

**Case Name:** Earl L. Irwin v. CSX Transportation, Inc.

**Date Decided:** March 16th, 2011

**Originally Filed in:** Tennessee (state)

**Decided by:** Tennessee Eastern District Court (Federal)

**Court:** United States District Court for the Eastern District of Tennessee

**Judge:** Judge Jordan

**Citation:** 2011 WL 976376

**Background:**

Earl L. Irwin ("Irwin") filed a complaint in the Circuit Court for Knox County, [Tennessee](#) pursuant to the [Federal Employers' Liability Act](#) ("FELA"), 45 U.S.C. Â§ 51, *et seq.* Irwin alleged he was exposed to toxic substances including radiation and radioactive substances while employed by CSX Transportation, Inc. ("CSX"). Irwin developed disease processes and cancer as a result of this exposure. CSX removed the case to the United States District Court for the Eastern District of Tennessee on the assertion that the Court has original jurisdiction pursuant to the Atomic Energy Act ("AEA") and its amendments under the Price-Anderson Act ("PAA"). CSX concludes that Irwin's exposure to radiation must have occurred at the Oak Ridge, Tennessee nuclear facilities making it a "nuclear incident" under the PAA, and entitling CSX to jurisdiction in federal court. Before the Court is Irwin's Motion to Remand the case to state court.

**Issue:**

Does Irwin's exposure to radiation while employed by CSX qualify as a "nuclear incident" under the PAA, such that CSX is entitled to jurisdiction in federal court?

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

- *Applicability of FELA at Issue*
- *Venue Issues*
- *Course & Scope Issue*

**Held:**

No, the Court rejected CSX's contention. The Court explained that the 1988 amendments to the PAA create a federal cause of action for injuries caused by radiation, and provide for the removal of, and original federal jurisdiction over, claims for any nuclear incident. CSX argues that the Irwin's exposure to radiation constitutes a nuclear incident within the conception of the PAA and thus federal jurisdiction is appropriate. Irwin argues that PAA applies only to entities licensed by the Nuclear Regulatory Commission or Department of Energy contractors, and thus removal to state court is proper. The Court accepted Irwin's argument citing *Samples v. Conoco, Inc.* In that case, the United States District Court for the Northern District of Florida held that the 1988 amendments to the PAA were not so broad as to extend PAA coverage to

all "injury allegedly caused by certain nuclear material." Instead, the Court in *Samples* limited PAA application to the nuclear energy and weapons industry. Here, the Court held jurisdiction in federal court was improper reasoning CSX is not involved in the nuclear energy or weapons industry. Consequently, the Court GRANTED Irwin's motion to remand the case to state court.

**Comments:**