

Case Name: Arnold v. CSX Transportation Inc.
Date Decided: December 3rd, 2010
Originally Filed in: Ohio (federal)
Decided by: Ohio Southern District Court (Federal)
Court: S.D. Ohio
Judge: Dlott
Citation: 2010 WL 5014457 (S.D. Ohio)

Background:

Plaintiff, a railroad employee, brought this FELA action against the defendant, CSX Transportation ("CSX") after purportedly being injured when he was exposed to toxic battery fumes while operating a locomotive. Plaintiff asserts that the batteries were "excessively gassing," which is a per se violation of the Federal Locomotive Inspection Act ("LIA"). On the date of the injury, the Plaintiff had to remove himself from the locomotive to be treated for respiratory illness. After inspection, the batteries appeared to be "gassing", but not very noticeably. The repair shop found that the battery did not emit excessive voltage, and no sulfuric acid was detected; both of which are symptoms of "excessive gassing." Plaintiff filed a motion for partial summary judgment on the issue of liability.

Issue:

Is partial summary judgment in favor of the plaintiff regarding the defendant's liability warranted in this case? In other words, is some evidence that the locomotive batteries were gassing enough evidence to conclusively prove that the defendant violated the LIA?

Overall Issues Discussed or Touched Upon in this Case:

- *Locomotive Inspection Act*
- *Summary Judgment - Plaintiff Legal Denied*
- *Summary Judgment - Plaintiff Factual Denied*

Held:

No, the court denied the plaintiff's request for partial summary judgment. The court agreed with the defendant's contention that the term "excessive gassing" as it is used in the LIA, is somewhat ambiguous. The court concluded that the record contained inconclusive evidence on the issue. For example, no evidence was available on the levels of sulfuric acid in the air aboard the locomotive at the time of the injury. (Which represents one accepted method of calculating "excessive gassing").

Comments:

A determination that a defendant violated the LIA, as a matter of law, because a locomotive's batteries were had "excessive gassing" requires some direct, scientific evidence.