

IN THE UNITED STATES DISTRICT COURT FOR THE  
CENTRAL DISTRICT OF ILLINOIS  
ROCK ISLAND DIVISION

ADAM MIYLER,	)	
	)	
Plaintiff,	)	Case No. 4:24-cv-4054
	)	
vs.	)	
	)	
BNSF RAILWAY CO.	)	
	)	JURY DEMANDED
Defendant.	)	

**COMPLAINT**

COMES NOW Plaintiff, Adam Miyler, by and through undersigned counsel, and for his causes of action against the Defendant, BNSF Railway Company, (hereinafter “BNSF” or “Defendant”), states the following:

**STATEMENT OF CASE**

1. Plaintiff Adam Miyler was an approximate 29-year employee of BNSF from September 1994 until his termination on January 30, 2023. Plaintiff began suffering from a disability in September 2021 and received intermittent medical leave in May 2022 as a reasonable accommodation. BNSF terminated Plaintiff shortly after making complaints to the Department of Labor on how BNSF was handling and retaliating against him related to his medical leave. BNSF targeted and investigated Miyler for alleged rules violations while ignoring multiple other employees with similar offenses.

2. Plaintiff’s termination was due to one or more of the following actions of Defendant:

- (a) That Defendant interfered with Plaintiff's Family Medical Leave and/or retaliated against him for taking Family Medical Leave and/or for making complaints about his medical leave;
  - (b) That Defendant harassed, discriminated, disciplined, suspended and terminated Plaintiff due to his disability;
  - (c) That Defendant harassed, discriminated, disciplined, suspended and terminated Plaintiff in retaliation for utilizing reasonable accommodations for her disability;
  - (d) That Defendant harassed, discriminated, disciplined, suspended and terminated Plaintiff in failing to provide him with a reasonable accommodation;
  - (e) That Defendant harassed, discriminated, disciplined, suspended and terminated Plaintiff in retaliation for making complaints about discrimination in the workplace;
3. This is an action brought to remedy, inter alia, Defendant's violations of Plaintiff's civil rights pursuant to the American with Disabilities Act; the Illinois Human Rights Act of 1967; and/or the Family Medical Leave Act.

#### **THE PARTIES**

4. Plaintiff, Adam Miyler, is a resident of Knox County, Illinois.
5. Plaintiff was an approximate 29 ½ year employee of BNSF.
6. BNSF is a foreign corporation with its principal place of business in Tarrant County, Texas.

#### **JURISDICTION AND VENUE**

7. This Honorable Court has jurisdiction pursuant to 42 U.S.C. § 2000e-5 and 28 U.S.C. § 1331, 1343(4) and 1367.
8. Plaintiff timely filed a Charge of Discrimination on June 30, 2023.

9. Plaintiff requested and received a notice of right to sue from the Equal Employment Opportunity Commission (EEOC). (See Exhibit 1).

10. This matter is filed within 90 days of the receipt of Exhibit 1.

11. Plaintiff requested and received a notice of right to sue from the Illinois Department of Human Rights (IDHR).

12. This matter is filed within 90 days of the issuance of the notice from the IDHR.

13. The alleged unlawful practices complained of herein occurred with the counties of the State of Illinois comprising the Central District of Illinois, Rock Island Division.

14. Employment records with respect to Plaintiff's termination are kept within this district.

15. Plaintiff would have continued to work in Knox County, Illinois which is part of the Central District of Illinois, Rock Island Division, but for the wrongful and unlawful practices committed by Defendant.

16. Specifically, Plaintiff was working and expected to continue to work in the City of Galesburg, County of Knox, State of Illinois.

17. Plaintiff is a resident of Knox County, Illinois and therefore felt the effects of the discrimination in the Central District of Illinois, Rock Island Division.

18. As such, venue is proper in the Central District of Illinois, Rock Island Division.

19. Venue is proper pursuant to 28 U.S.C. 1391(b) as a substantial part of the events or omissions giving rise to this claim occurred in the counties comprising the Central District of Illinois, Rock Island Division.

20. Specifically, the alleged unlawful decisions were made by Defendant at its facilities located in Galesburg, Illinois.

## ALLEGATIONS COMMON TO ALL COUNTS

### EMPLOYMENT HISTORY

21. Miyler was hired in September 1994 as a Conductor Trainee.
22. Miyler was later promoted to Freight Conductor.
23. In 1997, Miyler was promoted to Locomotive Engineer.
24. Prior to September 2021, Miyler was a good employee.

### DISABILITY

25. In September 2021, Miyler contracted Covid-19.
26. Miyler was 51 years old at the time.
27. After initially contracting Covid-19, Miyler continued to suffer from “long-Covid.”
28. Miyler also has other medical issues including hypertension and diabetes.
29. Miyler had, among others, frequent headaches, occasional dizziness, congestion, fatigue, and loss of taste and smell.
30. Miyler’s medical conditions are physiological conditions that are affecting one or more body systems including neurological, respiratory, cardiovascular, and/or circulatory systems.
31. His medical conditions substantially limited one or more life activities including, among others, his ability to work, concentrate, think, sleep, breathe, eat, taste and smell.
32. As a result of his conditions, Miyler would have flare ups that would require him to miss work from time to time.
33. As a result of his conditions, Miyler was required to have doctor’s appointments to care for his conditions.

## **REQUEST FOR ACCOMMODATION/FAMILY MEDICAL LEAVE**

34. Miyler missed work for approximately 14 days as a result of getting Covid-19.
35. BNSF attempted to discipline him for his attendance related to having Covid-19.
36. BNSF investigated him for missing work and Miyler prevailed.
37. In April 2022, Miyler requested medical leave as a reasonable accommodation.
38. On May 9, 2022, Miyler was approved for Family Medical Leave.

## **UNIQUE ASPECTS OF RAILROAD LIFE**

39. BNSF runs its trains 24 hours a day, 365 days a year.
40. A train consists of one or more locomotive engines and a consist of one or more rail cars.
41. A train can be more than a mile long and can haul many different types of commodities and goods including hazardous, noxious, flammable, and/or highly dangerous chemicals.
42. Locomotive engineers operate the engine and “drive” the trains down the track.
43. The General Code of Operating Rules (GCOR) is a set of rules created by the railroad industry to comply with Federal Railroad Administration (FRA) regulations.
44. BNSF is one of over 300 railroads in the country that have adopted GCOR.
45. The very first section of GCOR discusses safety.
46. Section 1.1.1 is titled “Maintaining a Safe Course” providing “In case of doubt or uncertainty, take the safe course.”
47. Section 1.1.2 is titled “Alert and Attentive” providing in part “...They must be alert and attentive when performing their duties and plan their work to avoid injury.”
48. Operating a train requires employees to be rested and able to concentrate on their

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