

**Case Name:** Craig Meyers v. National Railroad Passenger

**Date Decided:** August 18th, 2009

**Originally Filed in:** ()

**Decided by:** (State)

**Court:** U.S.D.C. Northern District of Illinois

**Judge:** Judge Der-Yeghiayan

**Citation:** 2009 WL 2567986 (N.D.Ill.)

**Background:**

Plaintiff, Craig Meyers ("Meyers"), filed a claim pursuant to the Federal Employers' Liability Act ("FELA") alleging that the work he performed while employed by National Railroad Passenger Corporation ("Amtrak") resulted in harmful and excessive cumulative trauma. Meyers alleged that Amtrak failed to use ordinary care and caution and failed to provide a reasonably safe place to work. Amtrak filed a motion for summary judgment and to strike expert reports and opinions of Meyers' proposed expert witnesses.

**Issue:**

Did this Court grant Amtrak's motion for summary judgment and motion to strike expert reports and opinions of Meyers' proposed expert witnesses?

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

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**Held:**

Amtrak filed a motion for summary judgment based on three separate arguments. (1) That Meyers' claims are barred by the statute of limitations applicable for claims brought under FELA, (2) that Meyers failed to produce sufficient evidence to raise a genuine issue of material fact whether Amtrak breached a duty of care, and (3) that Meyers failed to raise a genuine issue of material fact whether there is causation between Amtrak's actions and Meyers' injuries. Meyers, in opposition to the motion, relied on expert opinions. One expert, an expert in the field of ergonomics, to establish a breach of care and two other experts, medical experts, to establish causation. Under FELA, the Supreme Court (in *Urie v Thompson*; 337 U.S. 164 (1949)). Has held that a cause of action accrues when the injuries manifest themselves. This is particularly important when determining when injuries are caused by continual exposure to something over a period of time. The statute of limitations under FELA is three years. Meyers filed this claim in March 30, 2007 therefore, Meyers must have had notice of each of these injuries prior to March 30, 2004 if Amtrak is to be successful on their claim. As to all of Meyers' injuries, this Court found that there were genuine issues of material fact whether Meyers had notice. Accordingly, a finder of fact is required to determine when the cause of action accrued. For Meyers' hand injury, Meyers argued that a reasonable person would not have known that

the pain in his hand was work related prior to the cutoff date. Meyers' contended that his injuries could have been related to alcohol consumption. As for Meyers' neck and spine injuries, the Court found that Meyers had ample notice of such injuries and the Court found that Meyers was aware of them prior to the cutoff date. Finally, as to Meyers' right shoulder injuries, Meyers did not receive an official diagnosis for injuries to his right shoulder until well after the March 30, cutoff date. Because Meyers relied on expert testimony to present genuine issues of material fact, Amtrak moved to strike the expert testimony. In order to allow expert opinion : (1) The witness must be qualified as an expert by knowledge, skill, experience, training, or education. (2) The expert's reasoning or methodology underlying the testimony must be significantly reliable and (3) the testimony must assist the trier of fact to understand the evidence or to determine a fact in issue. This Court found that Shinnick, an ergonomics expert, did not present sufficiently reliable opinions that will assist the trier of fact. The Court further found that the opinions, presented by Shinnick, lack the necessary link between the conclusions he reaches and recognized underlying scientific method. Another one of Meyers' witnesses was Dr. Rosseau, a medical expert who treated Meyers' for the injuries suffered. While Dr. Rosseau does opine that Meyers' injuries are work related, Meyers failed to introduce evidence tending to show the soundness of Rosseau's methodology. Accordingly, Rosseau's opinion was struck. Finally, Dr. Tonino, another one of Meyers' treating physicians, was introduced to show causation between Meyers' work responsibilities and the injuries to his right shoulder. Tonino's expert report failed to include any reference to an underlying methodology conducted to reach his conclusion. Accordingly this Court also struck Tonino's testimony. This Court granted Amtrak's motion for summary judgment because Meyers', in opposition to the motion, relied upon expert testimony that was unreliable.

**Comments:**

testimony, usually treating physicians, to establish a link between their work performed and the injury suffered. However, if the defendant is able to strike expert testimony, then the plaintiff's case will be in severe jeopardy. Steve Gordon <http://www.Gordon-Elias.com>