

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

RICHARD BEST TRANSFER, INC.

Complainant,

v.

**UNION PACIFIC RAILROAD
COMPANY**

Defendant.

Docket No. NOR 42149

**JOINT PETITION TO DISMISS THE COMPLAINT WITH PREJUDICE AND
DISCONTINUE THIS PROCEEDING**

Complainant Richard Best Transfer, Inc. ("Richard Best" or "RBT"), and Defendant Union Pacific Railroad Company ("UP") (collectively the "Parties") submit this Joint Petition, and in support hereof state as follows:

(1) On November 3, 2016, RBT filed in the above-captioned proceeding a Petition for Preliminary Injunction pursuant to 49 U.S.C. § 721(b)(4) and 49 C.F.R. § 1117.1, and a Complaint under 49 U.S.C. §§ 10701, 10702, 10704, 10741, seeking injunctive relief and a determination from the Board pertaining to certain tariff revisions issued by UP ("Tariff Revisions").

(2) By its decisions served on December 22, 2016, the Board denied RBT's request for preliminary injunction and adopted a procedural schedule governing this proceeding. The matter is currently in the discovery phase.

 GRANTED Office of Proceedings	DECISION ID NO.: <u>45747</u>
	DECIDED DATE: <u>3/23/17</u>
	SERVICE DATE: <u>3/24/17</u>
	APPROVED: <u>Rachel E. Canabek</u> Director

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(3) The Parties have been engaged in settlement discussions that led to the development and execution of confidential settlement agreement and release.

(4) As a result of the Parties' entering into the settlement agreement, the Parties have agreed to settle and compromise all claims and controversies arising out of or relating to the Tariff Revisions, and the Parties no longer desire the Board to hold further proceedings in this docket.

(5) In light of these developments, the Parties jointly request that the Board: (i) dismiss RBT's complaint with prejudice, with each party to bear its own costs; and (ii) discontinue this proceeding.

(6) Granting this Joint Petition to Dismiss "is consistent with the Board's longstanding policy of encouraging the private resolution of disputes through voluntary negotiations whenever possible." *CF Indus. Inc. v. Kaneb Pipe Line Partners, L.P.*, NOR 42084 (STB served Nov. 21, 2006), at 2; *see also Consol. Rail Corp. – Declaratory Order Proceeding*, FD 34319 (STB served Feb. 4, 2004) (granting joint request by parties to dismiss proceeding with prejudice after settlement was reached).

(7) The Parties have proceeded in good faith in the instant matter, this request furthers the interests of administrative economy and efficiency, and no other railroad or shipper will be prejudiced or inconvenienced by this request.

WHEREFORE, for the reasons set forth above, RBT and UP jointly request that the Board dismiss, in its entirety, this proceeding with prejudice, with each party to bear its own costs.

Respectfully submitted,

UNION PACIFIC RAILROAD
COMPANY

RICHARD BEST TRANSFER, INC.

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Dated: March 17, 2017

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CERTIFICATE OF SERVICE

I hereby certify that I have this 17th day of March, 2017, caused a copy of the foregoing filing to be served by email or other means upon all counsel of record.

/s/ Katherine F. Waring
An Attorney for Complainant