

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

_____X
ANDREW BARATI : CIVIL ACTION
Plaintiff : NO. 3:10cv01756-JBA
VS. :
METRO-NORTH RAILROAD COMPANY, :
Defendant : April 3, 2012
_____X

AFFIDAVIT OF CHARLES C. GOETSCH

I, Charles C. Goetsch, am over the age of eighteen and understand the obligations of an oath. Being duly sworn, I hereby state the following:

1. I am an attorney duly admitted to the practice of law in the States of Connecticut and New York and in the United States District Courts for Connecticut and the Southern District of New York. I also am admitted to practice before the United States Court of Appeals for the Second Circuit, and the United States Supreme Court.

2. I am a founding partner in the law firm of Cahill Goetsch & Perry. P.C., and represent the complainant Andrew Barati in the above-entitled case.

3. In 1973 I received an A.B. degree magna cum laude and Phi Beta Kappa from Brown University in Providence, Rhode Island.

4. In 1976 I received a J.D. from the University of Connecticut School of Law, and in 1977 I received an LL.M. from the Harvard Law School. In 1978-1979 I was a Visiting Scholar and American Bar Foundation Fellow at the Yale Law School.

5. I served as a law clerk to U.S. District Judge Ellen Bree Burns in the District of Connecticut from 1978-1979, and as a law clerk to U.S. Circuit Court Judge Leonard P. Moore at the United States Court of Appeals for the Second Circuit from 1979-1980.

6. For the past 30 years I have practiced in the federal courts enforcing the federal statutory rights of railroad workers. My firm is one of the relatively few in the nation with that concentration and experience. I have personally tried over 55 federal jury and court trials, and handled over a dozen appeals to United States Court of Appeals. In 1997 I briefed and argued a railroad law case before the United States Supreme Court. From 1991 to 1994 I was appointed by the Chief Judge to serve as Chairman of the Civil Justice Reform Act Advisory Group for the District of Connecticut. From 1990 to 1993 I served as Chairman of the Federal Practice Section of the Connecticut Bar Association. I have lectured at several seminars on federal rules and practice, and have authored articles and books on legal subjects. I am an American Bar Association Fellow, and a long-time member of the Academy of Rail Labor Attorneys as well as other bar groups and associations.

7. The Federal Rail Safety Act is a new statute, and thus presents significant challenges regarding how to approach and resolve critical issues. I have taken a lead in the prosecution of FRSA cases, and currently handle over 50 FRSA complaints throughout the United States, including in the Northeast, Southeast, Midwest, and West Coast. I created and maintain the "FRSA Library" located at <http://www.trainlaw.com/FRSA-library/> which is an online resource center for all aspects of FRSA matters and which is relied on by OSHA Whistleblower investigators and attorneys representing both railroads and employees. I gave the first seminar on the

FRSA at the May 2011 Annual Convention of the Academy of Rail Labor Attorneys, and will do it again at the upcoming April 2012 Convention. I maintain a blog at <http://www.trainlawblog.com/> with over 460 subscribers where I post updates on developments in the FRSA. Attorneys and railroad employees from all over the country routinely call and email me for advice and guidance on all aspects involved in enforcing the FRSA.

8. To my knowledge, I am the first attorney whose clients were awarded significant punitive damages by OSHA under the FRSA (total of \$300,000 against Metro-North Railroad in June 2009), and the highest OSHA FRSA Award to date (\$570,000 against NJ Transit Rail in April 2010). OSHA has awarded numerous Merit Findings on behalf of my clients, and I tried three of the first ALJ FRSA bench trials. I filed the first FRSA cases in United States District Court (with five currently pending). This case was the first federal jury FRSA trial in the nation, and the first FRSA award of punitive damages against a railroad.

9. Barati is one of the first FRSA complaints brought against Metro North for violations of the FRSA (filed with OSHA in 2008), and was vigorously defended by the Railroad. It is one of the first cases in the nation to interpret and apply the scope of the FRSA's protection of railroad employees under 49 U.S.C. 20109. Pressing this case serves an important public benefit function in clarifying both for management and workers the boundaries of acceptable future conduct on the Railroad. As such, its importance transcends the amount of any economic damages involved.

10. I am not aware of any other attorney in the nation with my level of experience and expertise handling FRSA cases, or with my nationwide FRSA practice.

My rate in the community of the District of Connecticut is \$550 per hour, a rate that is appropriate given my years in practice, trial experience, and record of results. However, that rate does not reflect the market value of my services when viewed in the context of the relevant community of attorneys enforcing whistleblower rights in a national market. See attached Declaration of the Director of the National Whistleblowers Center, Attorney Richard Renner.

11. The detailed lists of time and labor spent by the undersigned on the preparation and prosecution of this case are attached. The number of hours expended to date multiplied by the hourly rate totals \$181,967.50, and is the applicable lodestar. However, for the reasons set forth in the accompanying Memorandum in Support, the plaintiff respectfully requests that a 30% enhancement be applied to that lodestar. The list of costs also is attached, including expert fees, and totals \$14,425.03.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY.

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Subscribed and sworn to before me this 3rd day of April, 2012.

Karen M. Longo
Notary Public
My commission expires: September 30, 2012