

GENERAL OVERVIEW

I. FELA

Federal Employers' Liability Act, 45 U.S.C. § 51 et seq. (FELA) - guarantees rights for injured railroad workers.

II. PROOF OF NEGLIGENCE

Under FELA, injured railroaders must prove their injuries were caused by the railroad's negligence - if there is no fault on the part of the railroad, an injured employee is not entitled to receive damages.

III. PERSONAL INJURY REPORTS - a most important document

Injured railroad employees are required to complete a **Personal Injury Report** only when they are physically and mentally able. No one should pressure or intimidate you in completing this form while under medication. If you are pressured to complete the form, be sure to write on the injury report form that you were under medication at the time you completed this form. Also, no one should sign an injury report that does not accurately reflect what happened to cause your accident.

IV. STATEMENTS

Once you have filled out a Personal Injury Report, you are **NOT** required to give the railroad, or any of their personnel, a statement of how your accident occurred. This is their attempt to assess liability for your injury on you.

V. WAGE CONTINUATION

The railroad's claim department pays wage continuation, which is a percentage of your salary, while you are off on injury. It is provided to a railroader who is willing to give the claims agent's a statement. The claims agent's job is to save the railroad money. **BEWARE:** he/she is experienced in attempting to get you to accept liability.

VI. ON-THE-JOB INJURIES

If the employee is injured on the job, the employer MUST provide the injured employee with transportation to the nearest hospital.

The railroad is prohibited from disciplining, or threatening to discipline, an employee seeking medical treatment, or for following orders or a treatment plan of a treating physician.

The railroad is prohibited from interfering with an injured employee's medical treatment in any manner. The railroad does not have the right to be in the examination room with you, nor deny you prescribed medication or discuss your medical treatment without your approval.

Only the injured employee 's physician can certify when the injured employee is fit to return to work. The railroad can order an examination by its own physician to determine if the employee is fit, under railroad policies, to return to work, or should be kept off duty for a longer period.

VII. LEAVE OF ABSENCE

If a medical provider is pulling a railroader from service, it is important for the railroader to secure a Leave of Absence. The railroad must be kept informed of your medical leave (not necessarily your medical status) so you are not considered AWOL.

You should turn your Leave of Absence into your immediate supervisor and keep a copy for your own records.

VIII. BENEFITS

Injured railroaders should apply for all their benefits through their local U.S. Railroad Retirement Board office. Also, check to confirm whether you have job insurance which can help pay the bills while out due to injury.

IX. INSURANCE COVERAGE

All railroaders have insurance coverage through their employer. Contrary to what the railroad tells you, they submit your medical bills to the same insurance as you do to get them paid. The railroad **does not pay** for your medical bills.

The insurance cannot be stopped from covering on-the-job injuries. However to ensure there is no lapse of coverage for the injured railroader or his family, it may be necessary to complete a Disability Letter periodically. This letter just confirms the employee's injured status so the insurance can update their information.

THE YOUNGDAHL LAW FIRM is available to answer any questions or concerns. Call us at 866-996-0750.