

**Railroading Myths**  
By: Ben B. Saunders  
*Association of Trial Lawyers of America*  
Railroad Law Section

Our firm has practiced railroad law for over a quarter of a century.

We have represented all crafts over the years in both State and Federal Courts. In the process we have met hundreds, if not thousands, of railroad workers from every walk of life from New Orleans to Portsmouth, and from Jacksonville to Houston.

In our collective 75 years of experience, one incredible, astonishing fact stands out.

It is hard to believe, but the most common misconception, amongst railroaders, is the false belief if they are hurt on the job, they are automatically entitled to be paid for their injury.

Nothing could be further from the truth!

There is no such thing as workmen's compensation on the railroad!

In 1908 Congress passed the Federal Employers' Act (FELA), which is Federal Employers' Compensation for on the job injuries only when the injured railroad worker can prove the company was at fault. It is a fault based system by Federal Statute.

Railroad injury law does not encompass a no-fault system like state workmen's compensation where, if you are hurt on the job, you automatically get paid.

However, for decades railroad claim agents have convinced railroaders if they had an injury on the job they were entitled to days lost, especially for smaller injuries.

Thus far, over half of a century Claims Departments at railroads literally stole the cases of their employees at bargain basement prices.

In recent times, the unions for the various railroad crafts have done a lot to educate the work force into the strange law called "F.E.L.A." and the injured railroaders' rights under it.

Despite this effort, a disproportionately large number of railroaders still do not understand their federal legal rights for on the job injuries and the impact that a serious injury can have on their career at the railroad and future employability. It is for reasons such as these that this

publication, published by railroaders, for railroaders is so vitally important. Nothing can educate the work force quicker than an authoritative publication which provides the rank and file with accurate information which goes beyond the "grapevine" that exists in the railroad industry.

Knowledge is golden especially when it pertains to employment rights, labor rights, and injury rights.

Just as doctors have become specialized, lawyers, although not specialized like physicians, are devoting their practices to specific areas of the law. In essence they are concentrating in particular fields.

One of these fields is railroad law.

As this year's National Chairman of the Association of Trial Lawyers of America, which represents the plaintiff's bar, constituting attorneys that represent people instead of corporations, we wish to get out the word, not only to other lawyers, but to you, the remaining railroaders in this nation, that you do have legal rights that go beyond what your claim representative may tell you and it is up to you to avail yourself of the knowledge available so that you can protect yourself in the event you are ever injured on the job.

Just as you would see a doctor if you are hurt, it is my personal belief, that you should contact an attorney practicing in the railroad law field, to get advice if you are injured. Most lawyers in the railroad law field will be happy to speak with you about your case without trying to "sell you a car." Lawyers do not work like car salesman despite what claim agents may represent to you. Railroad lawyers today are professionals in their field and with today's current legal climate, are more than willing to provide you with free advice on how to protect yourself.

Today, a lawyer either accepts or refuses a case based on the wishes of the potential client.

No lawyer forces you to sign with them just because you ask a question to learn your rights and how you should handle yourself with your claim agent.

In the vast majority of cases, legal representation is not necessary, but legal advice is essential.

In order to find a railroad lawyer, there are a multitude of sources that can be pursued.

For instance, the United Transportation Union, and the Brotherhood of Locomotive Engineers publish a list of approved or "designated" counsel that they have found to be experienced in F.E.L.A. law.

In addition, the Association of Trial Lawyers of America, based in Washington, D.C., has a directory of all lawyers practicing in the field of railroad law who are members of the Railroad Law Section. The name of an attorney in your area practicing in this field can be obtained by asking the Association of Trial Lawyers of American to send a directory, or by calling the current chairman. As stated above, I am this year's chairman and thus I would be happy to respond to any inquiries on my toll-free number 1-800-321-7815 or you can call ATLA headquarters in Washington at 1-800-424-2725.

Remember, the railroads of this nation have established whole departments to deal with the claims of you, the employee. It begins at the Board level, filters down to a Risk Management Department, and then to a Claims Department which interfaces with a Legal Department within the company as well as established railroad defense firms in every State of the United States and most of the major cities in those States.

When a claim agent comes to you, they are coming to you with the knowledge infused in them by the vast resources of the railroad industry. They may be a good person, and have a lot of feelings for you, but just as your job is moving freight, building roadbeds, repairing cars, maintaining signal lines, their job is to save the company money on claims. So, remember the old saying "God Helps Those Who Help Themselves." If you are injured, contact someone who can comment on the particular facts of your case and advise you of your legal rights so that you will be on an even par with your employing carrier's sophisticated Claims Department.