U.S. Department of Labor

Occupational Safety and Health Administration
201 Varick Street, Room 670
New York, New York 10014
Attention: John Schreck
Tel: (212) 337-2365
Fax: (212) 337-2371
E-Mail: schreck.john@dol.gov

March 8, 2012

Ms. Sofia Hubscher, Esq.
Metro North Commuter Railroad Co.
347 Madison Avenue, 19th Floor
New York, NY 10017-3739

Via Certified Mail, RRR # 7010 3090 0002 4932 8002

Re: Metro-North Commuter Railroad Company / Ruffolo / 2-4173-09-094

Dear Ms. Hubscher:

This is to advise you that we have completed our investigation of the above-referenced complaint filed by Vincent Ruffolo (Complainant) against Metro-North Commuter Railroad Company (Respondent) on June 30, 2009 under the anti-retaliation provision of the Federal Railroad Safety Act (FRSA or Act), 49 U.S.C. § 20109. Complainant alleges that, in retaliation for reporting his workplace injury, he was denied prompt medical attention, harassed by his Foreman for requesting medical treatment, and harassed by the Facilities Director for following the orders of the treating doctor. Complainant further alleges that a Registered Physician's Assistant at Respondent's Occupational Health Services was coerced into changing Complainant's medical status from "Not Qualified" to "Qualified Restricted", which change forced Complainant to perform work that could have impaired the healing process and caused further harm. Complainant additionally alleges that Respondent interfered with the treatment plan of Complainant's treating physician, Dr. Sherin Varkey, when it contacted Dr. Varkey and caused her to change the treatment orders from excusing Complainant from work to permitting Complainant to work restricted duty (Complainant was nonetheless assigned duties that fell outside of the physician's restrictions).

Following an investigation by a duly-authorized investigator, the Secretary of Labor, acting through her agent, the Regional Administrator for the Occupational Safety and Health Administration (OSHA), Region II, finds that there is reasonable cause to believe that Respondent violated 49 U.S.C. § 20109 and issues the following findings:

Secretary's Findings

Complainant alleges that, beginning on June 26, 2009, Respondent retaliated against him for reporting his workplace injury. On June 30, 2009, Complainant filed a complaint with the Secretary of Labor alleging that Respondent violated the FRSA. As this complaint was filed within 180 days of the alleged adverse actions, it is timely.

Respondent is a railroad carrier within the meaning of 49 U.S.C. § 20102(3). Respondent is engaged in interstate commerce for purposes of 49 U.S.C. § 20109. Complainant is an employee who is entitled to 49 U.S.C. § 20109's employee protections.

Respondent is a suburban commuter rail service that is a subsidiary of the Metropolitan Transportation Authority, a public benefit corporation. Respondent runs service to New York City's northern suburbs in New York and Connecticut, as well as to other regions, including, in conjunction with New Jersey Transit, to parts of New Jersey. Respondent operates 120 stations. Complainant is employed by Respondent as a laborer and is a member of a union (SEIU). During the relevant period of time, Complainant was assigned to the Harmon Diesel Shop located in Croton-Harmon, NY. Complainant's routine job duties required heavy lifting and exposure to unsanitary conditions and chemicals when cleaning bathrooms.

On Friday, June 26, 2009 at approximately 8:30 AM, Complainant injured his right index finger when the handle to a refrigerator broke. Complainant immediately reported the injury to Foreman Ricky Ring. Ring responded to Complainant by telling him "don't be a pussy" for wanting to be treated at the local hospital. Ring tried to pressure Complainant into not pursuing treatment at the hospital. Complainant received first aid treatment and was escorted to Phelps Memorial Hospital where he received three sutures and was told not to use his hand in order to give the sutures time to heal. Complainant was provided written instructions stating he was to keep the hand clean and dry and watch for signs of infection. Complainant was not to work for the remainder of the day and was referred to his personal physician for follow-up care. Complainant returned to the shop, signed his statement about the incident, and was instructed to remain at work for the duration of his shift. As per Respondent's policy, Complainant was scheduled to be evaluated at Occupational Health Services (OHS) on Monday, June 29, 2009.

Complainant was evaluated by Registered Physician's Assistant (PA) Linda Primus at OHS on June 29. Primus determined "EE was not medically qualified for duty at this time because unable to perform job duties such as carrying, handling; because EE's wound is near the flexion area of the digit, carrying and handling may affect the healing process." Primus recorded Complainant's status on the MD-40 form as not qualified due to his occupational injury and scheduled a follow-up visit for Monday, July 6, 2009 for a return to duty evaluation. Later that same day, Primus was contacted by the Harmon Shop Facilities Director John Militano[1] who persuaded Primus to change Complainant's status from disqualified to qualified with restrictions.[2] Primus amended her clinic notes to reflect that Complainant was medically cleared for duty with restrictions. At approximately 7:02 PM that evening, Militano called Complainant at home and ordered him to work the following morning. Complainant was told he needed to pick up his revised MD-40 before starting his shift. Complainant also received permission to keep his follow-up

[1] As Facilities Director, John Militano was responsible for the safety, welfare, and training of the 452 employees in the department as well as the maintenance, repair, and modification of the rolling stock and service dispatchments at Poughkeepsie and Harmon Yards.

[2] The terms of the SEIU-NFCO System Council #2 Collective Bargaining Agreement do not include light-duty for laborers.

appointment the following morning with Dr. Varkey, his personal physician, per Phelps Memorial Hospital's discharge instructions.

On Tuesday, June 30, 2009, Complainant was examined by Dr. Varkey, who excused Complainant from work until July 7, 2009 when the sutures were expected to be removed. Complainant contacted Supervisor Matt Dalbo and informed him that his treating doctor had taken him out of service. Dalbo ordered Complainant back to work since the revised MD-40 qualified him for restrictive duty. Complainant contacted Primus, and according to Complainant, Primus stated that Militano had called the previous day and had been very forceful and determined to get Complainant back to work and she acquiesced. According to Primus, however, she asserts that she changed Complainant's status after Militano called and said that he had a restricted-duty assignment available and inquired whether Complainant would be qualified to work it. Complainant also informed his union representative and was told that he must return to work or face potential insubordination charges. Complainant returned to his department where he picked up the revised MD-40 and was assigned work on the shop floor. Complainant continued to receive work assignments on the shop floor and performed his routine duties of cleaning the shop area and bathrooms and working on engines. These assignments exposed Complainant's right hand[3] to unsanitary conditions and cleaning chemicals. At no time was he assigned to a desk job or other restricted-duty assignment. Such assignments not only violated Complainant's personal physician's instructions that he not work at all, but Respondent also violated the restrictions placed by OHS on his ability to return to work.

On or about June 30, 2009, Dr. Varkey's office was contacted by personnel from Respondent who requested a revised doctor's note detailing Complainant's restrictions. Dr. Varkey's RN prepared the note with the understanding that the restrictions imposed on Complainant would prevent him from working as a laborer since he could not lift heavy objects or immerse his hands in chemicals. Dr. Varkey's office was unaware that Complainant was required to work on the shop floor while the restrictions were in place. Complainant's routine job duties required Complainant to lift heavy objects and immerse his right hand into cleaning solutions.

On Wednesday, July 1, 2009, John Militano called Complainant to his office wanting to know why Complainant involved his International Union. According to Complainant, Militano said he did the right thing by putting Complainant back to work and also stated, "You have kids. What kind of example are you setting for your kids not going to work over a little cut? Keep that in mind." Complainant continued to work on the shop floor through Friday, July 3, 2009. On Monday, July 6, 2009, his sutures were removed and Dr. Varkey cleared Complainant to return to work without restrictions. Later this same day, Complainant was evaluated at OHS by PA John Kelly who qualified Complainant for full duty.

Complainant alleges that Respondent violated 49 U.S.C. §§ 20109(a)(4) and 20109(c) of the Act when, among other things, it delayed Complainant's transportation to the local emergency room and required Complainant to work despite his treating physician's orders that disqualified Complainant from working. OSHA finds that there is reasonable cause to believe that Respondent violated 49 U.S.C. § 20109(a)(4), which protects an employee who notifies his/her

[3] Complainant is right hand dominant.

railroad carrier of a work-related personal injury. Section (a)(4) provides that the railroad carrier "may not discharge, demote, suspend, reprimand, or in any other way discriminate against an employee if such discrimination is due, in whole or in part, to the employee's lawful, good faith. . . ." report of a work-place injury to the railroad carrier.[4] The types of retaliatory actions prohibited by (a)(4) include not only the specific acts identified (discharge, demotion, suspension, and reprimand), but also "any other" discrimination against an employee for notifying his/her railroad carrier of a work-related personal injury. Prohibited retaliatory actions can thus include actions not directly related to employment and harm caused outside the workplace. Any retaliatory action by a railroad carrier that may dissuade a reasonable employee from reporting his/her injury is prohibited by (a)(4).[5]

Complainant engaged in protected activity when he reported a work-related injury, and Respondent was aware of his injury. Additionally, Respondent took actions that could dissuade a reasonable employee from reporting his injury and that satisfy the standard for adverse actions identified in the paragraph above. First, Complainant was harassed by Foreman Ricky Ring when he asked to be taken to the hospital to be treated for his workplace injury, and Ring sought to shame Complainant into not seeking treatment by telling him "don't be a pussy" for wanting to go to the hospital. Second, Facilities Director John Militano's phone call to Complainant at his home ordering him to work the following day did not follow standard protocol and chain of authority and was intended to intimidate Complainant. Third, Complainant was harassed by Facilities Director John Militano for involving his union and for wanting to follow the orders of his personal physician. Fourth, Respondent's non-medically trained manager overrode the determination of Respondent's own medical staff that Complainant should be excused from work and precipitated OHS's changing Complainant's medical status from not qualified for duty to qualified for duty with restrictions. Fifth, Respondent's personnel contacted Complainant's personal physician and gave her misinformation (i.e., assurances that Complainant's work would be restricted if he were permitted to return to work) in order to persuade her to change her orders from not medically fit for duty to fit for duty with restrictions. Respondent's interference with OHS and the personal physician's medical advice (both of whom determined that Complainant should not work) forced Complainant to return to work under conditions that could have impaired the healing process and caused more harm. Sixth, the evidence suggests that Complainant was assigned work that contradicted the medical restrictions issued by both his personal physician and OHS.

The causal connection between Complainant's reporting the injury and the adverse actions is demonstrated by the temporal proximity of the adverse actions to the injury report and Respondent's managers' specific references to Complainant's injury in their remarks to him.

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[4] Having found retaliation under (a)(4), OSHA is not addressing whether the allegations here would also establish a violation of 49 U.S.C. § 20109(c)(1). In addition, 49 U.S.C. § 20109(c)(2) prohibits a railroad carrier from disciplining, or threatening to discipline, an employee for requesting medical or first aid treatment, or for following orders or a treatment plan of a treating physician. The adverse actions alleged by Complainant are not "discipline" as defined by (c)(2), and as such, there is no reasonable cause to believe Complainant alleged a prima facie violation of (c)(2).

[5] See generally Burlington N. & Santa Fe Ry. Co. v. White, 548 U.S. 53, 59-70 (2006).

The causal connection is also demonstrated by the measures that Respondent employed to force Complainant to return to work despite the contrary medical advice. Had Complainant not reported a work-related injury, Respondent would not have made such efforts because Complainant would have simply taken sick leave without any time off recorded as lost time due to a work injury.

In sum, because Complainant reported a work-related injury, Respondent harassed him, interfered with his recovery and treatment, assigned him work duties he should not have performed, and sought to punish him for reporting the injury. The evidence suggests that Respondent's actions were motivated, at least in part, by a desire to minimize the injury because by doing so, Respondent could avoid reporting the injury and any lost time to the Federal Railroad Administration (FRA). In particular, when Complainant insisted on going to the hospital, causing his injury to become FRA-reportable, his foreman suggested that he was "a pussy" for making that decision. Similarly, when Complainant questioned the change in his work restriction to light duty (which allowed Respondent to avoid reporting lost time to the FRA), Complainant was further harassed. Actions such as Respondent's actions here send the message to this employee and all other employees that they are better off not reporting injuries at all. Such actions, if they successfully dissuade an employee from reporting an injury, result in the skewing of information provided to the FRA and potentially jeopardize employee safety.

As Complainant suffered adverse actions in retaliation for reporting his workplace injury and Respondent has not demonstrated by clear and convincing evidence that the same adverse actions would have been taken if Complainant had not reported his workplace injury, OSHA finds that there is reasonable cause to believe that Respondent violated 49 U.S.C. § 20109(a)(4) of FRSA.

By harassing Complainant, disregarding the professional medical opinions of its own medical staff and Complainant's treating physician, and intervening to influence those medical providers' recommendations, Respondent demonstrated a reckless disregard for the rights of its employee to report a work-place injury. The harassment of Complainant was initiated and carried out by the Facilities Director, a senior department manager. The actions of Militano demonstrated that this was not a random act of a first line supervisor but rather an extension of an entrenched culture to retaliate against employees who report work-related injuries. Militano's deliberate actions were intended to chill the workforce and dissuade employees from reporting future accidents. This case is not the first one where OSHA has found reasonable cause to believe that Respondent retaliated against employees in violation of FRSA for reporting a workplace injury.[6] Respondent's actions call for the imposition of punitive damages.

ORDER

[6] See OSHA's Secretary's Findings in Metro-North Commuter Railroad Company / 2-4173-08-066, Metro-North Commuter Railroad Company / 2-6040-08-011, Metro-North Commuter Railroad Company / 2-4173-09-007 and Metro-North Commuter Railroad Company / 1-0080-09-001.

Respondent shall post the Notice to Employees included with this order in the Harmon Diesel Shop in Croton-Harmon, NY where Notices to employees are customarily posted, as well as on its internal website.

Respondent shall provide to all its employees assigned to the Harmon Diesel Shop in Croton-Harmon, NY a copy of the FRSA Fact Sheet and Frequently Asked Questions on Employee Protections for Reporting Work Related Injuries and Illnesses in the Railroad Industry included with this Order.

Respondent shall expunge any adverse references from all of Complainant's personnel, safety, and department files relating to the exercise of Complainant's rights under FRSA. Nothing in connection with the June 26, 2009 incident shall be considered when determining future progressive discipline or promotions.

Respondent shall pay reasonable attorney's fees in the amount of $8,830.00

Respondent shall pay punitive damages in the amount of $10,000. 00

Respondent and Complainant have 30 days from the receipt of these Findings to file objections and to request a hearing before an Administrative Law Judge (ALJ). If no objections are filed, these Findings will become final and not subject to court review. Objections must be filed in writing with:

Chief Administrative Law Judge
Office of Administrative Law Judges
U. S. Department of Labor
800 K Street NW, Suite 400 North
Washington, D.C. 20001-8002
PH: (202) 693-7300; Facsimile: (202) 693-7365

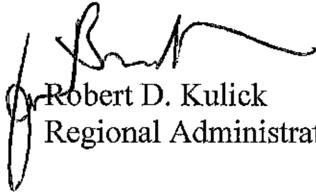
With copies to:

Mr. Charles C. Goetsch, Esq.
Cahill Goetsch & Perry, P.C.
43 Trumbull Street
New Haven, CT 06510

Mr. Robert D. Kulick, Regional Administrator
U.S. Department of Labor, OSHA
201 Varick Street, Rm 670
New York, NY 100104

In addition, please be advised that the U.S. Department of Labor generally does not represent any party in the hearing; rather, each party presents his or her own case. The hearing is an adversarial proceeding before an Administrative Law Judge (ALJ) in which the parties are allowed an opportunity to present their evidence *de novo* for the record. The ALJ who conducts the hearing will issue a decision based on the evidence, arguments, and testimony presented by the parties. Review of the ALJ's decision may be sought from the Administrative Review Board, to which the Secretary of Labor has delegated responsibility for issuing final agency decisions under FRSA. A copy of this letter has been sent to the Chief Administrative Law Judge along with a copy of your complaint.

Sincerely,



Robert D. Kulick
Regional Administrator

cc: Mr. Charles C. Goetsch, Esq., Certified Mail # 7010 3090 0002 4932 8019
Chief Administrative Law Judge, USDOL
SOL-FLS Division
Federal Railroad Administration

NOTICE TO EMPLOYEES

PURSUANT TO AN ORDER BY THE U.S. DEPARTMENT OF LABOR, OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION:

METRO-NORTH COMMUTER RAILROAD COMPANY (METRO-NORTH) has been ordered to make whole an employee who was found to have been retaliated against for exercising his rights under the Federal Rail Safety Act (FRSA). Metro-North has also taken affirmative action to ensure the rights of its employees under employee whistleblower protection statutes including the FRSA.

PURSUANT TO THAT ORDER, METRO-NORTH AGREES THAT IT WILL NOT:

1. Discharge or in any manner discriminate against any employee because such employee has engaged in any activity, filed any complaint or instituted or caused to be instituted any proceeding under or related to the employee protection provisions of the Federal Rail Safety Act (FRSA), 49 U.S.C. §20109, as amended by Section 1521 of the Implementing Recommendations of the 9/11 Commission Act of 2007, Pub. Law No. 110-53., or has testified or is about to testify in any such proceeding or because of the exercise by such employee on behalf of himself/herself or others of any right afforded by the FRSA.

2. Discharge, demote, suspend, threaten, harass, intimidate or in any other manner discriminate against an employee because such employee has reported a workplace injury or illness.

3. Deny, delay, or interfere with the medical or first aid treatment of an employee who is injured during the course of employment. If transportation to a hospital is requested by an employee who is injured during the course of employment, the railroad shall promptly arrange to have the injured employee transported to the nearest hospital where the employee can receive safe and appropriate medical care.

4. Discipline, or threaten discipline to, an employee for requesting medical or first aid treatment, or for following orders or a treatment plan of a treating physician.

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Metro-North Commuter Railroad Company Date

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE. THIS NOTICE MUST REMAIN POSTED AND MUST BE NOT ALTERED, DEFACED, OR COVERED BY OTHER MATERIAL.

OSHA Occupational Safety and Health Administration

www.osha.gov

OSHA® FactSheet

Whistleblower Protection for Railroad Workers

Individuals working for railroad carriers are protected from retaliation for reporting potential safety or security violations to their employers or to the government.

On August 3, 2007, the *Federal Railroad Safety Act* (FRSA), 49 U.S.C. §20109, was amended by *The Implementing Recommendations of the 9/11 Commission Act* (Public Law 110-53) to transfer authority for railroad carrier worker whistleblower protections to OSHA and to include new rights, remedies and procedures. On October 16, 2008, the *Rail Safety Improvement Act* (Public Law 110-432) again amended FRSA, to specifically prohibit discipline of employees for requesting medical treatment or for following medical treatment orders.

Covered Employees

Under FRSA, an employee of a railroad carrier or a contractor or subcontractor is protected from retaliation for reporting certain safety and security violations.

Protected Activity

If your employer is covered under FRSA, it may not discharge you or in any other manner retaliate against you because you provided information to, caused information to be provided to, or assisted in an investigation by a federal regulatory or law enforcement agency, a member or committee of Congress, or your company about an alleged violation of federal laws and regulations related to railroad safety and security, or about gross fraud, waste or abuse of funds intended for railroad safety or security. Your employer may not discharge or in any other manner retaliate against you because you filed, caused to be filed, participated in, or assisted in a proceeding under one of these laws or regulations. In addition, you are protected from retaliation for reporting hazardous safety or security conditions, reporting a work-related injury or illness, refusing to work under certain conditions, or refusing to authorize the use of any safety- or security-related equipment, track or structures. You may also be covered if you were perceived as having engaged in the activities described above.

In addition, you are also protected from retaliation (including being brought up on charges in a disciplinary proceeding) or threatened retaliation for requesting medical or first-aid treatment, or for following orders or a treatment plan of a treating physician.

Adverse Actions

Your employer may be found to have violated FRSA if your protected activity was a contributing factor in its decision to take adverse action against you. Such actions may include:

- Firing or laying off
- Blacklisting
- Demoting
- Denying overtime or promotion
- Disciplining
- Denying benefits
- Failing to hire or rehire
- Intimidation
- Making threats
- Reassignment affecting promotion prospects
- Reducing pay or hours
- Disciplining an employee for requesting medical or first-aid treatment
- Disciplining an employee for following orders or a treatment plan of a treating physician
- Forcing an employee to work against medical advice

Deadline for Filing a Complaint

Complaints must be filed within 180 days after the alleged adverse action occurred.

How to File a Complaint

A worker, or his or her representative, who believes that he or she has been retaliated against in violation of this statute may file a complaint with OSHA. The complaint should be filed with the OSHA office responsible for enforcement activities in the geographic area where the worker lives or was employed, but may be filed with any OSHA officer or employee. For more information, call your nearest OSHA Regional Office:

- *Boston* *(617) 565-9860*
- *New York* *(212) 337-2378*
- *Philadelphia* *(215) 861-4900*
- *Atlanta* *(404) 562-2300*
- *Chicago* *(312) 353-2220*
- *Dallas* *(972) 850-4145*
- *Kansas City* *(816) 283-8745*
- *Denver* *(720) 264-6550*
- *San Francisco* *(415) 625-2547*
- *Seattle* *(206) 553-5930*

Addresses, fax numbers and other contact information for these offices can be found on the Whistleblower Protection Program's website, www.whistleblowers.gov, and in local directories. Complaints may be filed orally or in writing, by mail (we recommend certified mail), e-mail, fax, or hand-delivery during business hours. The date of postmark, delivery to a third party carrier, fax, e-mail, phone call, or hand-delivery is considered the date filed. If the worker or his or her representative is unable to file the complaint in English, OSHA will accept the complaint in any language.

Results of the Investigation

If the evidence supports your claim of retaliation and a settlement cannot be reached, OSHA will issue a preliminary order requiring the appropriate relief to make you whole. Ordered relief may include:

- Reinstatement with the same seniority and benefits.
- Payment of backpay with interest.
- Compensatory damages, including compensation for special damages, expert witness fees and reasonable attorney's fees.
- Punitive damages of up to $250,000.

OSHA's findings and preliminary order become a final order of the Secretary of Labor, unless a party objects within 30 days.

Hearings and Review

After OSHA issues its findings and preliminary order, either party may request a hearing before an administrative law judge of the U.S. Department of Labor. A party may seek review of the administrative law judge's decision and order before the Department's Administrative Review Board. Under FRSA, if there is no final order issued by the Secretary of Labor within 210 days after the filing of the complaint, then you may be able to file a civil action in the appropriate U.S. district court.

To Get Further Information

For a copy of the statutes, the regulations and other whistleblower information, go to www.whistleblowers.gov. For information on the Office of Administrative Law Judges procedures, decisions and research materials, go to www.oalj.dol.gov and click on the link for "Whistleblower."

This is one in a series of informational fact sheets highlighting OSHA programs, policies or standards. It does not impose any new compliance requirements. For a comprehensive list of compliance requirements of OSHA standards or regulations, refer to Title 29 of the Code of Federal Regulations. This information will be made available to sensory impaired individuals upon request. The voice phone is (202) 693-1999; teletypewriter (TTY) number: (877) 889-5627.

For more complete information:

U.S. Department of Labor

www.osha.gov

(800) 321-OSHA

DEP 8/2010

Frequently Asked Questions on Employee Protections for Reporting Work-Related Injuries and Illnesses in the Railroad Industry

Employees working for railroad carriers who notify, or attempt to notify, a railroad carrier, the Secretary of Transportation, or any Federal, State, or local regulatory or law enforcement agency, of a work-related personal injury or work-related illness are protected from retaliation under the Federal Rail Safety Act (FRSA), 49 U.S.C. 20109. Below are some answers to frequently asked questions about these employee whistleblower protections. The specific facts of every FRSA case will be different, so the information below may not apply in every instance.

Q: Who is protected under FRSA for reporting a work-related injury or illness?

A: The Federal Rail Safety Act protects public and private sector employees of railroad carriers, as well as employees of contractors and subcontractors of railroad carriers who report a work-related personal injury or work-related illness.

Q: Can a railroad carrier discipline an employee for reporting a work-related personal injury or work-related illness?

A: No. Reporting a work-related personal injury or work-related illness is specifically protected under FRSA.

Q: Can a railroad discipline an employee for violating safety rules which caused a work-related injury?

A: Yes. An employee can be disciplined for violating safety rules, but not for reporting the injury.

Q: Is it a violation of FRSA for a railroad to harass or intimidate an employee into not reporting an injury, or to report it as non-work related?

A: Yes. This violates FRSA.

Q: Is it a violation of FRSA for a railroad to classify an employee's work-related injury as not work-related?

A: Yes. If the railroad classifies a work-related injury as not work-related in an effort to avoid having the injury be "reportable" then this practice would violate FRSA.

Q: Is it a violation of FRSA for a railroad to force an employee to work against medical advice?

A: Yes. FRSA prohibits a railroad from requiring an employee to work against the orders of a treating physician. FRSA does not prohibit a railroad from requiring that an employee perform alternate duties that would be permitted under a treating physician's treatment plan.

Q: Is it a violation of FRSA for a railroad to discipline anyone who is injured on the job?

A: Yes. Except to the extent that a railroad may discipline an injured employee for violating work safety rules, a railroad may not discipline employees who get injured on the job. A policy or practice that disciplines employees who receive on-the-job injuries would violate FRSA.