same routine with Division Engineer Webb. When this witness kept repeating the truth about the tag line the Division Engineer stated, "I am not hearing what I want to hear yet," and tore off the witnesses statement and acted like he was crumpling it up and throwing it away, stating it was worthless. When this witness complained to management about this treatment he was put on trial for making a false accusation and fired.

The trackman was charged with vague allegations of unsafe procedure and voluntarily placing his hand in a "pinch point." At the investigation NS provided no evidence whatsoever that the injured worker did anything other than follow established safety procedures. NS discharged him anyway to serve as an example to his coworkers as to what will happen when you get injured, or insist on telling the truth.

In short, NS was attempting to force perjury in accident report information and this violates Federal law. Had NS been successful, the accident would have been reported as employee error (no tag line) and nothing would have been done to alert crews to the hazards of the new panels. The dismissal of the trackman reinforces the fear and intimidation of workers as to injury reports. The dismissal of the trainman dramatically creates new and additional fear as to the elaborate tricks NS will resort to, in order to create grounds for dismissal based on "false and misleading statements."

Further, NS later attempted several times to coerce "confessions" from the dismissed employees by offering waivers and reinstatements to the workers conditioned on their confessing to either a false statement (trainman), or to carelessness and fault (trackman)

The law prohibits NS from denying, delaying or interfering with an injured worker's medical treatment. Furthermore, under law railroad employees are protected from any discipline, or discrimination, for reporting a hazardous safety or security condition.

Complaints have been filed with the appropriate Federal authorities and Division Engineer Webb and NS will be forced to answer for their actions.

NS Dismisses Track Worker for Hurting His Back

On July 14, 2009, a NS track worker, with fifteen years of service, was injured on the job on the NS Lake Division. While clearing ballast off a switch he felt something in his back give and it hurt some at the time, but it did not last too long. He continued working and finished out his work day. However, by the next morning, the pain returned to the same location and was getting worse. The trackman requested to go to the Doctor and reported his injury from the previous day. Various NS officials questioned the trackman on July 15th and thereafter, and had him fill out multiple papers and statements. Inevitably, there were minor differences in particulars with the multiple interviews and papers. NS used these to manufacture charges of "false" reporting of an injury (as occupational) and false/misleading statements to the injury report. This practice of taking multiple interviews and statements from a worker reporting an injury, and using those as a basis on which to manufacture charges of "false report" of an injury, is routine practice at NS.

NS discharged the trackman because he reported his injury, even though the trackman provided a report from his treating physician with a medical opinion that the trackman's injury report and symptom history was valid. Norfolk Southern's conduct was intended to intimidate the injured worker and his fellow workers from notifying the railroad of injuries.

Complaints have been filed with the appropriate Federal authorities and NS, and the Engineering managers responsible, will have to answer for their actions.

NS Dismisses Track Worker for Hitting His Head and Reporting Injury

On July 6, 2009, a track department worker was injured on the job while traveling with three other workers in a company truck near Ypsilanti, MI. The truck hit a sudden large bump in the pavement and the worker was thrown up by the force of the incident, jamming his head against the ceiling of the truck, sustaining injury to the neck and head. The employee was obeying all traffic and safety rules at the time and nothing in his actions has been formally criticized by NS. The seat the injured worker occupied required its occupant to secure themselves with both a standard seat belt and "tether straps." The manufacturer placed a warning label on this very seat, but the seat was not equipped with these straps. The injured worker, and other workers, brought this to the attention of management, but no corrective action was taken. This was one step, among several, that NS failed to take in connection with preventing this injury.

Upon reporting the injury, NS attempted to place the fault on the worker. Failing in that, they charged and fired him, accusing him of intentionally going over a known rough spot to justify groundless medical care for the purpose of obtaining time off. NS manufactured "evidence" by using a "professional witness" who opined an impact as described by the injured worker was impossible. NS held a trial and fired the injured worker for reporting the injury.

Union attorneys have filed a complaint with the proper Federal authorities and have alleged that this behavior, as well as the others described, is system wide and requires a complete and thorough investigation by the Federal government.

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www.pennfedbmwe.org

and sign up for this free service.

Norfolk Southern Workers Thrust Into National Handling

BMWED Forms Rail Labor Bargaining Coalition with Engineers, Signalmen, Boilermakers, Fireman and Oilers and Sheet Metal Workers

President Simpson Pledges to Fight to End Wage Disparity on Norfolk Southern

On January 1, 2010, bargaining commenced to renew agreements on all of the Class 1 Freight Railroads, including Norfolk Southern. Management has united behind the National Carrier's Conference Committee (NCCC) and the BMWED has united behind the Rail Labor Bargaining Coalition. In the past, this type of arrangement has proven itself able to resolve the broad issues facing all railroad workers, but has shown itself unable to properly address the specific needs of BMWED workers in general and Norfolk Southern BMWED workers in particular. The last round which was negotiated under this arrangement demonstrated this problem. The RLBC was successful in beating back the concessions demanded by an aggressive and hostile management who bargained with the open support of the conservative government of George Bush. However, away from home expenses under the national agreement were not improved and the wage disparity issue on railroads like Norfolk Southern and Southern Pacific were not corrected. In addition, broader issues like sub-contracting and discipline procedures were left unchanged.

While the BMWED has again entered into the same bargaining structure that produced the last agreement it has made it clear to its coalition partners that issues of specific concern to the BMWED in general, and Norfolk Southern workers in particular, need to be resolved before we endorse an overall deal. In a recent letter to BMWED General Chairmen marking the start of the bargaining process President Simpson wrote:

"You have my word that issues of great importance to BMWED members: wage, job security, health insurance, away from home expenses. unified rates on commonly controlled carriers and paid sick leave will be included in these notices, and I have received commitments from the other RLBC members that the coalition will not make an agreement that does not satisfy BMWED's interest in these important areas."

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