

Supreme Court rejects carriers' attempt to reverse favorable FMLA ruling

CLEVELAND, January 15 — On January 14, the U.S. Supreme Court announced that it will not consider overruling the favorable decisions obtained by Rail Labor in the ongoing Family and Medical Leave Act (FMLA) litigation.

By denying the carriers' petition for a writ of certiorari, the Supreme Court decided not to disturb the lower courts' decisions that the carriers may not rely on the FMLA statute to override BLET agreements. BLET's legal position has now been fully vindicated.

While the federal court part of this dispute should be over, more work remains to be done.

Unless the carriers reconsider their position regarding settlement, individual BLET General Committees of Adjustment will now have to arbitrate the various claims that have been filed since the dispute started.

"This is an important victory for BLET members and all of Rail Labor," said BLET National President Don Hahs. "We knew the carriers were violating our collective bargaining rights by forcing members to exhaust personal leave and vacation days prior to taking unpaid leave under the Family and Medical Leave Act. This victory was a long time coming, but it shows what Rail Labor can achieve when we work together."

The January 14 announcement from the Supreme Court is the latest victory for Rail Labor in a legal dispute that dates to at least three years ago.

In 2005, a coalition of 11 unions challenged a decision made by the major rail carriers to force their employees to exhaust their vacation and personal leave days for FMLA purposes before taking the unpaid leave they are entitled to under federal law. On January 3, 2006, U.S. District Judge Wayne R. Andersen sided with the unions, ruling that the FMLA does not allow carriers to force employees to substitute paid vacation and personal leave for unpaid leave when existing collective bargaining agreements give the employees — not the carriers — the right to decide when to use their paid leave. The court held that "if a CBA gives employees the right to determine when, or in what manner, they take accrued vacation and/or personal leave, an employer cannot force employees covered by that CBA to use such vacation and/or personal leave at a time of the employer's choosing."

The carriers appealed the January 3 ruling in District Court, but a three-judge panel of the U.S. Court of Appeals in the Seventh Circuit unanimously upheld the favorable ruling on March 2, 2007. In May 2007, the entire Seventh Circuit Court of Appeals refused a carrier request for a rehearing, after which the carriers took their appeal to the Supreme Court.

Eleven Rail Labor unions are involved in the case. Mike Wolly and Margo Pave of Zwerdling, Paul, Kahn, & Wolly, P.C., are representing the interests of six of the 11 unions — Brotherhood of Locomotive Engineers and Trainmen, International Brotherhood of Electrical Workers, American Train Dispatchers Association, Brotherhood of Railroad Signalmen, National Conference of Firemen and Oilers, and the Sheet Metal Workers International Association.

President Hahs thanked Wolly and Pave for their leadership in helping Rail Labor achieve this important victory.

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