

Case Name: David P. Gibbs v Union Pacific Railroad Company

Date Decided: July 15th, 2009

Originally Filed in: ()

Decided by: (State)

Court: U.S.D.C. Southern District of Illinois

Judge: District Judge Gilbert

Citation: 2009 WL 2143772 (S.D.Ill.)

Background:

Plaintiff, David P. Gibbs, ("Gibbs") filed an action against defendant, Union Pacific Railroad Company, ("UP") pursuant to the Federal Employer's Liability Act. ("FELA") Gibbs alleged that while performing his duties as a signal maintainer for UP on July 24, 2007 he suffered lower back injuries. Gibbs also alleged that he suffered cumulative trauma to his neck, left arm, and left elbow from his employment because UP constantly required him to engage in excessive, dangerous, and repetitive manual labor. UP filed a Motion to Dismiss as a Discovery Sanction on April 16, 2009.

Issue:

Did the Court grant UP's Motion to Dismiss as a Discovery Sanction?

Overall Issues Discussed or Touched Upon in this Case:

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Held:

A Court may sanction a party for discover abuse under Federal Rule 26(g), 37, and the Court's inherent authority. Federal Rule 26(g) states that ever discovery response must be signed and that the signature means the signing party is certifying 'to the best of the person's knowledge, information, and belief formed after a reasonable inquiry... it is not interposed for any improper purpose...." Under Rule 37, a sanction is appropriate only if a specific provision is violated and a district court, with its inherent authority may dismiss a claim where the plaintiff delayed the judicial process or otherwise exhibited "contumacious conduct". UP alleges that Gibbs committed discovery abuses by misrepresenting two material subjects, prior back injury, and a prior lawsuit against Burlington Northern Railroad and that this Court should sanction Gibbs under Rule 26, 37, and its inherent authority. This Court found that Gibb's conduct warranted sanctions under the Court's inherent authority. Gibbs gave misleading testimony at his deposition regarding his back injury. According to Gibbs, he had no recollection of back pain that resulted from falling 30 feet from a pole while working for Burlington Northern Railroad in 1986. However, medical records indicated following the fall, he received medical treatment for back pain. When Gibbs was examined by a doctor per UP's request he denied any prior back injuries. Furthermore, records from Burlington Northern show that Gibbs lost almost two years

of work due to an on-site injury that occurred in 1986. This Court found that it is unreasonable that Gibbs "forgot". This Court held that Gibbs has committed discovery violation and pursuant to Federal Rule 26, the Court ordered Gibbs to pay reasonable costs and attorney's fees. Furthermore, pursuant to the Court's inherent authority, the Court denied UP's Motion for Dismissal as a Discovery Sanction.

Comments:

The Court has the inherent authority and pursuant to the Federal Rules to sanction an abusing party and even dismiss the complaint entirely as a waste of judicial resources. The plaintiff here stated he had no knowledge of a prior back injury. However, the Court found it unreasonable to "forget" because as a result from a fall while working for his previous employer, Gibbs received medical treatment for back injuries and missed approximately 2 years of work from the accident. Steve Gordon <http://www.gordon-elias.com>