

## **IBEW FELA Designated Legal Counsel Information**

In the event of injuries on the job, railroad workers are covered by a special federal law, the Federal Employers' Liability Act (FELA). The IBEW, through its Railroad Department, has appointed certain lawyers as IBEW FELA Designated Legal Counsel (DLC). These are all experienced FELA attorneys and have signed off on an IBEW Rules of Conduct. Our DLC charge a flat percentage fee of 25% (plus expenses) for most cases, and all of the DLC have numerous references they can give you from former IBEW member clients and IBEW representatives.

Work safe and hopefully no one ever needs one of our DLC. However, given the dangerous nature of our work, you and your family should keep this information available in the event it is ever needed.

\*Note -While you are under no obligation to use an attorney on the IBEW DLC list, we strongly recommend that you speak to one or more of them before making any decision about hiring legal counsel. For additional information about our DLC please visit the Railroad Department Section of the IBEW website - [http://ibew.org/IBEW/departments/RailRoad/FELA\\_LegalCounsel0710.htm](http://ibew.org/IBEW/departments/RailRoad/FELA_LegalCounsel0710.htm)

This document is designed to acquaint you with your rights given to you by Congress and the Supreme Court of the United States. We hope it will be of help to you and your fellow workmen.

### **Why this Document?**

Each year railroad workers are injured or killed while on the job. The number of job accidents is increasing because of the failure to provide safe working conditions.

In many instances injured railroad workers or their survivors are left to shift for themselves. All too often the railroad companies, through claim agents, by waivers, and other methods, succeed in dodging their just, lawful responsibility.

The railroads often try to get rid of disabled workers by pressuring them into taking inadequate disability pensions. The companies thus avoid their own legal responsibility and load their obligations onto the Railroad Retirement Fund. Disable workers, as a result, often fail to receive decent support during the remainder of their lives. The little money they do receive is taken from their co-workers, from whose wages regular deductions into the fund are made by law.

But injured workers are entitled to and should receive their just, full compensation under the provisions of the U.S. Federal Employers' Liability Act. They are entitled also, when they so choose, to continue on their job and not be forced into retirement.

Today, therefore, it is more important than ever that railroaders should know their rights. They should learn how to safeguard these rights when hurt on the job.

### **Why Should You Know Your Rights?**

Many railroad workers have been led to believe that when a man is hurt on the job he is entitled only to "compensation." Most railroad Claim Department agents usually tell the men that "compensation" is a percentage of the time or wages lost. This is not true. The idea that an injured railroad worker is entitled only to wages lost is not only false, but generally such a notion proves costly to the worker and his family. The fact of the matter is that railroad employees injured through the fault of the carriers are usually entitled under the law to receive much more than their lost time or wages if they knew it.

When an employee of an interstate railroad is injured (or killed) at work, he or his supervisors come under the protection of a law of Congress known as the Federal Employers' Liability Act. Under this Act an injured railroad worker is entitled to recover not only the time or wages lost. He is, in addition, entitled to be paid all of his expenses for medical treatment, for any permanent injury, whether partial or total. If he is killed, his survivors are entitled to recover all damages, without any limit upon the amount, which they have suffered as a result.

### **What does the Law Say?**

A railroader is entitled to recover damages from his company under the U.S. Federal Employers' Liability Act, if the following facts exist:

1. When the road he works for is engaged, even in small part, in interstate commerce; that is, it either runs across state lines or handles interstate freight.
2. When injury to the worker is the result, even in part, of the negligence (carelessness) of any officer, agent, or employee of the railroad, or the injury is caused by any defect in the cars, engines, appliances, machinery, track, road bed, or any other equipment of the road.

The railroads, under the law, have a duty to provide safe places of work for their employees. They must also provide safe equipment, tools and proper working conditions for them. If any railroad fails to take these safety measures, or if the employee is injured through the carelessness of any other employee, the railroad is held responsible. It is liable to the worker for any injuries or damages he may suffer as a result.

The amount of money an injured railroad worker is entitled to recover is decided by two factors:

1. How serious his injuries and losses are.

2. Whether he can show that his injury was in some way, or in some part, due to the fault of the railroad, the negligence of any of its employees, or some defect in equipment, tools, or any unsafe working condition.

### **Why should you Keep a Record?**

The railroads often try to avoid their obligations to injured employees. It is, therefore, important that the injured worker be in a position to get and keep proper information. This information should show if and how the accident was caused, in whole or in part, by the negligence or fault of the railroad, or by other employees of the railroad, or by unsafe working conditions. The worker must also be in a position to prove the nature and extent of his injury and his loss.

The largest money claims are won from the railroads when the claims are actually taken to court. It is, therefore, important that the injured employee get as much information and evidence as possible. He must be able to prove the cause of the accident and the nature and extent of his injuries, in case a court trial is necessary. An injured employee should therefore get the names of witnesses who have knowledge of the accident or cause of the accident. He should remember and jot down the exact time and place of the accident.

When a railroad worker takes his claim to court, he has only to show that the injury was caused in part by the negligence of the railroad or its employees. Even if the injured railroader was himself at fault to some extent, it does not defeat his claim entirely. He will still win his case if he can show that the railroad, or any of its employees, or its equipment, or his working conditions were, in part, responsible. The negligence of the worker, where it exists, can only be used by the railroad to reduce the amount of money the injured railroad worker will win. Even then the reduction is made only to the extent that the injured worker's negligence was partly responsible. In certain types of cases the negligence of the injured worker is no defense to the railroad at all, and he may collect in full anyway.