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Fourth Circuit Holds that Federal Courts Have Concurrent Jurisdiction with Surface Transportation Board over ICCTA Claims

By Al Teel

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On November 16, 2017, the United States Court of Appeals for the Fourth Circuit joined the First, Fifth and Sixth Circuits in ruling that claims arising from the Interstate Commerce Commission Termination Act (“ICCTA”) can be litigated before the federal courts as well as the Surface Transportation Board (“STB”). The Court’s ruling in *Norfolk S. Ry. Co. v. Balt. & Annapolis R.R.* continues a recent trend of divesting the STB’s exclusive jurisdiction over ICCTA claims.

As background, the ICCTA established the STB and granted it “exclusive” jurisdiction over certain railroad disputes in 49 U.S.C. § 10501(b). However, the ICCTA also provides that “[a] person may file a complaint with the [STB] ... or bring a civil action ... to enforce liability against a rail carrier.” 49 U.S.C. § 11704(c)(1).

In this case, Norfolk Southern (NS) brought suit against the Baltimore & Annapolis Railroad (B&A) to recover damages for 31 NS railcars that were trapped on B&A’s line for almost two years, due to an embargo prohibiting travel across its bridges. NS brought claims for conversion and for B&A’s failure to pay “car hire,” a rental charge imposed by the owner of a railcar for the time a railroad has possession of a railcar.

The District Court held in favor of NS. On appeal, B&A contended that because the NS claims are grounded in ICCTA, jurisdiction is proper at the STB and not in the courts. The Fourth Circuit rejected this contention and cited other provisions of ICCTA, which allow a person to seek relief in federal court. In looking to the ICCTA’s legislative history, the Court found that “Congress intended only to preempt state law and remedies, not to give the STB exclusive jurisdiction over ICCTA claims.” Thus, the Fourth Circuit held that the district court properly possessed jurisdiction over this dispute.

This decision continues a recent trend of opening the door to litigating railroad disputes in the federal courts, as well as before the Surface Transportation Board. A copy of the opinion can be found here: *Norfolk S. Ry. Co. v. Balt. & Annapolis R.R.*, 2017 WL 549637 (4th Cir. Nov. 16, 2017).

For questions or to discuss further, please contact:

[Al Teel](mailto:ateel@burr.com) in Birmingham at ateel@burr.com or (205) 458-5389
or the Burr & Forman attorney with whom you regularly work.

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