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Railroad company notches win in employment case

Jury returns federal defense verdict for BNSF Railway Co.

By Saul Sugarman
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SAN FRANCISCO — Lawyers with Los Angeles firm Yukevich Cavanaugh scored a federal defense jury verdict Tuesday in a case brought by a former employee of BNSF Railway Co. on wrongful termination claims.

The result is an “important win,” said Cristina M. Ciminelli, a Los Angeles-based partner with Yukevich Cavanaugh and co-lead counsel on the case, in a prepared statement.

Ciminelli could not be reached, but in the statement,

she and co-lead counsel James J. Yukevich called the claims brought by Neil Jensen “ridiculous.”

The lawyers also said this is the first defense win under a section of the Federal Railroad Safety Act, or FRSA, a statute that prohibits demotion and wrongful termination of employees of railroad companies who speak up if they believe their bosses are violating the law.

The section in Jensen’s case specifically referred to disciplining an employee for following a medical treatment plan. He accused the railroad of violating the FRSA when it didn’t accommodate his doctor’s treatment plan for a wrist injury he sustained on the job.

According to the plan, Jensen

needed to miss between three to eight days of work per month for the remainder of his employment.

But the railroad disputed the validity of the plan.

Ultimately, a federal jury unanimously decided that Jensen had not proven his case, according to the verdict form. *Jensen v. BNSF Railway Company*, 13-CV05955 (N.D. Cal., filed December 26, 2013).

Jensen’s lawyer, Anthony S. Petru, an Oakland-based partner with Hildebrand McLeod & Nelson, could not be reached.

The BNSF has lost three FRSA lawsuits since 2012, according to several media reports, with the latest verdict against the railroad in July.

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