

**Case Name:** In re BNSF Railway Company  
**Date Decided:** December 31st, 2009  
**Originally Filed in:** ()  
**Decided by:** (State)  
**Court:** Court of Appeals of Texas  
**Judge:** Judge McKeithen, Judge Kreger, Judge Horton  
**Citation:** 2009 WL 5214907 (Tex.App.-Beaumont)

**Background:**

BNSF Railway Company filed a petition to compel the trial court to vacate its order compelling production of documents in a suit filed under the Federal Employers' Liability Act, FELA. BNSF claimed the trial court abused its discretion by ordering BNSF to respond to discovery requests on matters not relevant to the subject matter of the suit. BNSF claimed that the trial court ordered them to produce documents not in their possession and undiscoverable by statute. Charles Simmons, the plaintiff, alleged that during the course of his employment as a conductor with BSNSF he suffered repetitive trauma to his hands, arms, shoulders, back, and neck. The trial court ordered BNSF to produce a list showing the number of injuries, claims, and lawsuits filed by conductors alleging repetitive trauma injuries similar to Simmons's.

**Issue:**

Did the trial court abuse its discretion by ordering BNSF to produce documents related to previous claims made by conductors under FELA?

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

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**Held:**

This Court recognized that requests for discovery must show a reasonable expectation of obtaining information that will aid the dispute's resolution and therefore must be reasonably tailored to include only relevant matters. This Court found that the discovery requests at issue in this case were not sufficiently specific regarding the documents being requested. The first request for production includes the language "any and all" of a vast variety of different sorts of information from "whatever source derived" etc... The request for production of documents contained no geographical limitation, no limitation as to time period or source. The second request for production narrowed the time frame to a 10-year period but requested "any and all" of a wide variety of information and media "filed with" the railroad, including and not limited to "accident forms". The third request fails to limit to BNSF or to persons under its control and requests production from "any organization" with which the railroad is "associated" with. Accordingly, in light of the broad discovery requests, that failed to describe with particularity each item and category requested, this court granted the petition for writ of mandamus and

vacated the trial court's ruling.

**Comments:**

The scope of discovery is generally within the trial court's discretion, the trial court must make an effort to impose reasonable discovery limits. If the trial court orders discovery that exceeds what is permitted by the rules of discovery, then it is an abuse of discretion. Steve Gordon