

Insurance Times: Burlington Northern settles genetic testing lawsuit
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OMAHA, Neb. (AP) - The Burlington Northern Santa Fe Railroad has agreed to settle a union lawsuit filed after secretly subjecting employees to genetic testing, the Omaha World-Herald has reported. The railroad agreed to stop genetic testing of employees represented by the Brotherhood of Maintenance of Way and the Brotherhood of Locomotive Engineers. Burlington Northern also agreed to destroy the test results and blood samples from the 18 workers who were tested. The results also will be purged from the employees' records, according to the newspaper.

The railroad also said it would seek federal legislation to limit the scope of genetic testing by employers. As part of the settlement, the railroad denied violating any law.

There was no mention of damages in the settlement other than the railroad agreeing to pay \$39,500 in legal fees.

Last month the company offered an apology to its employees who were secretly subjected to genetic testing.

Fort Worth, Texas-based Burlington Northern was conducting the testing to see if employees were predisposed to carpal-tunnel syndrome, a wrist condition believed to be caused by repetitive hand motions.

The company agreed in February to stop its testing program after the federal Equal Employment Opportunity Commission filed a lawsuit contending it violated the Americans with Disabilities Act. It was the first time that the EEOC had challenged genetic testing.

That lawsuit is still pending, said Laurie Vasichek, senior trial attorney for the EEOC's Minneapolis office.

She told the World-Herald a union settlement does not affect the EEOC lawsuit, which seeks a court order that bars all genetic testing of workers and prevents genetic test-based discrimination.

The testing, which began a year ago, involved employees who filed claims for carpal tunnel syndrome.

The railway, which has about 40,000 employees, said of the 125 workers who filed claims for carpal tunnel syndrome since March 2000, 18 were tested.

The tests looked for a genetic trait called chromosome 17 deletion. Some studies have suggested that trait is more likely to produce some forms of carpal tunnel syndrome.

Burlington Northern's testing program came to light when workers from Nebraska, North Dakota and Minnesota complained to the Brotherhood of Maintenance of Way.

The EEOC charged that a worker who refused to provide a blood sample after filing an injury claim was threatened with termination. The railway countered that no one was disciplined and that it intended that the nature of the tests be disclosed to affected workers.

Burlington Northern officials declined comment to the World-Herald on Friday. Phone calls left Friday evening with company officials by The Associated Press were not immediately returned.