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 THE DOLAN
COMPANY

Jury finds railroad not liable for worker's injuries

Employee cites two separate incidents

Defense verdict

The plaintiff, a 44-year-old railroad employee, claimed to have suffered injuries as the result of two separate, unrelated workplace incidents.

He claimed to have injured his shoulder as the result of falling on a ballast tamper. At the time of the alleged incident, he was mounting the tamper for routine maintenance, as part of his normal job responsibilities. He allegedly slipped on hydraulic oil on the steps of the tamper and heard his shoulder pull and/or pop

while reaching for the handholds.

He contended that the tamper was unsafe and defective in that he was unable to adjust the handholds and there was oil on the surface.

He also alleged that he tore his medial meniscus and rotator cuff as a result of a fall he sustained while walking in the rail yard. He was working a half-mile from the engine house as part of a crew installing cross-over switches when, he claimed, he fell as a result of the embankment sliding underneath him and/or as a result of ice accumulated on snow.

He maintained that the railroad failed to provide him a reasonably safe work environment and failed to provide him a ride back to the engine house, forcing him to walk. Despite the allegations, the plaintiff was never able to

establish any rule, obligation or duty for the railroad to provide him a ride back to the engine house.

During the trial, defense counsel was able to elicit testimony that the plaintiff failed to properly inspect the tamper, in violation of his job duties and responsibilities. It was further established that there was no oil on the tamper, and even if there was, it did not cause the worker to slip.

Defense counsel further was able to establish through the testimony of the plaintiff and other current and former railroad employees that the plaintiff was merely engaging in the routine functions of his job when both incidents occurred.

The jury found that the railroad provided a reasonably safe work job site and that the de-

fendant was not negligent.

Action: Negligence & tort

Injuries alleged: Torn rotator cuff and medial meniscus

Case name: Seitzinger v. Providence and Worcester Railroad Company

Court/case no.: Worcester Superior Court, No. 09-0878-B

Jury and/or judge: Jury/Richard T. Tucker

Amount: \$0 (defense verdict)

Date: June 22, 2011

Attorneys: Michael Flynn and John Young, Flynn & Wirkus, Quincy (for the defendant)