

Case Name: Judd E. Uhl v. CSX Transportation, Inc.
Date Decided: June 18th, 2009
Originally Filed in: West Virginia (Federal)
Decided by: West Virginia Southern District Court (Federal)
Court: U.S.D.C. Southern District of West Virginia
Judge: Judge Chambers
Citation: 2009 WL 1749372

Background:

Defendant, CSX Transportation (CSX), presented before this court Motions in Limine to Exclude Testimony or Evidence Regarding Improper Ballast and Strawberry Farm Crossing as an Alternative Boarding Location. Plaintiff, Judd E. Uhl, was employed as a conductor for CSX, an owner and operator of various railroad tracks and yards as a common carrier in interstate commerce. Uhl alleged that around June 12, 2005 he was working for CSX when he attempted to board one of CSX's locomotives. Uhl contended that CSX negligently permitted coal to accumulate on and cover the ballast comprising the track bed. When Uhl attempted to board the locomotive, his foot rolled on the coal causing him to fall and injure his finger.

Issue:

Did the Court grant Defendant's Motion *In Limine* to Exclude Testimony or Evidence?

Overall Issues Discussed or Touched Upon in this Case:

- *Procedural Issues - Federal*

Held:

CSX contended that Uhl should be prohibited from making claims concerning the railroad ballast because all such claims are preempted by the Federal Railroad Safety Act (FRSA). This Court granted, in part, CSX's motion and prevented Uhl from presenting evidence or testimony that the ballast itself was improper or defective. Uhl contended that CSX negligently allowed coal to accumulate on top of the ballast. CSX further argued that allowing Uhl to offer evidence or testimony of coal accumulation on the ballast would contravene FRSA's state purpose of ensuring that "laws, regulations, and orders related to railroad safety shall be nationally uniform to the extent practicable". Under the Act, a State may adopt or continue in force an additional or more stringent laws related to railroad safety so long as it is not incompatible with a law, regulation, or order of the US Government. CSX argued that allowing a claim under the Federal Employer's Liability Act (FELA) it would essentially be incompatible with FRSA. This Court held that Uhl's FELA claim does not seek to enforce an additional or more stringent law than what is set forth under FRSA. The duty of railroads to refrain from negligently causing injury is a separate and distinct duty stemming from FELA. Furthermore, CSX argued that regulations have already been promulgated that govern ballast standards and

because Uhl did not claim non-compliance with the regulation he cannot claim a higher standard under FELA. However, this Court rejected CSX's contention because Uhl alleged CSX negligently permitted coal to accumulate in his work area alongside the track. CSX also argued that although the Federal Railroad Administration has jurisdiction to regulate track-side walkways their choice not to do so means that Uhl cannot maintain his claim that CSX negligently permitted coal to accumulate on the ballast that formed the track bed alongside the track. However, Uhl did not allege that he slipped on a trackside walkway. Finally, this Court allowed Uhl to introduce evidence to establish whether CSX could or should have provided an alternate boarding location.

Comments:

A motion in limine is a motion made before the start of a trial requesting that the judge rule that certain evidence may or may not be introduced to the jury in a trial. Motions *In Limine* are potentially damaging to litigants because if certain evidence is kept from the jury's purview it may be detrimental to a claim or defense.

Steve Gordon