

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

WISCONSIN CENTRAL, LTD.,)	
)	
Plaintiff,)	
)	
v.)	No. 07 CV 994
)	Hon. Ruben Castillo
CATHERINE SHANNON and NANCY)	
McDONALD, in their official capacities)	
with the Illinois Department of Labor,)	
)	
Defendants.)	

**PLAINTIFF’S UNOPPOSED MOTION FOR ENTRY OF JUDGMENT
FOLLOWING REMAND FROM UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT**

NOW COMES Plaintiff Wisconsin Central, Ltd., by its attorneys, and moves the Court for the entry of judgment in accordance with the August 26, 2008, Judgment and Opinion of the United States Court of Appeals for the Seventh Circuit, and in support thereof states as follows:

1. On September 21, 2007, this Court entered its Judgment (Document 41) in this case, granting the motion for summary judgment filed by Plaintiff Wisconsin Central (Document 21) with respect to its claims in Counts 3 and 4 of the Amended Complaint (Document 11) based on Railway Labor Act preemption and denying the motion to dismiss filed by Defendants Shannon and McDonald, which this Court had converted into a motion for summary judgment (Document 17).

2. On October 19, 2007, Defendants Shannon and McDonald timely filed their Notice of Appeal (Document 42) from this Court’s Judgment.

3. On August 26, 2008, the United States Court of Appeals for the Seventh Circuit issued its Opinion, affirming this Court’s grant of summary judgment to Plaintiff Wisconsin

Central and its denial of summary judgment to Defendants Shannon and McDonald on the alternate ground that federal law preempts 820 Ill. Comp. Stat. 105/4a's applicability to interstate railroads like Plaintiff Wisconsin Central, and remanding the case for this Court to dismiss Counts 3 and 4 of Plaintiff Wisconsin Central's Amended Complaint based on Railway Labor Act preemption for lack of jurisdiction and to enter an injunction consistent with the Court of Appeals' opinion as to Counts 1 and 2 of Plaintiff Wisconsin Central's Complaint based on field preemption. On that same day, the Court of Appeals issued its Judgment. On September 17, 2008, the Court of Appeals issued its Mandate pursuant to Fed.R.App.P. 41(a).

4. Wisconsin Central respectfully submits that, in compliance with the Judgment of the Court of Appeals, this Court should enter Judgment in favor of Wisconsin Central and against Defendants Shannon and McDonald as follows:

IT IS HEREBY ORDERED AND ADJUDGED:

a. That judgment is entered in favor of the Plaintiff, Wisconsin Central, Ltd., and against the Defendants, Catherine Shannon and Nancy McDonald, on the claims in Counts 1 and 2 of Plaintiff's Amended Complaint on the ground that federal law preempts 820 Ill. Comp. Stat. 105/4a's applicability to interstate railroads like Plaintiff Wisconsin Central;

b. Defendants Shannon and McDonald, along with their officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise, are hereby enjoined from taking any action to enforce 820 Ill. Comp. Stat. 105/4a against Plaintiff Wisconsin Central or any persons employed by Plaintiff Wisconsin Central, including, but not limited to, seeking to enforce the subpoena that Defendants served on Plaintiff Wisconsin Central on February 26, 2007, investigating further or seeking any other information from Plaintiff Wisconsin Central with respect to any alleged violation of 820 Ill. Comp. Stat. 105/4a, entertaining any complaint or conducting any hearing or other proceedings with respect to any alleged violation by Plaintiff Wisconsin Central of 820 Ill. Comp. Stat. 105/4a, determining that Plaintiff Wisconsin Central has committed a violation of 820 Ill. Comp. Stat. 105/4a, commencing any litigation against Plaintiff Wisconsin Central seeking to enforce or alleging a violation of 820 Ill. Comp. Stat. 105/4a, and imposing any remedy, award, penalty, or fine for such violation of 820 Ill. Comp. Stat. 105/4a; and

c. That Plaintiff Wisconsin Central's claims in Counts 3 and 4 of the Amended Complaint based on preemption of 820 Ill. Comp. Stat. 105/4a by the Railway Labor Act, 45 U.S.C. § 151 *et seq.*, are dismissed for lack of jurisdiction.

5. Counsel for Defendants Shannon and McDonald, Attorney Raymond Garza, has reviewed this proposed Judgment and has authorized counsel for Wisconsin Central to inform the Court that Defendants Shannon and McDonald have no objection to the entry of the proposed Judgment.

WHEREFORE Plaintiff Wisconsin Central, Ltd. prays that the Court will enter Judgment in its favor and against Defendants Catherine Shannon and Nancy McDonald as set forth herein.

Respectfully submitted,

Dated: October 27, 2008

/s/ James S. Whitehead
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Attorneys for Plaintiff
Wisconsin Central, Ltd.

CERTIFICATE OF SERVICE

James S. Whitehead, one of the attorneys for Plaintiff Wisconsin Central Ltd., certifies that he caused a copy of the attached to be served on the following counsel of record through the Court's electronic filing system on October 27, 2008:

Raymond G. Garza
Office of the Illinois Attorney General
100 W. Randolph Street, 13th Floor
Chicago, IL 60601

/s/ James S. Whitehead