

## 08-604 UNION PACIFIC RAILROAD V. BROTHERHOOD OF LOCOMOTIVE

DECISION BELOW:537 F.3d 789

LOWER COURT CASE NUMBER: 06-2542

### QUESTIONS PRESENTED:

The Railway Labor Act ("RLA"), 45 U.S.C. §§151 et seq., sets forth a comprehensive framework to resolve labor disputes in the railroad industry through binding arbitration before the National Railroad Adjustment Board ("the Board"). The statute provides that the Board's judgment "shall be conclusive ... except ... for": (1) "failure ... to comply" with the Act, (2) "failure . . . to conform or confine" its order "to matters within . . . the [Board's] jurisdiction," and (3) "fraud or corruption" by a Board member. 45 U.S.C. §153 First (q). This case involves the Board's denial of employee grievance claims for failure to comply with its rules governing proof that the dispute had been submitted to a "conference" between the parties. 45 U.S.C. §152 Second. The Seventh Circuit held that the award must be set aside because the Board violated due process through retroactive recognition of a supposedly "new rule." The questions presented are:

1. Whether the Seventh Circuit erroneously held, in square conflict with decisions of the Third, Sixth, Tenth, and Eleventh Circuits, that the RLA includes a fourth, implied exception that authorizes courts to set aside final arbitration awards for alleged violations of due process.
2. Whether the Seventh Circuit erroneously held that the Board adopted a "new," retroactive interpretation of the standards governing its proceedings in violation of due process.

CERT. GRANTED 2/23/2009