

**Case Name:** John P. Mergler v CSX Transportation, Inc.  
**Date Decided:** March 27th, 2009  
**Originally Filed in:** New York (State)  
**Decided by:** New York 4th Department (State)  
**Court:** Supreme Court, Appellate Division- Fourth Department, New York.  
**Judge:** Supreme Court, Erie County Justice Makowski  
**Citation:** 875 N.Y.S.2d 735

**Background:**

The respondent, John Mergler, filed suit against his employer, CSX Transportation, under the Federal Employers' Liability Act ("FELA"). Mergler worked as a locomotive engineer while employed by CSX. He sustained injuries when a series of railroad cars struck down the locomotive he was operating. He sought damages for his injuries. Mergler was awarded damages in the lower court and CSX appealed. CSX contended that the lower court erred in allowing Mergler to present evidence of future lost wages. CSX further argued that Mergler failed to provide an adequate estimate of the cost of his future medical treatments.

**Issue:**

- (1) Whether the lower court properly allowed Mergler to present evidence of future lost wages; and
- (2) whether the Court erred by not requiring Mergler to provide an estimate of his future medical costs.

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

- *Insufficient Evidence of Damages*

**Held:**

The Court rejected both of CSX's arguments. They held that the lower court had properly allowed Mergler to present evidence of future lost wages. Further, Mergler's inability to give an estimate of future medical costs was not done in bad faith. Mergler had given sufficient details about his injuries and the medical treatments he had received thus far. All medical documents had been provided to CSX in compliance with the Health Insurance Portability and Accountability Act of 1996. The Court found no evidence that the future costs of medical treatments were being withheld by Mergler. To the contrary, Mergler had provided all necessary documents to CSX within the allotted time.

**Comments:**

The respondent Mergler filed suit under the Federal Employers' Liability Act ("FELA"). This Act protects and compensates railroaders injured while on the job, and has done so for over 100

years. Monetary payouts for pain and suffering are not awarded automatically. The injured railroader must prove the railroad was "legally negligent." This means that the railroad must, at least in part, be responsible for causing the injury. The Court in the present case does not discuss whether or not CSX was negligent. That determination was made by the lower court. This Court's job was to determine whether future lost wages could be factored into Mergler's award for damages and whether Mergler's estimate of his future medical costs should have been required. Following the lower court's holding that CSX was negligent, the Court found no reason to assume that Mergler could estimate his future medical costs. With the possibility of further medical problems related to his injury, rising medical costs due to the economy, and other factors, this Court held that an inability to estimate costs should not preclude Mergler from collecting.

Steve Gordon