

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Senior Judge Wiley Y. Daniel

Civil Action No. 1:17-cv-00844-WYD-SKC

BRANDON FRESQUEZ,

Plaintiff,

vs.

BNSF RAILWAY CO.,

Defendant.

JURY VERDICT FORM

We, the Jury, being duly impaneled and sworn to try the above-entitled case,
unanimously find the following answers to the questions submitted by the Court:

1. Has Plaintiff Brandon Fresquez proven the following four elements by a preponderance of the evidence?

- A. He engaged in a protected activity as defined by the Federal Railroad Safety Act;
- B. The Defendant knew the Plaintiff engaged in the protected activity;
- C. The Plaintiff suffered an unfavorable personnel action; and
- D. The protected activity was a contributing factor in the unfavorable action.

Yes No

If your answer to Question 1 is "Yes," then you should answer Question 2. If your answer to Question 1 is "No," you may skip Questions 2-4 as you have found for the Defendant on the Plaintiff's retaliation claim and you may sign the verdict form because you have completed your deliberations.

2. Has the Defendant proven by clear and convincing evidence that it would have taken the same personnel action against the Plaintiff even if the Plaintiff had not engaged in any protected activity?

Yes No

If your answer to Question 2 is "No," then you should answer Questions 3-4. If your answer to Question 2 is "Yes," you may skip Questions 3-4 as you have found for the Defendant on the Plaintiff's retaliation claim and you may sign the verdict form because you have completed your deliberations.

3. Has the Plaintiff proven by a preponderance of the evidence that he should be awarded compensatory damages for emotional distress, pain, suffering, inconvenience, or mental anguish?

Yes X No _____

If your answer to Question 3 is "Yes", state the amount of damages:

\$ 800,000.00

4. Has the Plaintiff proven by a preponderance of the evidence that the Defendant acted with reckless or callous disregard of the Plaintiff's right to be free from retaliation for engaging in a protected activity as defined in Jury Instruction No. 23?

Yes X No _____

If your answer to Question 4 is "Yes", state the amount of punitive damages:

\$ 250,000.00

PLEASE SIGN AND DATE THE VERDICT FORM.

Dated this 19 day of February, 2019

[Redacted]

Juror signatures redacted.

[Redacted]