

SUMMARY JUDGMENT GRANTED IN FELA ACTION

Coster v. BNSF Railway Co., Sixth Judicial District, Campbell County (November 20, 2009)

Plaintiff sued his employer, BNSF, asserting claims under the Federal Employers Liability Act (“FELA”), 45 U.S.C. § 51. Plaintiff alleged that he had been injured due to negligence on the part of the railroad in assigning him to clean up a storeroom and move pallets. One of the pallets came apart and Plaintiff claimed that he injured his back.

The FELA applies a rule of pure comparative fault, which permits a railroad to be held liable even if its fault is only 1%. Accordingly summary judgments in these cases are even more rare than in standard state law negligence claims. Nevertheless, the trial court held that based on the record there was no evidence of negligence or proximate causation. Plaintiff had admitted in his deposition that he was physically capable of doing the job, that there were no unusual conditions that required additional instruction or assistance and that there was nothing about the pallet, which would have alerted him or anyone else to a possible defect. Plaintiff’s assertion that additional machinery might have avoided the need to move the pallet manually failed because there was no evidence that such machinery was reasonably necessary to move the pallet safely.

George Powers and Richard Shanor handled this case.