

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION**

**BROTHERHOOD OF LOCOMOTIVE  
ENGINEERS AND TRAINMEN,  
Plaintiff,**

v.

**UNION PACIFIC RAILROAD  
COMPANY,  
Defendant.**

§  
§  
§  
§  
§  
§  
§  
§  
§  
§

**EP-21-CV-122-DB**

**TEMPORARY RESTRAINING ORDER**

For the reasons provided below, Defendant Union Pacific Railroad Company (“UP,” or “Carrier” or “Defendant”) is temporarily restrained from interfering with the federal, Railway Labor Act (“RLA”) protected rights of its employees in the crafts or classes of locomotive engineers and trainmen represented by Plaintiff Brotherhood of Locomotive Engineers and Trainmen (“BLET” or “Plaintiff”), as outlined in detail below.

The bases for this Temporary Restraining Order (“TRO”) are as follows:

1. Plaintiff is a labor organization and is the exclusive bargaining “representative,” as defined by Section 1, Sixth of the RLA, 45 U.S.C. § 151, Sixth, of the crafts or classes of locomotive engineers and trainmen employed by UP. Defendant is a rail “carrier” within the meaning of the RLA, 45 U.S.C. § 151, First.
2. It is essential that the Court issue this TRO to prevent immediate and irreparable injury.
3. Unlawful acts have been threatened by Defendant and will be committed unless restrained and have been committed and will be continued unless restrained.

4. Plaintiff will suffer substantial immediate, irreparable loss and damage to its and its members' rights to collectively bargain through the labor organization of their choice guaranteed, *inter alia*, by the Railway Labor Act ("RLA"), 45 U.S.C. § 151, *et seq.*

5. Unless the TRO is issued, substantial and irreparable injury to employees' rights under the RLA to engage in organizing and union activity "without interference, influence, or coercion," pursuant to 45 U.S.C. § 151, Third and Fourth, will result.

6. While Plaintiff would be irreparably harmed by UP continuing to interfere with BLET's and its members' rights under the RLA, UP would suffer no adverse consequences if required to comply with its obligations under the RLA.

7. The TRO is in the public interest because the public has a strong interest in vindicating the RLA's public policy of permitting employees to organize, choose their own representatives and bargain collectively free from interference, influence, or coercion by carriers; hence, the interests of the public are aligned with Plaintiff herein.

8. Unless each item of relief is granted, far more injury will be done to Plaintiff, whose members are individual employees lacking in economic power and whose members' RLA-protected rights are being violated, than to the Defendant, an economically healthy corporation that does not have any right to interference, influence or coerce employees, as its has been found to have done.

9. There is no adequate remedy at law for the stifling of rights to be free of undue interference, influence or coercion, given that discipline of BLET Division 192 Local Chairman Peter Shepard, who also is Division 192's delegate to the Union's General Committee, President David Butler, Secretary-Treasurer John Moye, Third Vice Local Chairman Joe Reyes, First Vice Local Chairman and Alternate Trustee Kevin Seale, and member Joe Telehany sends a clear

message that the Carrier is willing to violate the law to coerce employees in their choice of representatives.

10. There is no public officer who has been charged with the duty to protect Plaintiff and its members' rights to be free of discrimination and such unlawful acts in violation of the RLA.

11. Plaintiff has exerted every reasonable effort to settle such dispute.

12. In finding of the above-enumerated facts, and after due consideration, the Court has concluded that there is a strong likelihood that Plaintiff will prevail in its arguments that the actions restrained by this Order would violate the RLA.

In light of these findings, **IT IS HEREBY ORDERED THAT** Defendant UP, its officers, agents, employees, attorneys and representatives, successors and predecessors in interest are immediately restrained from engaging in surveillance of the Union and its members.

**IT IS FURTHER ORDERED THAT** Defendant UP, its officers, agents, employees, attorneys and representatives, successors and predecessors in interest are immediately restrained from unlawfully interfering with the Union in its representational capacities, including without limitation disciplining members of the Union and Union leadership for their involvement or support for the Union and its interests, objectives and/or concerted protected activities.

**IT IS FURTHER ORDERED THAT** Defendant UP, its officers, agents, employees, attorneys and representatives, successors and predecessors in interest are immediately restrained from unlawfully interfering with, influencing, and/or coercing UP employees represented by the BLET and its representatives.

**IT IS FURTHER ORDERED THAT** Defendant UP immediately reinstate to work in their former positions of employment the affected BLET Division 192 members, including Local Chairman Peter Shepard, President David Butler, Secretary-Treasurer John Moye, Third Vice Local Chairman Joe Reyes, First Vice Local Chairman and Alternate Trustee Kevin Seale, and Member Joe Telehany.

**IT IS FURTHER ORDERED THAT** that Defendant UP immediately conspicuously post copies of this Court's order at Defendants' headquarters, and national rail yard operations at locations used by UP BLET crew for as long as this Order is in effect.

**IT IS FURTHER ORDERED THAT** this Order shall remain in full force and effect until June 6, 2021 or further order of the Court. The Court upon due consideration sets bond at \$1,000.

**IT IS FINALLY ORDERED THAT** Plaintiff's "Opposed Motion for Temporary and Preliminary Injunctive Relief" filed on May 31, 2021 is **SET** for an in-person **HEARING on Thursday, June 10, 2021 at 1:30 p.m.** in the District Courtroom, Room 722, on the 7th Floor of the United States Courthouse, 525 Magoffin Avenue, El Paso, TX.

**SIGNED** this 2nd day of May 2021.

  
\_\_\_\_\_  
**THE HONORABLE DAVID BRIONES**  
**SENIOR UNITED STATES DISTRICT JUDGE**