

Eighth Circuit Upholds DOL Award of Emotional Distress Damages for Blacklisted Truck Safety Whistleblower

January 17, 2014

On January 16, 2014, the U.S. Court of Appeals for the Eighth Circuit [upheld a ruling](#) by the Administrative Review Board (“ARB”) of the U.S. Department of Labor (“DOL”) ordering Maverick Transportation, LLC, to pay commercial truck driver Albert Brian Canter \$75,000 in emotional distress damages caused by Maverick’s violations of the [whistleblower protection provisions](#) of the Surface Transportation Assistance Act (“STAA”). The Eighth Circuit’s decision will not only come as a welcome relief for Mr. Canter – who has been litigating this case since 2008 – but is also a significant victory for truck driver safety advocates and whistleblowers everywhere in that it stands for the principle that STAA whistleblowers may be entitled to significant emotional distress damages for mental pain and suffering caused by their employer’s retaliatory actions. In his complaint – which we discussed [on our blog](#) following the ARB’s ruling in June 2012 – Mr. Canter alleged that following his resignation, Maverick had asked him to drive a truck with multiple known safety issues hundreds of miles to a more convenient location for the company. When Mr. Canter refused, citing the safety issues, Maverick responded by reporting in Canter’s Drive-A-Check Employment Report (“DAC”) – a record maintained and viewed by trucking companies to track driver behavior and help make hiring decisions – that Mr. Canter had “abandoned” his truck at the truck stop at the conclusion of his employment. This act of [whistleblower retaliation](#) made it significantly more difficult for Mr. Canter to find new employment following his resignation; in fact, the Eighth Circuit found sufficient evidence to support the DOL finding that K&B Transportation, another trucking company to which Mr. Canter applied, would have hired Canter had Maverick not placed the abandonment notation in his DAC report. Among other things, Maverick challenged the ARB’s rulings that: (a) the clock on the statute of limitations for Mr. Canter’s STAA anti-retaliation claim properly began running at the time he learned of the adverse action, rather than when the action took place; (b) that Mr. Canter’s refusal to drive was protected activity; (c) that Maverick placing an abandonment notation on Mr. Canter’s DAC constituted an adverse action; and (d) that an emotional distress award of \$75,000 could be sustained on the strength of Mr. Canter’s testimony alone. On all of these points, the Eighth Circuit sided with the ARB, and upheld its determination in Mr. Canter’s favor.