Recent Illinois Supreme Court Decision Allows Railroads to Sue Injured Employees for Property Damage

In a recent decision handed down by the Illinois Supreme Court on December 19, 2019, railroad companies can now sue their own employees who file lawsuits for personal injuries after being involved in an accident. The railroads can blame those employees and attempt to collect money for the property damage to the railroad's equipment involved in an employees' accident.

In the case of *Melvin Ammons v. Canadian National Railway Company*, plaintiffs Melvin Ammons and Darrin Riley sued Wisconsin Central for injuries they received when the train they were operating struck another train that was stationary on the same tracks. Both railroaders filed lawsuits that listed various rules and regulations that Wisconsin Central violated which caused the collision.

In response to these lawsuits, the railroad filed counterclaims against Mr. Ammons and Mr. Riley for damage to the locomotives, rail cars, railroad track, and railroad track structures, claiming it had to spend significant amounts of money to repair these structures and equipment. Wisconsin Central claimed that Mr. Ammons and Mr. Riley owed it damages in excess of $1 million.

Plaintiffs filed a motion to dismiss these property damage claims with the trial court. Plaintiffs' argued that the Federal Employers' Liability Act [FELA] prevented the railroad from filing a counterclaim as those claims constituted a "device" that could reduce or effectively eliminate a damages award to Mr. Ammons and Mr. Riley for the railroad's negligence. The trial court agreed and granted the Plaintiffs' motion to dismiss. Wisconsin Central filed an appeal to the Appellate Court. The Appellate Court agreed with the trial court and ruled:

> "The allowance of counterclaims for property damage not only intimidates potential plaintiffs from filing personal injury claims but also serves as a warning to other employees that might not have been injured, but that might be accused of being negligent, not to participate. The threat of retaliatory suits and potential silencing of employees is what sections 55 and 60 of FELA were enacted to protect against." *Ammons v. Canadian Nat'l Ry. Co.*, Docket No. 1-17-2648, at *8 (Ill. App. Ct. 2018).

However, Wisconsin Central appealed again to the Illinois Supreme Court. This higher court overturned the appellate decision and allowed the railroad to bring its counterclaim and sue its own employees. In the 5-2 ruling, the Illinois Supreme Court looked to the decisions of other federal courts ruling on the issue, as the U.S. Supreme Court has not yet heard a FELA claim dealing with the railroad suing its employees. Since the U.S. Supreme Court has not yet weighed in on this issue, the Illinois Supreme Court could determine on its own which federal cases it believed were more well-reasoned on the issue.

Unfortunately for Mr. Ammons and Mr. Riley, the Illinois Supreme Court sided with federal court decisions allowing the railroads to bring counterclaims. The Court found that since 1984, three federal appellate courts have ruled that FELA does not support an intent by Congress to prohibit the railroad's claims against its employees for negligence. The Court followed these opinions which narrowly interpreted FELA and sections 55 and 60 to not prohibit a railroad employer from filing a counterclaim for property damages against its employees. The Illinois Supreme Court placed the duty on Congress to step in and amend sections 55 and 60 of the FELA to specifically prohibit an employer's counterclaims.

The only bright spot in the Illinois Supreme Court decision for railroaders was the dissent written by Justices Thomas L. Kilbride and P. Scott Neville Jr. who disagreed with the majority opinion. Both Justices argued that the majority opinion defeats the purpose of the FELA and undermines the congressional intent to provide a remedy for railroad workers injured as a result of the railroad's negligence.

The United States Supreme Court's interpretation of the FELA has been a liberal interpretation as pointed out by the dissent, which noted the *Sinkler* decision:

> "The FELA was a response to the special needs of railroad workers who are daily exposed to the risks inherent in railroad work and are helpless to provide adequately for their own safety. The cost of human injury, and inescapable expense of railroading, must be borne by someone, and the FELA seeks to adjust that expense equitably between worker and carrier."

The dissenting opinion correctly notes that the railroad would have no incentive to sue plaintiffs for damage to its property if plaintiffs were not seeking

damages for their personal injuries. Instead, the railroad essentially exempts itself from liability, which is what sections 55 and 60 of the FELA are designed to prevent. The million dollars Wisconsin Central seeks in damages will "most certainly eliminate any recovery" by Mr. Ammons and Mr. Riley for their personal injury damages.

Railroaders around the country need to be aware of these types of decisions being handed down by the Courts. The carriers across the country will attempt to use this decision, and others like it, to make bad law throughout the country. To combat this behavior from the carriers and these counterclaims, it becomes even more important to report unsafe conditions, rule violations, and stand in solidarity together to deter the constant placing of blame by the railroad on its employees.

Carisa Oden and Danny Poolson
Poolson Oden Law Firm
www.poolsonoden.com