

Per Curiam.

RAILWAY LABOR EXECUTIVES' ASSOCIATION
ET AL. v. UNITED STATES ET AL.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF VIRGINIA.

No. 130. Decided December 7, 1964.

District Court's judgment dismissing appellant railway employees' complaint to set aside in part Interstate Commerce Commission railroad merger orders for failure to protect employees' interests under certain provisions of a collective bargaining agreement vacated insofar as that judgment relates to those provisions, with instructions to remand case to ICC for clarification of orders.

226 F. Supp. 521, vacated and remanded.

Clarence M. Mulholland, Edward J. Hickey, Jr., James L. Highsaw, Jr., William G. Mahoney and William H. King for appellants.

Solicitor General Cox, Assistant Attorney General Orrick, Philip B. Heymann, Robert B. Hummel and Elliott Moyer for the United States; *Robert W. Ginnane and Leonard S. Goodman* for Interstate Commerce Commission; and *Hugh B. Cox, W. Graham Claytor, Jr., and Richard S. Arnold* for Southern Railway Co. et al., appellees.

PER CURIAM.

This appeal is from a judgment of a three-judge District Court, 226 F. Supp. 521, dismissing appellants' complaint to set aside orders of the Interstate Commerce Commission, 317 I. C. C. 557, 729, relating to the Southern Railway Company's acquisition of control through stock ownership of the Central of Georgia Railway Company. Appellants, representing railway employees, object that under the Commission's orders, the employees are not protected as provided by §§ 4, 5,

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and 9 of the Washington Job Protection Agreement. We agree with the suggestion of the Solicitor General that this case should be remanded to the Interstate Commerce Commission for clarification of its orders insofar as they relate to the agreement. For this reason, the motion of the Interstate Commerce Commission to affirm the judgment of the District Court is denied. The motion of intervenor-appellees Southern Railway Company and Central of Georgia Railway Company to defer consideration of the jurisdictional statement is denied. Appellants' motion to limit the appeal to questions related to §§ 4, 5, and 9 of the Washington Job Protection Agreement is granted. The judgment of the District Court is vacated insofar as it relates to §§ 4, 5, and 9 of the Washington Agreement, and this case is remanded to that court with instructions to remand it to the Interstate Commerce Commission with instructions to amend its reports and orders as necessary to deal with appellants' request that §§ 4, 5, and 9 be included as protective conditions, specifically indicating why each of these provisions is either omitted or included. See *United States v. Chicago, M., St. P. & Pac. R. Co.*, 294 U. S. 499, 511.

Vacated and remanded.