



Brotherhood of Locomotive Engineers and Trainmen

A Division of the Rail Conference-International Brotherhood of Teamsters

NATIONAL DIVISION

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DON M. HAHS
National President

December 5, 2006

ALL GENERAL CHAIRMEN AND STATE LEGISLATIVE BOARD CHAIRMEN

Dear Sirs and Brothers:

I am attaching a copy of the Notice of Oral Argument in the consolidated Family and Medical Leave Act case, which states that oral argument will be heard on January 3, 2007, by the United States Court of Appeals for the Seventh Circuit in Chicago, Illinois. This case involves the major carriers' policy requiring all paid leave be taken by an employee prior to being allowed to be placed on Family and Medical Leave as requested, notwithstanding a carrier's pre-existing contractual obligations.

You will remember that the unions received a favorable ruling on May 25, 2006, from the District Court, to the extent it held that the Family and Medical Leave Act (FMLA) does not preempt or override collective bargaining obligations by a carrier, and continued, "If collective bargaining agreement ("CBA") provisions grant employees the right to determine when, or in what manner, they utilize certain types of paid vacation and personal leave, those CBA provisions prevent employers from substituting such leave for FMLA leave without the permission of the affected employee."

The carriers appealed from this judgment, which in the form entered does not have an effect upon a carrier's policy during the appeal. The Court of Appeals has two issues before it: Whether or not the FMLA supersedes already existing CBA obligations, and who decides what provisions do prevent the carrier from substituting paid vacation and personal leave for FMLA leave. Hopefully, the Court will reaffirm and strengthen the lower court's decision. You will be kept apprised of developments in the case.

Fraternally yours,

President

Enc.

Cc: Advisory Board (w/enc.)
H.A. Ross, IGC

United States Court of Appeals

For the Seventh Circuit

Chicago, Illinois 60604

NOTICE OF ORAL ARGUMENT

Date: November 30, 2006

By the court:

No. 06-2744

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES, RUFILIO G.
HERRERA, JOSEPH M. FRANCO, et al.,
Plaintiffs - Appellees

v.

CSX TRANSPORTATION, INCORPORATED, BURLINGTON NORTHERN AND
SANTA FE RAILWAY COMPANY, UNION PACIFIC RAILROAD COMPANY, et al.,
Defendants - Appellants

Appeal from the United States District Court for the
Northern District of Illinois, Eastern Division
No. 03 C 9419, Wayne R. Andersen, Judge

IT IS ORDERED that this case be orally argued on
Wednesday, January 3, 2007, in the Ceremonial Courtroom of the United
States Courts, 219 South Dearborn, Room 2525, Chicago, Illinois
at 9:30 a.m.

Oral argument will be no more than 15 minutes for each side.
Counsel are advised that the panel of judges assigned to oral
argument may decide, after reading the briefs, that less time
is required for oral argument.

IT IS FURTHER ORDERED that counsel notify the Calendar
Clerk (312-435-5850) who will present oral argument by completing
and returning the enclosed post card to the court. Notice must be
received in the clerk's office no later than 5 business days prior
to the scheduled argument date.

Copies of this notice have been sent to counsel of record.

NOTE: Any request for waiver or postponement of a scheduled oral argument must be made by formal motion, with proof of
service on all other counsel or parties. Postponements will be granted only in extraordinary circumstances. See
Circuit Rule 34(e).

Please review the attached "Special Notice to Counsel Who Will Present Oral Argument" for important requirements
and information about oral argument in the Court of Appeals.

(1208-110493)