

Case Name: Joseph Lochridge v. City of Tacoma
Date Decided: April 8th, 2010
Originally Filed in: Washington (Federal)
Decided by: Washington Western Bankruptcy Court (Federal)
Court: U.S.D.C. Western District of Washington at Tacoma
Judge: Judge Settle
Citation: 2010 WL 1433412 (W.D.Wash.)

Background:

Plaintiff, Joseph Lochridge, filed this action under [FELA](#), City of Tacoma, for injuries Lochridge allegedly sustained while he was engaged in the regular course and scope of his employment. Lochridge worked a shift as an [engineer](#) on a [locomotive](#). Lochridge performed a visual inspection and began "moving the motor". Lochridge then noticed some liquid which he identified as anti-freeze flowing through the trough along the engineer's side of the locomotive. The engine died shortly after, and Lochridge exited the cab on the conductor's side so he could inspect the leak. Lochridge testified that the liquid was all the way down the trough but it was confined to the trough, not the walkway he used to walk along and inspect the engine. Lochridge determined that a hose had detached from the engine. Lochridge returned to the cab following unsuccessful attempts to reattach the hose. Lochridge testified that he did not recall seeing green water getting onto the walkway or onto his boots. Lochridge called the yardmaster. Lochridge stood up on the foot rail of his chair to see where another rail worker was in order to warn him to stay away from the leaking fluid. Lochridge alleged that he slipped due to the oil that had gotten onto his boots when he used the walkway to inspect the coolant hose that became unattached. Lochridge insisted he noticed the oil only after he fell. The City of Tacoma contended that there was no oil at all or that there was an insufficient amount to constitute a regulation violation which the City was subject to. The City of Tacoma also noted that Lochridge's boots were inspected after the fall and that there was no oil/residue on the soles of his boots. Additionally, City of Tacoma pointed to testimony of another employee that took pictures of the accident site and noted there was no "evidence of any oil or water, or other slip hazard". Lochridge moved for summary judgment contending that the City of Tacoma was liable, as a matter of law, under FELA for failing to comply with safety regulations, promulgated under the Locomotive Inspection Act, LIA. Additionally, Lochridge asserted that the violations precluded Tacoma from asserting a defense of contributory negligence.

Issue:

Did this Court grant plaintiff's motion for summary judgment and find defendant was in violation of LIA promulgated regulations and therefore liable under FELA?

Overall Issues Discussed or Touched Upon in this Case:

- *Ruling on Summary Judgment*

- *Procedural Issues - Federal*

Held:

First, this Court noted that Tacoma failed to present evidence that the Locomotive was not "in use" when Lochridge was injured. Additionally, all the evidence led this Court to find that the Locomotive was "in use". The City of Tacoma countered and argued that the applicable regulation, 49 C.F.R. Â§ 229.119(c), makes it a violation to have the presence of oil be a slipping hazard, not the mere presence. This Court found that the reading of the regulation, according to the Fifth Circuit, the presence of oil is a violation only if it creates a "slipping, tripping, or fire hazard". Additionally, since the City submitted evidence that raised a genuine issue of material fact whether there was enough oil to cause a slipping hazard, this Court denied Lochridge's motion for summary judgment.

Comments:

The applicable regulation, 49 C.F.R. Â§ 229.119(c) is violated when oil, water, waste, or any obstruction creates a slipping, tripping, or fire hazard. Here, since there was dispute as to how *much* oil was present when the claimant fell, it precluded the Court from granting summary judgment. In order for a claimant to succeed on a motion for summary judgment to show a violation of an LIA regulation, and hold the railroad employer liable under FELA, the claimant must show that (1) The Defendant violated the applicable regulation and (2) the violation caused the claimant's injury. Steve Gordon