

Case Name: Lynford Grogg v CSX Transportation

Date Decided: September 14th, 2009

Originally Filed in: ()

Decided by: (State)

Court: U.S.D.C. N.D. Indiana Fort Wayne Division

Judge: Judge Lee

Citation: 2009 WL 2970380 (N.D.Ind.)

Background:

Defendant, CSX Transportation ("CSX") filed a motion for summary judgment in response to plaintiff, Lynford Grogg's ("Grogg") action filed pursuant to the Federal Employer's Liability Act ("FELA"). Grogg was employed by CSX from 1968 to 2007, and spent most of his long career with the railroad as a road conductor. Grogg rode trains over the railroad rather than working in a rail yard. Grogg asserted that during the course of his employment as a conductor for defendant, he was seriously injured while riding on defective locomotives on rough and defective tracks that did not meet size specifications. Specifically, Grogg alleged that his injuries include a degenerative disc disease in his back and osteoarthritis in his right knee. CSX filed for summary judgment claiming that they are entitled to summary judgment because (1) there is no evidence of defective locomotives or defective track in this case other than Grogg's speculation and (2) Grogg's claims are precluded by superseding federal law and (3) there is no evidence of causation.

Issue:

Did this Court grant CSX's motion for summary judgment holding that Grogg has failed to present any genuine issues of material fact whether (1) the locomotives or tracks were defective (2) that his FELA claim is not superseded by federal law and (3) there is causation to Grogg's injuries?

Overall Issues Discussed or Touched Upon in this Case:

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Held:

CSX argued that Grogg was unable to produce specific facts to support his FELA claim regarding defective locomotives. CSX contended that the mere occurrence of an injury does not constitute negligence in a FELA case. CSX argued that Grogg cannot identify why or how the locomotives were allegedly defective and that there is no evidence, other than Grogg's speculation that any locomotive which he rode was defective. However, Grogg countered by showing he responded to CSX's argument by presenting evidence from several proposed experts who offered their opinions on this issue. Grogg submitted a report prepared by an engineer, working for a biomechanical, ergonomic and safety technology company which

summaries and concludes that the constant exposure to locomotive vibration can lead to certain physical injuries. Grogg also presented evidence including, expert depositions, a report about locomotive cab working conditions, and his physician all supporting his claims. This, combined with FELA's relaxed standards, the FELA plaintiffs need only show that the defendant's negligence played any part (no matter how small) in plaintiff's injuries, precludes a finding that Grogg failed to present evidence sufficient to create a genuine issue of material fact. As such, while this Court believes Grogg's evidence is a stretch to the causation issue, it certainly, according to his Court, has been introduced. CSX also argued that Grogg's FELA claim was precluded by the superseding effect of the Locomotive Inspection Act ("LIA") and the Federal Railroad Safety Act ("FRSA"). However, CSX failed to cite a single case that held a FELA claim precluded even where the court found that the plaintiff has produced sufficient evidence to survive summary judgment on a claim that the defendant violated the LIA. This Court examined cases in which a FRSA regulation covered the negligent condition asserted by a FELA plaintiff. As such the Court examined the scope of LIA which extended to the design, construction, and material of every part of the locomotive and tender of all the appurtenances. This Court found that the term "parts and appurtenances" did not include every item of equipment that could conceivably be installed in a locomotive. If the equipment has fallen outside this term under LIA, then it falls under a FELA claim. Finally, this Court found that Grogg failed to submit evidence showing that CSX was negligent in maintaining any portion of track on which he worked. Accordingly CSX's motions for summary judgment are denied in part and granted in part.

Comments:

If a plaintiff is successful in showing a violation of a regulation, promulgated pursuant to the LIA, then the defendant railroad will be negligent per se under FELA. As such, the ability to prove an LIA claim is highly beneficial to a plaintiff. If the defective condition played any part in plaintiff's injury then he/she may be entitled to recover damages. Steve Gordon
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