

**Case Name:** Paul Zuckerberg, et al., v The Port Authority of N.Y. and N.J.

**Date Decided:** April 8th, 2009

**Originally Filed in:** New York (State)

**Decided by:** New York Superior Court of Appeals (State)

**Court:** Supreme Court - Queens County - New York

**Judge:** Justice Agate

**Citation:** 876 N.Y.S.2d 855

**Background:**

The plaintiff, Paul Zuckerberg, brought suit against the defendant, The Port Authority of New York and New Jersey ("Port Authority"). Zuckerberg sustained serious injuries when he tripped and fell on a door saddle in a building owned by the Port Authority. At the time of the accident, he was working as a police officer, and had been assigned to patrol John F. Kennedy International Airport. Zuckerberg filed this action pursuant to the Federal Employers' Liability Act ("FELA"). The Port Authority moved for summary judgment. They argued that FELA does not apply to this action, as Zuckerberg was not a railroad employee. Port Authority further contended that Zuckerberg was barred from bringing a FELA action, as his only remedy was Workers' Compensation. Zuckerberg argued that his work duties and subsequent accident permitted recovery under FELA. He worked for the Port Authority, who owned and operated a railroad. As a result, he often patrolled the railroad while on duty. Therefore, Zuckerberg contended that made him a railroad employee under FELA. Further, Zuckerberg argued that FELA pre-empts state Workers' Compensation law.

**Issue:**

(1) Whether the Court will find that Zuckerberg was a railroad employee eligible to recover under FELA; and

(2) whether workers' compensation governed this claim or FELA.

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

- *Ruling on Summary Judgment*
- *Applicability of FELA at Issue*

**Held:**

The Court held that Zuckerberg cannot recover under FELA. The evidence submitted did not establish that Zuckerberg was a railroad employee. Zuckerberg was employed by the Port Authority as a police officer. At the time of Zuckerberg's accident, he was patrolling JFK Airport as a police officer; not as a railroad employee. The Court held that applying FELA under the facts of this case would extend the scope of the statute beyond what was envisioned by Congress. The defendant's motion for summary judgment is granted, and the action is

dismissed.

**Comments:**

Congress enacted FELA in 1908 to address the massive number of work-related injuries in the railroad industry. The purpose of FELA was to offer help to railroad workers who are constantly exposed to the risks inherent in railroad work, and who are often helpless to provide for their own safety. FELA is liberally construed by the Courts. The statute supersedes state and common law and provides an exclusive remedy for injured railroad workers. The Court will rarely allow employees who are not railroad workers to recover under FELA. They must have substantial connections to a railroad to allow them to recover. As mentioned in the facts, Workers' Compensation is available for non-railroad employees who are injured while at work.  
Steve Gordon