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Jury awards ex-UP switchman \$566K

By PAUL STONE
Herald-Press Staff Writer

A switchman for Union Pacific Railroad was awarded slightly more than \$566,000 Tuesday by an Anderson County jury for injuries sustained while working for the railroad.

Kenneth Synar, 43, of Muskogee, Okla. had worked for Union Pacific for approximately 20 years as a switchman before leaving the job last January due to medical disability. His attorneys, Drew C. Baebler and Daniel J. Cohen of the St. Louis law firm of Bauer & Baebler, alleged Synar sustained permanent

injuries to his right hand, arm and elbow due to the railroad's negligence in the maintenance of its equipment.

The jury determined Synar first became aware of his work-related injuries and their causation on Feb. 18, 1994.

The St. Louis attorneys argued throughout the trial that Synar's injuries were the result of years of chronic negligence and repeated statutory violations by Union Pacific.

Synar's attorneys alleged during the trial that the railroad regularly required him to work with defective tools and

equipment, including defective ratchet handbrakes and rail switches.

Due to the use of this defective equipment, the plaintiff's attorneys contended that excessive forces placed on Synar's right arm and elbow caused him to develop severe arthritis of the right elbow and cubital tunnel syndrome — a condition in which the ulnar nerve is compressed and damaged by inflammation at the elbow.

As a result of the nerve damage, attorneys said Synar suffers from permanent limitation of use of his right hand, including numbness, pain, loss of fine

motor coordination and atrophy.

His treating orthopedic surgeon testified during the trial that Synar would never be able to resume those duties.

"The railroad knowingly reduced its work forces to the point that the work could not be performed safely," Baebler said Thursday. "There were no employees inspecting the equipment. There were no employees maintaining the equipment. There were not enough employees to work on the equipment. The railroad's conduct was not merely negligent; it was 'ridiculous and reckless.'"

During the trial, Union Pacific attorneys denied any cutbacks in work force undermined the safety of its employees.

In the jury's unanimous verdict, it attributed 70 percent of Synar's injuries to the negligence of Union Pacific and 30 percent to the negligence of the plaintiff himself.

The jury's award was broken down as follows: \$600,000 for loss of earning capacity sustained in the future; \$41,300 for loss of wages in the past; \$15,473.10 for medical care sustained in the past; and \$10,000 for medical care incurred in

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the future.

Baebler and Cohen were assisted in the trial by local attorney Charles W. Nichols.

In the 1990s, Cohen said Synar worked for the railroad in various locations, including Beaumont, Houston, San Antonio and Lake Charles, La., but never in Palestine.

However, when the suit was filed in 1995, Cohen stated a Palestine state district court was an "appropriate" venue for the case since the railroad conducts business here.