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June 10, 2020

By E-Filing

Ann D. Begeman, Chairman
Martin J. Oberman, Vice Chairman
Patrick J. Fuchs, Board Member
Surface Transportation Board
395 E Street, SW
Washington, DC 20423

Re: Docket No. FD 36408, *Lee Roy Haynes – Petition for Declaratory Order*

Dear Chairman Begeman, Vice Chairman Oberman, and Board Member Fuchs:

On May 22, 2020 the undersigned, on behalf of Mr. Lee Roy Haynes, filed a Petition for Declaratory Order in this docket asking the Surface Transportation Board ("Board") to institute a declaratory order proceeding and rule that the state tort law claims of Mr. Haynes for damages from injuries he suffered when struck by a Union Pacific Railroad Company ("UP") train were not preempted by 49 U.S.C. §10501(b), as UP has asserted in the state court case filed by Mr. Haynes in the 189th Judicial District Court of Harris County, Texas. The Petition also informed the Board that Mr. Haynes was contemporaneously filing a motion to abate the state court proceeding and for the state court judge to refer the preemption issue to this Board. That motion was filed on May 26, 2020 and submitted in this docket on May 29, 2020.

This letter is for the purpose of informing the Board that on June 8, 2020 the presiding state court judge granted Mr. Haynes' motion and ordered "that the issue of whether Plaintiff's state tort law claims are preempted under the ICCTA will be referred to the Surface Transportation Board for consideration." The judge also ordered that the state action "is abated pending the decision of the Surface Transportation Board on the Petition for Declaratory Order

GKG Law, P.C.

Ms. Cynthia T. Brown

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filed on behalf of Lee Roy Haynes.” A certified copy of the state court’s Order is attached to this letter.

Please do not hesitate to call me if you have any questions.

Sincerely,



Thomas W. Wilcox

Attorney for Lee Roy Haynes

Enclosure

Cc: Scott R. Brann, Esquire
Raymond Adkins, Esquire
(via email, w/encl.)



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Docket No. FD 36408

ATTACHMENT

SDD
PABAX
23A

[illegible]

V.

189th JUDICIAL DISTRICT

Signed and Entered this 8th day of June, 2020.

Signed:
6/8/2020
2:12 PM



Judge Presiding



I, Marilyn Burgess, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.
Witness my official hand and seal of office
this June 9, 2020

Certified Document Number: 90862416 Total Pages: 2

Marilyn Burgess, DISTRICT CLERK
HARRIS COUNTY, TEXAS