

SOUTHWESTERN

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ST. CLAIR COUNTY

F.E.L.A.

- (4) Doyle Duff v. Missouri Pacific Railroad
Cause #92-L-799, Judge: Hon. Milton Wharton
Plaintiff's Attorney: Drew Baebler, 900 Walnut, Suite 520, St. Louis, MO 63102-1137, phone #(314) 241-7700 (Bauer & Baebler).
Defendant's Attorney: Thomas E. Jones, 4343 W. Main, Belleville, IL 62223-5597, phone #(618) 277-1000 (Walker & Williams).

Type of Claim: worker using heavy hammer over head injured back; plaintiff, about 35 years old at the time, alleged he was an employee of Missouri Pacific Truck Lines and Union Pacific Railroad when he was attempting to straighten bent hinges on a trailer at the Dupo yard. Plaintiff claimed there was a pothole in front of the trailer and he was unable to position his truck near the trailer and perform the job safely. Rather, plaintiff had to swing a 10 pound sledgehammer over his head in order to perform the task. Plaintiff contended defendant was negligent in failing to maintain a safe workplace for its employees.

Defendant Missouri Pacific Railroad denied that plaintiff was its employee and therefore it was not plaintiff's FELA employer. Further, defendant disputed that it was responsible for plaintiff's injury and plaintiff should have asked for assistance in performing the job. Defendant disputed the severity of plaintiff's alleged injury.

Injuries Alleged: one or more herniated discs in low back, not operated, total permanent disability; medical specials: \$4,500; wage loss: \$20,000 + unspecified substantial future loss.

Plaintiff's Expert: Dr. John Arnot, Orthopedic Surgeon, expert, from St. Louis, MO, by video deposition; Dr. William Shishko, Osteopath, treating doctor from St. Louis, MO, by video deposition; Quentin Pickering, Railroad Safety, from St. Louis, MO, live.

Defendant's Expert: none

Last Demand: \$80,000 before trial, according to plaintiff's attorney; \$275,000 + payment of \$40,000 outstanding worker's compensation lien, before trial, according to defendant's attorney.

Last Offer: \$5,000 before trial

Verdict: Returned June 21, 1995 for plaintiff \$215,000; defendant filed motion for JNOV and new trial.