

## CIRCULAR LETTER NO. 6

March 14, 2006

### TO ALL LOCAL CHAIRPERSONS:

Dear Sirs and Brothers:

As an on-going process in the General Chairman's office, we send out Circular Letters as circumstances dictate in regard to issues that are of importance to all of our Membership. We are requesting that you read these documents at your Union Meetings for the Membership's benefit and also place them on bulletin boards for those Members who cannot attend the Union Meeting. Incorporated below are issues of importance for our Membership.

#### **Crew Consist Section 6 Litigation:**

On March 10, 2006, the District Court for the Southern District of Illinois, ruled on the dispute between the UTU and members of the National Carriers Conference Committee regarding the carriers Section 6 Notices involving crew consist and the Federal Employees Liability Act (FELA). The court ruled in favor of the UTU on both counts. On the crew consist issue the court held:

**“Based upon the facts presented, the long history of local negotiating of crew consist issues, and case law, UTU has no obligation to bargain with Defendant Carriers in national handling regarding the crew consist issues raised in the Section 6 Notice on Staffing/Consolidation submitted in November 2004 because the subject is local as a matter of law.”**

Regarding the carriers notice to develop a joint legislative proposal to dismantle the FELA protections accorded to the employees, and to institute a wage reduction if such legislative proposal not be enacted, the court ruled that both items were outside the scope of mandatory bargaining.

**“It is lawful to insist upon matters within the scope of mandatory bargaining and unlawful to insist upon matters outside the scope of mandatory bargaining.”**

A synopsis of the decision, and the full written decision are attached for your review. Congratulations to President Paul Thompson, Assistant President Rick Marceau, General Counsel Clint Miller, and their staffs for a hard won court victory.

~~EE~~ **Notification of Formal Investigation:**

The carrier has informed this office that the practice of CMS providing employees notice of investigation will be discontinued. The current agreement for trainmen provides:

Within ten (10) days of the time the appropriate officer knew or should have known of the alleged offense, the employee will be given written notice of the specific charges against him or her. The notice will state the date, time and place of the investigation, employees charged, witnesses expected to be called, and will be furnished sufficiently in advance to allow the employee the opportunity to arrange for witnesses and representation by the UTU local chairmen or the UTU local chairmen's designee. The notice will propose discipline to be assessed if investigation is waived and designate a carrier officer who may be contacted for the purpose of arranging for an informal conference on the matter. A copy of the notice will be furnished to the UTU local chairman.

The teamsters contract contains similar provisions. The carrier was utilizing CMS to deliver verbal notice of the formal hearing, although the contract requires written notice. Ensure that the notice provisions are adhered to in any discipline charge which results in a hearing.

Trusting this information will aid you in keeping our Membership informed of issues confronting us and with best personal wishes, I remain

Fraternal ly yours,



**Michael J. Reedy**  
**General Chairman, G. C. A.**

**MJR: j g**

cc: Paul Thompson, President - UTU  
Rick Marceau, Assistant President - UTU  
Dan Johnson, III - General Secretary/Treasurer - UTU  
Joe Szabo, Director Illinois State Legislative Board - UTU  
Pat Hendricks, Director Iowa State Legislative Board - UTU  
Phil Qualy, Director Minnesota State Legislative Board - UTU  
Ray Lineweber, Director Nebraska State Legislative Board - UTU  
Tom Dwyer, III, Director Wisconsin State Legislative Board - UTU