

**Case Name:** Joski R. Rabb v East Camden & Highland Railroad Co.

**Date Decided:** April 8th, 2009

**Originally Filed in:** ()

**Decided by:** (State)

**Court:** U.S.D.C. â€" W.D. Louisiana â€" Shreveport Division

**Judge:** District Judge Hicks

**Citation:** 2009 WL 960105 (W.D.La.)

**Background:**

Plaintiff, Joski Rabb, filed suit against the defendant, East Camden & Highland Railroad Co. ("East Camden"). On or about February 5, 2008, Rabb was injured while acting as a switchman at the Camp Minden facility owned by East Camden. Rabb was working on a three-man train crew executing a "shoving" movement. The movement involved using a switch engine to shove cars down a track toward some other cars, in order to move the latter set of cars to another location. Rabb was riding the front-most right side ladder of the lead railcar when his arm struck the right half of a metal gate obstructing the right half of the truck. Rabb sued East Camden for his injuries resulting from the accident under the Federal Employers' Liability Act ("FELA"). Rabb alleged that East Camden's negligence caused his injuries. Union Pacific argued that FELA did not apply to them. Under FELA, "every common carrier by railroad while engaging commerce between any of the several States shall be liable in damages to any person suffering injuries while he is employed by such carrier." Union Pacific contended they were not a common carrier within the FELA meaning. They moved for summary judgment

**Issue:**

Whether the Court will grant summary judgment for Union Pacific.

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

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**Held:**

Rabb bore the burden of proving that FELA applied to East Camden. The Court cited to *Lone Star Steel Company v McGee*, 380 F.3d 640 (5th Cir. 1967), which held that a common carrier is one who holds himself out to the public as engaged in the business of transportation of person or property from place to place for compensation. Rabb did not demonstrate any of the characteristics described in *Lone Star*. There was no evidence that East Camden held themselves out to the public as a common carrier. To establish a claim under FELA, Rabb needed to prove that East Camden was a common carrier. Therefore, this Court held that Rabb failed to prove that FELA applied, and East Camden's motion for summary judgment is granted.

**Comments:**

A common carrier is a business that transports people, goods, or services. The business offers its services to the general public under license or authority by a regulatory body. In the present case, FELA was the regulatory body. A common carrier holds itself out to provide service to the general public. Many people associate a "common carrier" with public airlines, railroads, bus lines, cruise ships, and other freight companies. Here, Rabb was trying to prove that East Camden was a common carrier under FELA. However, as stated above, Rabb failed to show that East Camden had any of the characteristics needed to be a common carrier.

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