

**Case Name:** Roger Weith v. CSX Transportation Inc.

**Date Decided:** February 11th, 2011

**Originally Filed in:** Ohio (state)

**Decided by:** Ohio 6th District Court of Appeals (State)

**Court:** Court of Appeals of Ohio, Sixth District, Lucas County

**Judge:** Judge Singer

**Citation:** 2011 WL 486842

### **Background:**

Plaintiff-Appellant, Roger Weith ("Weith") brought suit alleging negligence under [FELA](#) for an [injured shoulder](#). Weith appeals from a directed verdict in favor of defendant-appellee, CSX Transportation ("CSX"). Weith was employed by CSX as a [locomotive engineer](#) in [Ohio](#). On a December night in 2004, he was assigned to couple two locomotives together. This process involves making three connections and allows the operating engineer to control both locomotives while underway. After making the mechanical and electrical connections, Weith struggled to connect two air hoses needed to link the locomotives' hydraulic brake systems. The air hoses are held together by a "glad hand" clasp that is engaged manually, and which locks in place via gravity. Each hose end must be parallel to the other or engaging the glad hand becomes difficult or impossible. Weith twice attempted to mate the two hoses from one side of the locomotive, and after failing to do so, noted that the hose ends were not perfectly parallel. During these attempts, Weith felt a "pop" in his shoulder. He then walked around to the other side of the locomotive where he was successfully able to maneuver the adjacent hose end into position and engage the glad hand. The "pop" Weith experienced was due to a rotator cuff injury which despite treatment has prevented him from working in the [railroad industry](#). In his suit against CSX, Weith alleged that CSX violated provisions of the Locomotive Inspection Act ("LIA") in failing to maintain the locomotives in a proper and safe condition. Following trial, CSX moved for a directed verdict arguing that because Weith was able to successfully connect the air hose from the other side of the locomotive, there was no evidence of abnormalities in the hose position that would violate the LIA. The Trial Court granted CSX's motion for a directed verdict and Weith appeals.

### **Issue:**

Did the Trial Court err in granting CSX's motion for a directed verdict on the grounds that there was no evidence to suggest the hose alignment was so dangerous as to violate the LIA?

### **Overall Issues Discussed or Touched Upon in this Case:**

- *Locomotive Inspection Act*
- *Applicability of FELA at Issue*
- *Insufficient Evidence of Negligence*

**Held:**

Yes, the condition of the hose alignment did violate the LIA. FELA incorporates the provisions of the LIA such that a violation of the LIA constitutes negligence *per se* under FELA. FELA adopts a "relaxed" evidentiary standard whereby the injured party is required to demonstrate only "more than a scintilla" of evidence that the employer's negligence caused the injury to reach a jury. To reverse a trial court's granting of a directed verdict, an appellate court must determine that there is competent evidence to support the non-movant's side such that reasonable minds could disagree with the trial judge's conclusion. Here, Weith's testimony indicates that the condition of the hose alignment was not normal, but slightly skewed. The Court held, under FELA's relaxed evidentiary standard because reasonable minds could disagree over whether the condition was safe enough to exclude an LIA safety violation, Weith's case should have been presented to the jury. Reversed; Remanded

**Comments:**

The standard of causation under FELA allows injured employees access to a jury even if the employer's negligence contribution to the injury is minimal. This "relaxed," or "featherweight" standard may seem to allow questionable claims to proceed, but it is in keeping with FELA's purpose of protecting workers when their employers fail to do so.