

# FELA Reporter



## and Railroad Liability Monitor

The Independent Monthly News Journal of Railroad Litigation From the Publisher of RAILAW, The National Database of Railroad Liability Cases

**Engineer Suffers Shoulder, Neck and Back Injuries in Crossing Collision — Claims Lack of Crashworthiness and Failure of Truck to Yield to Train — \$564,500 Arkansas Settlement.** We thank Joseph L. Bauer, Jr., attorney for the plaintiff, for sending us a report of this case. The plaintiff, age forty-six, was working as a locomotive engineer for the defendant railroad in July 1994 operating a train southbound at the intersection with a highway when the driver of defendant Doss Trucking pulled his truck up onto the crossing in front of the train after tightening the chains on the log truck. The plaintiff put the train into emergency brake shortly before the collision, which occurred between the front of the locomotive and the Doss truck. The collision caused the plaintiff to be thrown against the walls and other hard metal surfaces on the interior of the locomotive cab. The plaintiff sustained injuries to his shoulder, neck and lower back. The plaintiff received treatment for his injuries, including surgery to his shoulder, neck and lower back. The plaintiff was discharged by the railroad for failing to report for a return to work physical exam. The plaintiff was found occupationally disabled by the Railroad Retirement Board, resulting in annuity payments from the Railroad Retirement Board. The Public Law Board ruled that the plaintiff had been improperly discharged and ordered him reinstated.

The plaintiff claimed that the operator of the truck was negligent in failing to keep a proper lookout and in failing to yield to the train. The plaintiff claimed the railroad was negligent for improper design and crashworthiness of the interior of the locomotive cab in a lack of padded interior, seatbelts, shoulder restraints, and ergonomically designed seats. The plaintiff also claim violation of the Boiler Inspection Act for these defects. The plaintiff also alleged improper maintenance of the right of way near the crossing, as well as inadequate protection for the crossing. The trucking defendants denied any negligence and also alleged that the plaintiff was negligent for failing to blow the whistle or brake in a timely manner. The railroad argued that the claim regarding protection at the crossing was preempted and otherwise denied any negligence. The railroad also argued contributory negligence by the plaintiff. A \$564,500 settlement was reached. The trucking company defendants had a \$500,000 policy limit. Plaintiff's Experts: George R. Shoedinger, III, M.D., orthopedic surgery, St. Louis, MO. Douglas Waldman, M.D., orthopedic surgery, Alexandria, LA. Raymond Lawrence v. Union Pacific Railroad and Doss Trucking Co., Chicot County (AR) Circuit Court, Case No. CIV 98-74-3. Joseph L. Bauer, Jr., St. Louis, MO and Kent J. Ruebens, West Memphis, AR for the plaintiff. Fred Ursery, Friday, Elridge and Clark, Little Rock, AR for the railroad. Robert L. Coleman, Blytheville, AR for Doss Trucking.