



*Hopefully, most railroad workers have experienced mutual respect and cooperation with their employer, the carrier. That situation, however, changes immediately when you are hurt on the job.*



*Your interests and the railroad company's interests become absolutely opposed the minute you suffer an injury.*

*The bottom line is this: As a railroad employee, the Federal Employer's Liability Act (FELA) gives you more rights and more protection than any other working person in the United States. Michael Croce, an experienced trial lawyer, who heads our Products Liability Litigation Department and leads our "FELA Team," which is available to you for free consultation and litigation, on your behalf, if you have been injured as a railroad employee.*

*Know your rights!*

*You have too much at stake!*

*So if you, or a family member, who is a railroad employee having been injured on the job, feel free to call us on our toll free number:*

24 HOUR TOLL FREE  
1-800-2-DEARIE  
(1-800-233-2743)  
Ext. 22  
www.dearielaw.com

**1) What is the Federal Employers' Liability Act (FELA)?**

The FELA is a federal statute which was passed by Congress in 1908 to provide for fair and just compensation for railroad employees injured on the job due to negligence, hazardous working conditions, or dangerous equipment.

**2) What is the difference between Workers' Compensation and FELA?**

Workers' Compensation laws generally allow an injured worker to receive some compensation for an injury without having to prove that the employer was at fault. FELA requires the injured employee to prove that the railroad caused the injury in order to recover.

**3) If I get hurt at work isn't that enough for the railroad to be responsible?**

No. You must be able to prove in a court of law that your injuries were caused by the railroad's negligence or by unsafe working conditions.

**4) Which law is better for me?**

FELA is more fair, because it gives you the right to your day in court. A jury has the right to decide how much you receive for your injury. Most Workers' Compensation laws provide a limited schedule of compensation benefits without a jury.

**5) Do the railroads like FELA?**

No, because FELA allows for a jury trial. While no one can predict what a jury will do, the right to a jury trial provides an injured employee with the opportunity to obtain full and fair compensation. Interestingly, the railroads rejected a Workers' Compensation system in 1908 and insisted on the fault based system that we now have. They are at work today attempting to repeal FELA in favor of a workers' compensation system which would provide fewer benefits.

**6) What are my rights when I have been injured on the job?**

Many railroad workers incorrectly believe that when they are hurt on the job they are entitled only to a percentage of their time or wages lost. The truth is that railroad employees injured through the fault of the carriers are often entitled, under the law, to receive much more than their lost time or wages.

**7) Which railroad employees are entitled to compensation under the FELA Law?**

Three specific criteria must be met: 1) You are employed by a railroad that either operates across State lines, or handles freight that may cross State lines at some point; 2) You were injured on the job; and 3) Your injury was due to the negligence, or carelessness of the railroad, or due to certain defects in cars, locomotives, machinery, tools, equipment, or working conditions.

**8) How is compensation calculated under the FELA law?**

Of course, total compensation varies from case to case depending on numerous factors; however, as a general guideline, you would be entitled to the following four classes of compensation: 1) Past and future pain, suffering, emotional and psychological distress; 2) Un-reimbursed past medical expenses and future medical expenses; 3) Lost fringe benefits, such as vacation pay, medical insurance and railroad retirement contributions; 4) Past and future lost wages and/or impaired earning capacity.

**9) What are cumulative trauma injuries?**

Cumulative trauma comes in many forms, including repeated stress to the knees and hips resulting from walking on uneven ballast and getting on and off moving equipment. Additionally, back injuries resulting from sustained vibration of locomotives and track equipment, as well as injuries to the neck, shoulders and arms from poorly designed equipment.

**10) Does FELA cover cumulative trauma, repetitive stress or vibration related injuries?**

As you know well, working on the railroad takes a toll on your body, requiring workers to live with aches and pains in your neck, back, joints, and muscles on a daily basis. For years, most railroad workers accepted these aches and pains as part of the job. However, the railroads have long been aware of the potential their workers could bring for cumulative trauma injuries.

**11) Should I deal with the Railroad Claims Department?**

Like every other business, the railroad's primary goal is to make a profit by generating as much income as possible, while holding down costs as low as possible. Every railroad worker's job is designed to maximize profit, but every railroad claims agent's job is to resolve every claim for as little money as possible. The conclusion is obvious . . . the claims agent's job is done at the expense of an injured railroader.

**12) Should I give a statement to the Claims Department?**

Virtually all railroads require an injured worker to sign a statement, or give a recorded statement immediately after the accident. Often these statements are loaded with "trick wording," aimed at proving the accident was not the fault of the railroad, but rather the fault of the injured person. Watch phrases like . . . "the accident was unavoidable," or "there was nothing anybody could have done to avoid the accident," since those words are designed to get the railroad "off the hook" by appearing to agree with the injured worker. Unless your Union's Agreement specifically requires you to sign a statement as to how the accident occurred or the nature of your injuries, avoid such a statement until you have been fully advised by an Attorney or Union Representative.

**13) How long do I have to pursue my claim?**

Cases arising under the FELA law contain a Statute of Limitations of three years from the date of the injury. If your injury is the result of cumulative trauma or repetitive stress, the three year time begins to run when two things occur: 1) You know you have an injury; 2) You know or should know that your injury is related to your work on the railroad.

**14) What factors impact on the value of my claim under FELA?**

Case value depends on the nature of the injury and other factors, but, simply stated, the more serious and permanent an injury is . . . the more money the injured worker is entitled to recover. As a quick check-list, the six most important factors in establishing a claims value are: 1) The nature, extent and duration of the injury; 2) The disability and disfigurement resulting from the injury; 3) The aggravation of any pre-existing ailment or condition; 4) The pain and suffering experienced and reasonably certain to be experienced in the future, as a result of the injury; 5) Reasonable expenses of medical care, treatment and services received and reasonably certain to be received in the future; 6) The value of earnings lost and the present cash value of earnings reasonably certain to be lost in the future.

**15) Does every FELA case go to trial?**

Not every case goes to trial. However, the FELA provides every railroad worker with the right to sue in state or federal court. The client controls the major decision-making in each case. After conferring with counsel, the injured worker can decide to accept a railroad settlement offer, make a different proposal, or go to trial.

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**WHAT ARE THE THINGS I SHOULD DO WHEN I'M INJURED?**

- Get the names and addresses of all persons who witnessed the accident, and the names and addresses of everyone in the crew or gang you were working with at the time of your injury;
  - Report the accident and injury immediately to your Local Chairman or your General Chairman;
  - Do not give any statement, whether written or oral, to the railroad;
  - Get proper medical care from a physician of your choice;
  - If the railroad rules or your union agreement require that you fill out an accident form, be properly advised concerning this form. Be sure to keep a copy of the accident report;
  - If you are going to be off work as the result of the injury, preserve your rights to return to work upon recovery by filing the necessary documents with the carrier as provided by the union agreement; and
  - Consult a FELA knowledgeable attorney for advice about your rights. You may call the toll-free number of this office for a free consultation.
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