

MISSOURI LAWYERS WEEKLY

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VS VERDICTS & SETTLEMENTS

Pipe Struck Railroad Worker's Hip *He Was Riding On Outside Of Car*

\$950,000 Settlement



HOLTSCLAW



KENDALL

Morris Johnson, a switchman for Kansas City Southern Railway Company, sued for injuries he suffered when he was struck in the hip by a pipe while riding on a railroad car.

On Nov. 15, 2000 Johnson was the switchman on a job at the Calumet Refinery in Minden, La. He and his three-man crew were putting a cut of railroad cars into a loading rack, which consisted of an east-west track with a concrete walkway in between. Above the concrete walkway was another metal walkway supported by metal posts.

Johnson was riding on the outside of the lead car into the west track. About three-quarters of the way through the loading rack he noticed a steam pipe that was sticking out farther than the metal support posts. Johnson had no time to jump off and tried to pull himself close to the car, but the pipe hit and fractured his right hip.

Johnson sued KC Southern under the Federal Employers' Liability Act. He claimed that although KC Southern's specification for private track required a horizontal clearance of 9 feet from the center of the track, the steam pipe was only 6 feet 4 3/4 inches from center. Furthermore, KC Southern failed to post any signs or job or-

ders warning of the close clearance.

KC Southern argued that Johnson failed to keep proper lookout and caused his own injury.

At mediation with retired Jackson County circuit court judge Jack Gant, the parties settled for \$950,000. KC Southern had an indemnification agreement with Calumet Refinery.

Type of Action: FELA

Type of Injuries: Fracture of the superior and posterior acetabular of the right hip with permanent damage to the peroneal section of the sciatic nerve resulting in permanent right leg pain and foot drop

Court/Case No./Date: Jackson County Circuit Court/01CV230942/Sept. 15, 2003

Caption: Johnson v. The Kansas City Southern Railway Company

Judge, Jury or ADR: Jury

Name of Judge: Thomas C. Clark

Special Damages: \$475,196 lost wages

Verdict or Settlement: \$950,000 settlement

Allocation of Fault: N/A

Last Offer: N/A

Last Demand: N/A

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

Insurance Carrier: Self-insured (KC Southern); St. Paul Insurance (Calumet Refinery)

Plaintiff's Experts: Alan Blackwell, North Platte, Neb. (railroad engineering practices); Terry Cordray, Lenexa, Kan. (vocational rehabilitation); Colon Fulk, Sherills Ford, N.C. (railroad operating practices); John O. Ward, Kansas City (economist)

Defendant's Experts: None



Johnson was riding on the outside of the car.