

U.S.C. § 153 First. Because the present dispute is over the proper interpretation of the terms of the parties' collective bargaining agreements, Defendants' threatened strike is enjoined as a violation of the RLA's minor dispute resolution process.

BNSF satisfies this Circuit's other standards for emergency injunctive relief. Defendants' threatened work stoppage will cause irreparable harm to BNSF by interfering with its operations and disrupting BNSF's ability to serve customers that depend on it to move goods in interstate commerce. Moreover, BNSF has no adequate remedy at law to address the harms that Defendants' threatened actions would inflict.

The public interest also supports an emergency injunction. Any work stoppage would be contrary to the interest of shippers and the public in uninterrupted rail operations. Indeed, a work stoppage, especially in current circumstances where the supply chain is already strained, could cause significant disruption in the delivery of critical supplies of fuel, food, mail, military equipment, and other vital materials. In contrast, if enjoined, Defendants will suffer no injury. Defendants will simply be forced to comply with the RLA's mandatory dispute resolution procedures. Furthermore, if Defendants' arguments in support of their interpretations of the parties' agreements ultimately prevail, they can be made whole through the RLA's dispute resolution procedures.

The Defendants' threatened use of self-help could begin at any time. The Unions have already publicly called for strike authorization votes, and BNSF has received indications that the Unions or their members may take action prior to the implementation of the Hi Viz policy on February 1, 2022, and potentially as soon as January 26, 2022.

Counsel for Defendants have been informed of this motion in an email today, January 18, 2022, and has been provided with copies of Plaintiff's First Amended Complaint, this motion, the

Plaintiff's Memorandum of Points and Authorities in Support of Motion for Temporary Restraining Order and/or Preliminary Injunction, the Appendix, the Certificate of Compliance with Rule 65(b), and the accompanying documents that have been concurrently filed with this Court.

For the foregoing reasons, Plaintiff BNSF respectfully requests that the Court enter an order temporarily enjoining SMART-TD and BLET—as well as their officers, members, employees, and others acting in concert with them—from calling, encouraging, or otherwise engaging in a strike, picketing, a work stoppage, sick out, or slowdown, or otherwise exercising coercive self-help against Plaintiff BNSF, its subsidiaries and/or affiliates, or encouraging others to do so in violation of the RLA until a hearing can be held and a ruling issued on a motion for preliminary injunction. A proposed order is attached.

Dated: January 18, 2022

Respectfully submitted,

/s/ Russell D. Cawyer

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