

MISSOURI LAWYERS WEEKLY

Vol. 15, No. 30

July 23, 2001

Railway Worker Injured In Fall From Ladder *Record FELA Award In Jackson County*

\$2.5 Million Verdict



KENDALL



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Lorenz Hamm, 43, was a machine operator for Burlington Northern & Santa Fe Railway Company. He sued under the Federal Employee Liability Act after a fall from a ladder.

Hamm operated a ballast regulator, a machine with a cab that rides on the rails. In December 1998, he was climbing down a ladder from the cab and struck his foot on a metal brace. He sprained his ankle, fell to the ground 6 feet below and landed on his tailbone. Hamm was later diagnosed with torn disks.

Burlington Northern did not manufacture the machine but had completely rebuilt it and redesigned the ladders as part of a reconditioning — even though Burlington Northern's internal rulebook prohibited changing the design of a machine without consulting the manufacturer. Burlington Northern admitted it violated the rule.

The new design of the ladder added the metal brace that Hamm struck his foot on, causing his fall. Several railway managers admitted the ladder brace was a tripping hazard.

Hamm underwent unsuccessful surgery on his back, followed by a pain management program to help him cope with chronic low back pain.

The \$2.5 million verdict is believed to be a record FELA award in Jackson County.



Type of Action: FELA

Type of Injuries: Back injury with torn disks at L3-4, L4-5

Court/Case Number/Date: Jackson County Circuit Court/99-CV-224129/ July 3, 2001

Caption: Hamm v. Burlington Northern & Santa Fe Railway Company

Judge, Jury or ADR: Jury

Name of Judge: Charles E. Atwell

Verdict or Settlement: \$2.5 million verdict

Special Damages: \$1.1 to \$3 million lost wages, benefits and future prescription medications

Allocation of Fault: N/A

Last Offer: \$375,000

Last Demand: \$1.4 million

Attorneys for Plaintiff: Bradford C. Kendall and Rick D. Holtsclaw, Holtsclaw & Kendall, Kansas City

Insurance Carrier: Self-insured

Plaintiff's Experts: Rebecca Braymen, Lincoln, Neb. (psychologist); Frank Burg, Woodstock, Ill. (human factors); Terry Cordray, Lenexa, Kan. (vocational rehabilitation); Janis Eason, Kansas City (health insurance); Dr. Kurt Gold, Omaha, Neb. (physiatrist); Dr. Andrew Messer, Lincoln, Neb. (orthopedic surgeon); John O. Ward, Prairie Village, Kan. (economist)

Defendant's Experts: Deborah Determan, Omaha, Neb. (vocational rehabilitation); Dr. Thomas Starkey, Denver, Colo. (general internist); Dr. William Stiers, Kansas City (psychologist)



The worker caught his foot on the ladder's metal brace.