

**Case Name:** Stephen Turner v. CSX Transportation, Inc.  
**Date Decided:** April 30th, 2010  
**Originally Filed in:** New York (Federal)  
**Decided by:** North Carolina Court of Appeals (State)  
**Court:** Supreme Court, Appellate Division, Fourth Department, New York  
**Judge:** Judge Smith, Judge Fahey, Judge Carnisconiers, Judge Pine  
**Citation:** 72 A.D.3d 1597

**Background:**

Stephen Turner, plaintiff and employee, brought personal injury action against defendant, employer, CSX Transportation, Inc while he was operating a [locomotive](#). Specifically, CSX appealed from an amended judgment awarding Turner damages for injuries he sustained as a result of the excessive lateral motion of the locomotive he was operating during the course of employment for CSX. The Supreme Court of New York granted Turner's cross motion for partial summary judgment on the issue of CSX's negligence under the [FELA](#), Federal Employers' Liability Act and the Federal Locomotive Inspection Act, LIA.

**Issue:**

Did this Court affirm the lower court's granting of summary judgment on the issues of liability under the FELA and LIA?

**Overall Issues Discussed or Touched Upon in this Case:**

- *Ruling on Summary Judgment*
- *Insufficient Evidence of Negligence*

**Held:**

Turner established, in support of his cross motion, that he was violently thrown about the interior of the locomotive as a result of the excessive lateral motion of the locomotive. This Court found that Turner, as a matter of law, established that CSX violated its duties, under the LIA, to "keep all the parts and appurtenances of its locomotives in proper condition and safe to operate without unnecessary peril to life or limb". CSX failed to raise a triable issue of fact concerning the condition of the locomotive when Turner experienced the excessive lateral motion. Accordingly, this Court affirmed the lower court's granting of plaintiff's motion for summary judgment.

**Comments:**

**If a claimant is able to show that a railroad employer violated the Locomotive Inspection Act, LIA, then as a matter of law, the railroad employer is found to be per se negligence under the FELA. Steve Gordon**

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