

**Case Name:** Peter Potrykus v. CSX Transportation Inc.  
**Date Decided:** February 4th, 2011  
**Originally Filed in:** Ohio (federal)  
**Decided by:** Ohio Northern District Court (Federal)  
**Court:** United States District Court, N.D. Ohio, Western Division  
**Judge:** Judge Carr  
**Citation:** 2011 WL 441686

**Background:**

Pending an action under [FELA](#) for a [knee injury](#), defendant CSX Transportation Inc. ("CSX") filed a motion in limine to preclude a statement to the jury naming FELA as Plaintiff's exclusive right to recovery, and to exclude evidence showing the location of the injury, but which predates Plaintiff's employment.

In response to the FELA issue, plaintiff Peter Potrykus ("Potrykus") states that he wants to briefly address the jury to clarify what remedy he is entitled to receive. As to the evidence, Potrykus maintains that photograph showing the [railroad yard](#) where he was injured are relevant to describing the conditions present at the time of the accident.

The District Court considered the following questions:

**Issue:**

- (1) Can Potrykus tell the jury that FELA is his exclusive avenue for recovery?
- (2) Will evidence predating Potrykus' employment be admissible to show the conditions present at the time of the injury?

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

- *Applicability of FELA at Issue*
- *Procedural Issues - Federal*

**Held:**

- (1) No, Potrykus is not entitled to address the jury regarding his exclusive right to recover under FELA.

In sustaining CSX's motion in limine, the Court reasoned that a statement of this type could have a prejudicial effect on the jury, and in any event was unnecessary because the Judge would make his own statement regarding the applicable law and burdens of proof.

The Court noted that emphasizing a particular cause of action as the sole remedy might "lead the jury astray," causing them to consider other options for recovery not relevant to the issues of the case.

(2) Wait and see.

With regard to the photographic evidence, the Court declined to rule on CSX's motion. Here, the Court reasoned that until a comparison between conditions predating Potrykus' employment and those present when he was employed could be conducted, the question of the evidence's relevancy would have to wait.

Motion Sustained in part; Held in Abeyance in part

**Comments:**

Evidence or argument that may have a prejudicial effect on the jury is analyzed via a balancing test. The court weighs the probative, or useful character of the evidence as it pertains to proving an issue of the case, against its prejudicial effect, or likelihood the evidence will inflame jury passions and bias their decision.

As in the case above, evidence that could appeal to a jury's empathetic feelings for an injured plaintiff, will be excluded when it is redundant or has little to no bearing on the issues of the case.