

**Case Name:** McCann v. Illinois Central Railroad Co.

**Date Decided:** May 12th, 2010

**Originally Filed in:** Illinois (Federal)

**Decided by:** Illinois Central District Court (Federal)

**Court:** U.S.D.C. C.D. of Illinois

**Judge:** Judge McCuskey

**Citation:** McCann v. Illinois Central Railroad Co. 2010 WL 1905093 (C.D.II. 2010)

**Background:**

McCann returned to the employment of the Defendant in 1970. He left the employ of the defendant due to shoulder pain that was not relate to work but has filed this suit claiming injuries to his cervical spine (neck) and to his wrist, carpal tunnel syndrome. In August of 2002, McCann suffered injuries to his right ankle and his left wrist from a motorcycle accident. McCann saw Dr. Schoedinger who explained that his neck pain was a repetitive-type injury from working as an engineer. Dr. Schoedinger, qualified his statement that he has not observed the work of an engineer working for Defendant and could not say what component of Plaintiff's degeneration was related to work. An expert on the topic, Tyler Kress, testified that McCann has experienced years of spinal degration and that there is clear evidence of joint degeneration and pains/problems after a number of years of railroad work that progressed over the years resulting in anatomical damage. A separate doctor, Dr. Dove, diagnosed McCann with carpal tunnel. This injury has not been tied to his work at the railroad by any doctor.

**Issue:**

1) Should the defendant's motion to bar the causation opinions of Dr. Schoedinger and Tyler Kress be granted? 2) Should the defendant's motion for summary judgment be granted? 3) Should the Plaintiffs motion to supplement be granted?

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

- *Summary Judgment - Defendant Legal Granted*
- *Summary Judgment - Defendant Factual Granted*
- *Ruling on Summary Judgment*
- *Insufficient Evidence of Negligence*

**Held:**

1) The court relied on Rule 702 of the Federal Rules of evidence to determine whether to bar the two witnesses' testimony on causation. Under 702 there are two requirements for the admission of expert testimony: "(1) the expert must be qualified, and (2) the subject matter of the expert's testimony must consist of specialized knowledge that will be helpful or essential to the trier of fact in deciding the case." Further, the court explained that the proffered expert's opinion must be: (1) based upon sufficient facts or data; (2) the product of reliable procedures

or methods; and (3) applied reliably to the facts of the case. The court rejected the testimony of Dr. Schoedinger because they were based upon assumption and speculation and not upon testing or review of scientific data. In regards to Kress, the court acknowledged that his methods were more likely to be admissible under 702 but that Kress's deposition showed that he had little or no knowledge regarding the actual "risk factors" McCann was exposed to and, instead, based his testimony on generalized knowledge of the railroad industry. Thus, the defendant's motion to bar was granted. 2) In addressing the motion for summary judgment the court first outlined the standard for determining whether summary judgment was appropriate. Summary judgment is appropriate where the pleadings, the discovery and disclosure materials on file, and any affidavits show that there is no genuine issue as to any material fact and that the movant is entitled to judgment as a matter of law. The defendant alleges that McCann has failed to provide any evidence of causation linking the defendant to McCann's injuries. Under FELA, a plaintiff must only show that an employer's negligence played any part, even the slightest, in producing the injury. *Fulk v. Ill. Cent. R. Co.*, 22 F.3d 120, 124 (7th Cir.1994). Here, however, the court concluded that McCann proffered no evidence that any of his injuries are related to the Defendant's actions since the expert testimony above is inadmissible. 3) The McCann's motion to supplement his pleadings was denied by the court. The court explained that each case must be resolved on the particular facts of that case. The fact that Dr. Schoedinger and Kress' testimony was allowed in another similar case does not mean the same evidence in this case is admissible. Further, the additional evidence that the plaintiff seeks to introduce through the amendment came after the final date for discovery.

**Comments:**

**Under 702 there are two requirements for the admission of expert testimony: (1) the expert must be qualified, and (2) the subject matter of the expert's testimony must consist of specialized knowledge that will be helpful or essential to the trier of fact in deciding the case.**